

**PROTOTYPE PROGRAMMATIC
AGREEMENT BETWEEN THE
US DEPARTMENT OF AGRICULTURE,
MARYLAND NATURAL RESOURCES CONSERVATION SERVICE STATE OFFICE,
AND THE
MARYLAND STATE HISTORIC PRESERVATION OFFICER
REGARDING CONSERVATION ASSISTANCE**

WHEREAS, the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) administers numerous voluntary assistance programs, special initiatives, and grant and emergency response programs for soil, water, and related resource conservation activities available to eligible private producers, States, commonwealths, Federally Recognized Tribal governments, other government entities, and other applicants for conservation assistance, pursuant to the Agricultural Act of 2014 (2014 Farm Bill, Public Law 113-79); Soil Conservation and Domestic Allotment Act of 1935 (Public Law 74-46, 16 U.S.C. 590 a-f, as amended); the Flood Control Act of 1944 (Public Law 78-534, as amended); the Watershed Protection and Flood Prevention Act (Public Law 83-566, as amended, 16 U.S.C. 1001-1012); the Agricultural and Food Act of 1981 (Public Law 97-98, 95 Stat. 1213); the Agricultural Credit Act (Public Law 95-334, Title IV, Section 403); Food, Agriculture, Conservation and Trade Act of 1990 (Public Law 101-624); the Flood Control Act of 1936 (Public Law 74-738); the Food Security Act of 1985 (Public Law 99-198, as amended); the Federal Agricultural Improvement and Reform Act of 1996 (Public Law 104-127); and executive and secretarial orders, implementing regulations and related authorities; and

WHEREAS, NRCS, through its conservation assistance programs and initiatives, provides assistance for activities with the potential to affect historic properties eligible for or listed in the National Register of Historic Places (NRHP), including National Historic Landmarks (NHLs) and therefore constitute undertakings subject to review under Section 106 of the National Historic Preservation Act (NHPA), 54 U.S.C. § 306108, and its implementing regulations, 36 CFR Part 800, including the provisions of these regulations addressing NHLs at 36 CFR Part 800.10; and

WHEREAS, NRCS has determined that the requirement to take into account the effects to historic properties of its undertakings may be more effectively and efficiently fulfilled through the use of a Prototype Programmatic Agreement (Prototype Agreement); and

WHEREAS, the NRCS Maryland State Office (NRCS Maryland) has consulted with the Maryland State Historic Preservation Officer (MD SHPO) and followed the instructions in the ACHP letter that accompanied the Prototype Agreement, dated November 21, 2014 (Appendix C); and

WHEREAS, NRCS also is responsible for fulfilling the requirements of the National Environmental Policy Act (NEPA), including the use of categorical exclusions, and coordinating NEPA and Section 106 reviews, as appropriate; and

WHEREAS, NRCS developed this Prototype Agreement in consultation with the National Conference of State Historic Preservation Officers (NCSHPO) and its members, interested Indian tribes, Native Hawaiian organizations, interested historic preservation organizations, (such as the National Trust for Historic Preservation), and the Advisory Council on Historic Preservation (ACHP); and

WHEREAS, in accordance with 36 CFR Part 800.14(b)(4), the ACHP has designated this agreement as a Prototype Agreement, which allows for the development and execution of subsequent prototype agreements by individual NRCS State office(s) (State-based Prototype Agreements) to evidence compliance with Section 106; and

WHEREAS, this State-based Prototype Agreement conforms to the NRCS Prototype Agreement as designated by the ACHP on November 21, 2014, and therefore, does not require the participation or signature of the ACHP when the NRCS State Office and the SHPO agree to the terms of the State-based Prototype Agreement; and

WHEREAS, this Prototype Agreement replaces the 2002 nationwide “Programmatic Agreement among the United States Department of Agriculture Natural Resources Conservation Service, the Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers relative to Conservation Assistance,” as amended in 2011 and 2012, which expired on November 20, 2014; and

WHEREAS, the NRCS State Conservationist is the responsible federal agency official within the state for all provisions of Section 106, including consultation with the SHPO, NHOs, and government-to government consultation with Indian tribes to negotiate the State-based Prototype Agreement; and

WHEREAS, the State-based Prototype Agreement does not apply to undertakings occurring on or affecting historic properties on Tribal lands, as defined by 54 U.S.C. 300319 of the NHPA, without prior agreement and execution of a State-based Prototype Agreement with the concerned Indian tribe; and

WHEREAS, this Prototype Agreement does not modify NRCS’ responsibilities to consult with Indian tribes and NHOs on all undertakings that might affect historic properties and properties of religious and cultural significance to them, regardless of where the undertaking is located, without prior agreement by the concerned Indian tribe, and recognizes that historic properties of religious and cultural significance to an Indian tribe may be located on ancestral homelands or on officially ceded lands near or far from current settlements; and

WHEREAS, when NRCS Maryland conducts individual Section 106 reviews for undertakings under this State-based Prototype Agreement, it shall identify and invite other agencies, organizations, and individuals to participate as consulting parties; and

WHEREAS, the MD SHPO agrees that the fulfillment of the terms of this agreement will satisfy the responsibilities of any Maryland state agency under the requirements of the Maryland

Historical Trust Act of 1985, as amended, State Finance and Procurement Article 5A-325 and 5A-326 of the Annotated Code of Maryland, for those components of an undertaking which involve assistance, permitting and/or funding actions from Maryland agencies;

NOW, THEREFORE, the NRCS Maryland State Office and the MD SHPO agree that undertakings in Maryland shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

NRCS Maryland shall ensure that the following stipulations are met and carried out:

I. Applicability.

- a. Once executed by NRCS Maryland and the MD SHPO, this State-based Prototype Agreement sets forth the review process for all NRCS undertakings subject to Section 106 in the State of Maryland.
- b. Execution of this State-based Prototype Agreement supersedes any existing State Level Agreement with the MD SHPO, but does not replace any existing project-specific Section 106 agreements (Memoranda of Agreement or Programmatic Agreements).
- c. This State-based Prototype Agreement applies only when there is a Federal Preservation Officer (FPO) in the NRCS National Headquarters (NHQ) who meets the Secretary of the Interior's Professional Qualification Standards (48 FR 44716).
- d. This State-based Prototype Agreement applies only where there is staffing or access to staffing (through contracted services or agreements with other agencies or Indian tribes) who meet the Secretary of Interior's Professional Qualification Standards in the Maryland NRCS State Office.

II. Roles and Professional Qualifications.

- a. The NRCS Maryland State Conservationist is responsible for oversight of its performance under this State-based Prototype Agreement.
- b. The NRCS Maryland Cultural Resources Coordinator (CRC) shall coordinate, monitor, and oversee the work and reporting of all the NRCS Maryland field office personnel and professional service consultants. The MD SHPO will assist as requested by NRCS. The CRC/CRS shall coordinate with such personnel to provide technical historic property and resource information to the State Conservationist for use in Section 106 findings and determinations, after appropriate consultations with the MD SHPO, Indian tribes, and discussions with the landowner. The CRC shall coordinate efforts to assist the State Conservationist in determining whether an undertaking has the potential to affect historic properties, triggering Section 106 review, pursuant to 36 CFR Part 800.3(a).

c. When necessary, NRCS Maryland shall utilize specialized cultural resources personnel (i.e. detailed NRCS Cultural Resources Specialists (CRS), archeologists, historians, professional service consultants, etc.) to carry out additional Section 106 historic preservation compliance work on its behalf. NRCS Maryland shall ensure all cultural resources personnel carrying out Section 106 historic preservation compliance work on its behalf, are appropriately qualified to coordinate the reviews of resources and historic properties as applicable to the resources and historic properties being addressed (site, building, structure, landscape, resources of significance to Indian tribes, NHOs, and other concerned communities). Thus, these personnel must meet the Secretary of the Interior's Professional Qualification Standards and have the knowledge to assess the resources within an undertaking's area of potential effects (APE).

d. The Maryland State Conservationist is responsible for consultation with the MD SHPO, and government to government consultation with Indian tribe leaders and/or their THPO to develop consultation protocols. These responsibilities may not be delegated to any other staff, nor carried out on behalf of NRCS by another federal agency.

e. NRCS Maryland field office personnel involved in implementing this State-based Prototype Agreement, after completion of NRCS' web, classroom, and field awareness training acquired through USDA's AgLearn training site, shall work with the CRC and/or specialized cultural resources personnel, as feasible, in completing historic preservation compliance (Section 106) field records for the agricultural producer's (NRCS' client or voluntary applicant for assistance) files and for use in producing initial historic property identification records (as set forth and outlined in NRCS' operational guidance, the National Cultural Resources Procedures Handbook, Title 190, Part 601).

f. The CRC in Maryland, with the guidance of the NRCS FPO and/or the MD SHPO, shall oversee development of the scopes of work for investigation of the APEs for identified undertakings (see 36 CFR Part 800.4), when applicable. NRCS may use professional service contractors or consultants or partners to assist with cultural resources compliance studies. NRCS Maryland shall ensure these contractors meet the Secretary of Interior's Professional Qualifications Standards.

g. NRCS Maryland remains responsible for all consultation with the MD SHPO, Indian tribes and THPOs, and all determinations of NRHP eligibility and effect. NRCS may not delegate consultation for findings and determinations to professional services consultants or producers/applicants for conservation assistance.

h. The MD SHPO, if provided sufficient data on a proposed undertaking and APE for the proposed undertaking by NRCS Maryland shall consult and provide a response to NRCS within 30 calendar days. The definition of sufficient data is provided in 36 CFR Part 800.11.

i. The MD SHPO will collaborate with NRCS Maryland to offer requested guidance, technical assistance, and other support regarding applicable cultural resource management issues and the appropriate treatment of historic and archeological properties.

j. The ACHP shall provide technical guidance, participate in dispute resolution, and monitor the effectiveness of this agreement, as appropriate.

III. Training.

a. NRCS shall require personnel conducting cultural resources identification and evaluation work to complete, at a minimum, the NRCS Web-based (in USDA AgLearn) and field Cultural Resources Training in modules and the ACHP's Section 106 *Essentials* course.

b. NRCS Maryland shall require the CRC/CRS and other NRCS Maryland personnel overseeing cultural resource work to take the NRCS Cultural Resources Training Modules (awareness training) and the ACHP's Section 106 *Essentials* course, or a course with similar content, if approved by the NRCS FPO. Training must be completed within the first calendar year after execution of this State-based Prototype Agreement. NRCS personnel shall review and update training completion with their supervisors and include their training in their Individual Development Plans.

c. NRCS may invite the MD SHPO or staff to participate in presentations at agency classroom or field trainings.

d. NRCS shall encourage all personnel conducting or overseeing cultural resources work to take additional appropriate specialized training as provided by MD SHPO, Indian tribes, the ACHP, National Park Service, General Services Agency or other agencies, as feasible.

e. MD SHPO shall provide NRCS Maryland with training on the use of its online Medusa, Maryland's Cultural Resources Information System (Medusa) for project screening, planning, and data collection purposes, and collaborate on other relevant cultural resources trainings as needed.

IV. Lead Federal agency.

a. For any undertaking for which NRCS is the lead federal agency for Section 106 purposes per 36 CFR Part 800.2(a)(2), NRCS staff shall follow the terms of this State-based Prototype Agreement. NRCS shall notify the MD SHPO of its involvement in the undertaking and the involvement of the other federal agencies.

b. For any undertaking for which NRCS is not the lead federal agency for Section 106 purposes, including those undertakings for which NRCS provides technical assistance to other USDA or other federal agencies, the terms of this State-based Prototype Agreement shall not apply to that undertaking. If the lead federal agency agrees, NRCS may follow the approved alternative procedures in place for that agency.

V. Review Procedures.

a. NRCS Maryland, in consultation with the MD SHPO, has classified its Maryland conservation practices into three categories based on the practices' potential to affect historic and archeological

properties and their corresponding level of required review and consultation with the MD SHPO. Appendix A documents the list of NRCS Maryland Conservation Practices and their classification for cultural resources review and consultation purposes with the MD SHPO. Appendix B outlines the general cultural resource review process and forms NRCS Maryland will utilize for its conservation assistance programs.

1. In consultation with the MD SHPO, NRCS Maryland identified those undertakings with little to no potential to affect historic properties, listed in Appendix A., Part 1. Upon the determination by NRCS that a proposed undertaking is included in Appendix A, Part 1, NRCS is not required to consult further with the MD SHPO for that undertaking.
2. In consultation with the MD SHPO, NRCS Maryland identified those undertakings that may have some potential to affect historic and archeological properties and warrant screening to determine if consultation with the MD SHPO is needed, listed in Appendix A, Part 2. NRCS Maryland will use the MD SHPO's online Medusa, Maryland's Cultural Resources Information System (Medusa) to identify if an undertaking listed in Appendix A, Part 2 intersects with a resource that is included in Medusa. If the NRCS Maryland screening does not identify any recorded resources in the practice area, no further consultation with the MD SHPO is needed for that practice. If the NRCS Maryland screening reveals a resource illustrated in Medusa in the practice area, NRCS Maryland will consult with the MD SHPO for that undertaking in accordance with the process specified in Stipulation V.c.
3. NRCS Maryland, in consultation with the MD SHPO, determined that the following undertakings listed in Appendix A, Part 3 have the potential to affect historic and archeological properties and require further consultation with the MD SHPO. NRCS Maryland will consult with the MD SHPO for these undertakings in accordance with the process specified in Stipulation V.c.

b. The list of undertakings provided in the Appendix A may be modified through consultation and written agreement between the NRCS Maryland State Conservationist and the MD SHPO without requiring an amendment to this State-based Prototype Agreement. The NRCS State office will maintain the master Appendix A list and will provide an updated list to all consulting parties with an explanation of the rationale (metadata) for classifying the practices accordingly, when updated. Signed modifications will be filed with the FPO and ACHP.

c. Undertakings identified in Appendix A, Part 3 and those identified through NRCS Maryland screening of practices listed in Appendix A, Part 2 shall require further review as outlined in Stipulation V.c. NRCS Maryland shall consult with the MD SHPO to define the undertaking's APE, identify and evaluate historic properties that may be affected by the undertaking, assess potential effects, and identify strategies for resolving adverse effects prior to approving the financial assistance for the undertaking.

1. NRCS Maryland may provide its proposed APE, identification of historic properties and/or scope of identification efforts, and assessment of effects in a single transmittal to the MD SHPO, provided this documentation meets the substantive standards in 36 CFR Part 800.4-5 and 800.11.

2. NRCS Maryland shall attempt to avoid adverse effects to historic properties whenever possible; where historic properties are located in the APE, NRCS shall describe how it proposes to modify, buffer, or move the undertaking to avoid adverse effects to historic properties.

3. Where NRCS Maryland determines a finding of “no historic properties affected” or “no adverse effect” to historic properties, the MD SHPO shall have 30 calendar days from receipt of this documented description and information to review it and provide comments. NRCS Maryland shall take into account all timely comments.

i. If the MD SHPO, or another consulting party, disagrees with findings and/or determinations made by NRCS Maryland, it shall notify NRCS Maryland within the 30-calendar day time period. NRCS Maryland shall consult with the MD SHPO/ or other consulting party to attempt to resolve the disagreement. If the disagreement cannot be resolved through this consultation, NRCS shall follow the dispute resolution process in Stipulation VIII below.

ii. If the MD SHPO does not respond to NRCS Maryland within the 30-calendar day period and/or NRCS Maryland receives no objections from other consulting parties, or if the MD SHPO concurs with the determination and proposed actions of NRCS Maryland to avoid adverse effects, NRCS Maryland shall document the concurrence/lack of response within the review time noted above, and may move forward with the undertaking.

4. Where a proposed undertaking may adversely affect historic properties, NRCS Maryland shall describe proposed measures to minimize or mitigate the adverse effects, and follow the process in 36 CFR Part 800.6, including consultation with other consulting parties and notification to the ACHP, to develop a Memorandum of Agreement to resolve the adverse effects. Should the proposed undertaking have the potential to adversely affect a known National Historic Landmark (NHL), NRCS Maryland shall, to the maximum extent possible, undertake such planning and actions as may be necessary to minimize harm to the NHL in accordance with 54 U.S.C. 306107 of the NHPA and 36 CFR Part 800.6 and 800.10, including consultation with the ACHP and respective National Park Service Regional National Historic Landmark Program Coordinator.

5. More specific procedures used by NRCS Maryland to complete the Section 106 review process can be found in the NRCS National Cultural Resources Procedures Handbook, Title 190 Part 601, and in the NRCS Maryland Cultural Resources Review Form and Instructions provided in Appendix B to this agreement. The documents in Appendix B provide additional detailed instructions for how NRCS Maryland and the MD SHPO shall complete cultural resources reviews. The NRCS Maryland Cultural Resource Review Process and Forms, Appendix B, may be modified through consultation and written agreement between the NRCS Maryland State Conservationist and the MD SHPO without requiring an amendment to this State-based Prototype Agreement. The NRCS State office will maintain the master Appendix B procedures and will provide an updated document to all consulting

parties with an explanation of the rationale for any updates, when applicable. Signed modifications will be filed with the FPO and ACHP.

VI. Emergency and Disaster Management Procedures (Response to Emergencies)

- a. NRCS Maryland shall notify the MD SHPO, Indian tribes, and other consulting parties, as appropriate, immediately or within 48 hours of the emergency determination, following the NRCS' Emergency Watershed Program (EWP) final rule (see Section 216, P.L. 81-516 Final Rule, 7 CFR Part 624 (April 2005).
- b. Where the NRCS EWP final rule is found to be inapplicable, NRCS Maryland shall follow the recently approved guidelines for Unified Federal Review issued by the Department of Homeland Security, Federal Emergency Management Service (DHS, FEMA), the Council on Environmental Quality (CEQ), and the ACHP in July 2014, or the procedures in 36 CFR Part 800.12(b).
- c. NRCS Maryland, in consultation with MD SHPO, can develop event-specific emergency procedures that can be modified or added to this agreement (Appendix D) through written agreement between the NRCS State Conservationist and MD SHPO, without requiring amendment to this State-based Prototype Agreement. Approved procedures should be sent to the FPO and ACHP.

VII. Post-review discoveries of cultural resources or historic properties and unanticipated effects to historic properties.

- a. Where construction has not yet begun and a cultural resource is discovered after Section 106 review is complete, NRCS Maryland shall consult to seek avoidance or minimization strategies in consultation with the MD SHPO, and/or to resolve adverse effects in accordance with 36 CFR Part 800.6.
- b. NRCS Maryland shall ensure that every contract for assistance includes provisions for halting work/construction in the area when potential historic properties are discovered or unanticipated effects to historic properties are found after implementation, installation, or construction has begun. When such a discovery occurs, the producer who is receiving financial assistance or their contractor shall immediately notify the NRCS State Conservationist's Office, CRC, or specialized cultural resources personnel as specified in Stipulation II.c of this agreement, supervisory NRCS personnel for the area, and the landowner/applicant.
 1. NRCS Maryland CRC or specialized cultural resources personnel for NRCS Maryland shall inspect the discovery within 24 hours, if weather permits, and in consultation with the local NRCS Maryland official (field office supervisor or District Conservationist), concerned Indian tribes, the MD SHPO, the NRCS Maryland engineering or program supervisor, as appropriate, the landowner/producer (whomever NRCS is assisting). The CRC and specialized cultural resources personnel assistance to NRCS Maryland shall establish a

protective buffer zone surrounding the discovery. This action may require inspection by tribal cultural resources experts in addition to the CRC or specialized cultural resources personnel for NRCS Maryland.

2. All NRCS Maryland contact with media shall occur only under the direction of the NRCS Public Affairs Officer, as appropriate, and the State Conservationist.

3. Security shall be established to protect the resources/historic properties, workers, and private property. Local law enforcement authorities will be notified in accordance with applicable State law and NRCS policy in order to protect the resources. Construction and/or work may resume outside the buffer only when the State Conservationist determines it is appropriate and safe for the resources and workers.

4. NRCS Maryland CRC/CRS shall notify the MD SHPO and the ACHP no later than 48 hours after the discovery and describe NRCS' assessment of the National Register eligibility of the property, as feasible and proposed actions to resolve any adverse effects to historic properties. The eligibility determination may require the assessment and advice of concerned Indian tribes, the MD SHPO, and technical experts (such as historic landscape architects) not employed by NRCS.

5. The MD SHPO and ACHP shall respond within 48 hours from receipt of the notification with any comments on the discovery and proposed actions.

6. NRCS Maryland shall take any comments provided into account and carry out appropriate actions to resolve any adverse effects.

7. NRCS Maryland shall provide a report to the MD SHPO and the ACHP of the actions when they are completed.

c. When human remains are discovered, NRCS Maryland shall follow all applicable federal, tribal, and state burial laws and ordinances, including the Native American Graves Protection and Repatriation Act, and implementing regulations, when on tribal or federal lands, and related human rights and health statutes, where appropriate. NRCS Maryland shall also refer to the ACHP's Policy Statement regarding *Treatment of Burial Sites, Human Remains and Funerary Objects* and the ACHP's Section 106 Archaeology Guidance. NRCS Maryland shall also follow USDA and NRCS policy on treatment of human remains and consultation (GM 420 Part 401.33).

VIII. Dispute resolution.

a. Should any consulting or signatory party to this State-based Prototype Agreement object to any actions proposed or the manner in which the terms of the agreement are implemented, NRCS Maryland State Conservationist and CRC shall consult with such party to resolve the objection. If the NRCS Maryland State Conservationist determines that such objection cannot be resolved, he or she will:

1. Forward all documentation relevant to the dispute, including the NRCS Maryland State Conservationist's proposed resolution, to the NRCS FPO and Senior Policy Official (SPO Deputy Chief for Science and Technology) and the ACHP. The ACHP shall provide the FPO, SPO, and State Conservationist with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, NRCS shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and any signatory or consulting parties, and provide them with a copy of this written response. NRCS Maryland will then proceed according to its final decision.

2. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, NRCS may make a final decision on the dispute and proceed. Prior to reaching such a final decision, NRCS Maryland shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and consulting parties, and provide them and the ACHP with a copy of the written response.

b. NRCS Maryland's responsibility to carry out all other actions subject to the terms of this agreement that are not the subject of the dispute remains unchanged.

c. Any consulting party to State-based Prototype Agreement may request the ACHP provide its advisory opinion regarding the substance of any finding, determination, or decision regarding compliance with its terms.

d. At any time during the implementation of the State-based Prototype Agreement, a member of the public may submit an objection pertaining to this agreement to the NRCS Maryland State Conservationist, in writing. Upon receiving such an objection, the State Conservationist shall notify the NRCS SPO and FPO, and the MD SHPO, then take the objection into account, and consult with other consulting parties as appropriate to resolve the objection. The NRCS State Conservationist shall notify the SPO, FPO, and MD SHPO of the outcome of this process.

IX. Public Involvement

The NRCS Maryland State Conservationist will ensure the public is involved in the development of this State-based Prototype Agreement and participates in Section 106 review as set forth above in Section V.

X. Annual reporting and monitoring.

a. Every year following the execution of this agreement, commencing December 1, 2018, until it expires or is terminated, the NRCS Maryland State Conservationist shall provide the MD SHPO and the FPO a summary report detailing work undertaken pursuant to its terms, including a list of undertakings falling under Appendix A, Parts 1 and 2, as well as undertakings that required further review; a summary of the nature and content of meetings held with MD SHPO; and an assessment of the overall effectiveness of the State-based Prototype Agreement. Such reports

shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in NRCS' efforts to carry out the terms of this agreement.

1. The NRCS FPO shall use the state reports to provide, through the NRCS SPO, an annual report to the ACHP.
 2. The State Conservationist shall use the state report to assess the need for annual meetings with the MD SHPO each fiscal year.
- b. The State Conservationist will participate in an annual review with the NRCS Regional Conservationist regarding the effectiveness of the prototype agreement and submit a written (email) report following this review to the SPO (Deputy Chief for Science and Technology).
- c. The NRCS State Conservationist and the MD SHPO may request that the ACHP participate in any annual meeting or agreement review.
- d. NRCS Maryland and the MD SHPO will consult regularly to review implementation of the terms of the agreement. If deemed appropriate by NRCS Maryland or MD SHPO, both parties shall meet to discuss and resolve any issues raised as a result of the review including, at a minimum, one annual meeting.

XI. Compliance with applicable State law and Tribal law (when on Tribal lands).

NRCS Maryland shall comply with relevant and applicable state law, including permit requirements on state land, and with relevant and applicable tribal law, when on tribal lands.

XII. Duration of Prototype Agreement.

This State-based Prototype Agreement will be in effect for 10 years from the date of execution unless amended or terminated pursuant to Stipulation XIII below.

XIII. Amendment and termination.

- a. This State-based Prototype Agreement may be amended if agreed to in writing by all signatories. The amendment will be effective on the date a copy, signed by all of the signatories, is filed with the NRCS FPO, SPO, and the ACHP.
- b. If any signatory to this State-based Prototype Agreement, or the ACHP, determines that its provisions will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation XII.A. If within 30 calendar days, or other time period agreed upon by the signatories, an amendment cannot be agreed upon, any signatory or the ACHP may terminate the agreement upon written notification to the other signatories.
- c. If this State-based Prototype Agreement is terminated, or expires without being extended via

the amendment process described above, and prior to continuing work on any undertaking, NRCS Maryland shall comply with 36 CFR Part 800 for all individual undertakings in the state of Maryland.

d. NRCS Maryland will consider requests from other USDA agencies to become a signatory to the State- based Prototype Agreement following formal written requests and appropriate discussion with and approval by the NRCS FPO and SPO, and joint NRCS State Office consultation with the ACHP, NCMD SHPO, and Indian tribes/THPOs or NHOs, and other consulting parties, as appropriate. Such inclusion of the USDA agency may require amendment to this State-based Prototype Agreement.

Execution of this State-based Prototype Agreement by NRCS Maryland and MD SHPO and implementation of its terms evidence that NRCS has taken into account the effects of its undertakings in the State of Maryland on historic properties and afforded the ACHP a reasonable opportunity to comment.

Signatory Parties

Date

 Acting

Terron L. Hillsman, Ph.D., State Conservationist,
Maryland Natural Resources Conservation Service

1-12-18



Elizabeth Hughes, Director/State Historic Preservation
Officer, Maryland Historical Trust

1-12-18

List of Appendices

Appendix A – NRCS Maryland Conservation Practices

Appendix B – NRCS Maryland Cultural Resource Review Process and Forms

Appendix C – ACHP Letter Authorizing Use of this Prototype Agreement

Appendix D – Procedures for Emergency Response

Appendix E– Glossary of Acronyms Used in this Document

APPENDIX A – NRCS MARYLAND CONSERVATION PRACTICES

Pursuant to Stipulation V.a. above, in consultation with the MD SHPO, NRCS Maryland has classified its Maryland conservation practices into three categories based on the practices' potential to affect historic and archeological properties and its corresponding level of required review and consultation with the MD SHPO.

Note: Certified planners (NRCS and Partners) will document the results of the review process (Appendix B-1) on the NRCS Environmental Evaluation (NRCS-CPA-52) and on the NRCS Conservation Assistance notes (NRCS-CPA-6). Proposed practice(s) identified as undertakings (e.g. Part 2 and 3) will be documented on the MD SHPO Project Review form (Appendix B-2) and provide it to MD CRC for further review with MD SHPO. After their review MD SHPO will provide the appropriate field staff with their final determination and copy MD CRC.

APPENDIX A, PART 1: Conservation practices exempt from further consultation with the MD SHPO

The NRCS Maryland and MD SHPO agree that the undertakings listed in Appendix A, Part 1 have little or no potential to adversely affect historic properties. The NRCS Maryland is not required to consult further with the MD SHPO under Section 106 for any undertaking that is included in Appendix A, Part 1.

PRACTICE CODE	PRACTICE NAME
472	Access Control
591	Amendments for the Treatment of Agricultural Waste
314	Brush Management
372	Combustion System Improvement
327	Conservation Cover
328	Conservation Crop Rotation
332	Contour Buffer Strips
330	Contour Farming
340	Cover Crop
324	Deep Tillage
554	Drainage Water Management
647	Early Successional Habitat Development/Management
201	Edge-of-Field Water Quality Monitoring– Data Collection and Evaluation
592	Feed Management
393	Filter Strip
394	Firebreak
399	Fishpond Management

PRACTICE CODE	PRACTICE NAME
512	Forage and Biomass Planting
511	Forage Harvest Management
666	Forest Stand Improvement
383	Fuel Break
422	Hedgerow Planting
315	Herbaceous Weed Control
325	High Tunnel System
595	Integrated Pest Management
449	Irrigation Water Management
670	Lightning System Improvement
484	Mulching
590	Nutrient Management
521C	Pond Sealing or Lining, Bentonite Sealant
521D	Pond Sealing or Lining, Compacted Clay Treatment
521A	Pond Sealing or Lining, Flexible Membrane
521B	Pond Sealing or Lining, Soil Dispersant
528	Prescribed Grazing
329	Residue and Tillage Management, No-Till
345	Residue and Tillage Management, Reduced Till
643	Restoration and Management of Rare and Declining Habitats
390	Riparian Herbaceous Cover
557	Row Arrangement
646	Shallow Water Development and Management
585	Stripcropping
649	Structures for Wildlife
660	Tree/Shrub Pruning
645	Upland Wildlife Habitat Management
633	Waste Recycling
634	Waste Transfer
635	Vegetated Treatment Area
355	Well Water Testing
644	Wetland Wildlife Habitat Management
384	Woody Residue Treatment

Conservation Activity Plans (CAP's)

102	Comprehensive Nutrient Management Plan
104	Nutrient Management Plan
106	Forest Management Plan
108	Feed Management Plan
110	Grazing Management Plan
112	Prescribed Burning Plan
114	Integrated Pest Management
118	Irrigation Water Management Plan
128	Agriculture Energy Management Plan
130	Drainage Water Management Plan
138	Conservation Plan Supporting Organic Transition
142	Fish and Wildlife Habitat Plan
146	Pollinator Habitat Plan
154	IPM Herbicide Resistant Weed Conservation Plan

APPENDIX A, PART 2: Conservation practices NRCS Maryland will screen to determine the need for further consultation with the MD SHPO

The NRCS Maryland and MD SHPO agree that the following undertakings listed in Appendix A, Part 2 may have some potential to affect historic and archeological properties if an undertaking's area of potential effects includes resources recorded in the MD SHPO's cultural resources inventory. For the undertakings listed in Appendix A, Part 2, NRCS Maryland will use the MD SHPO's online Medusa, Maryland's Cultural Resources Information System (Medusa) to identify if an undertaking intersects with a resource that is included in the Maryland Inventory of Historic Properties, National Register of Historic Places, or is protected by a perpetual historic preservation easement held by the MD SHPO. If the NRCS Maryland screening does not identify any recorded resources in the practice area, no further consultation with the MD SHPO is needed for that practice. If the NRCS Maryland screening reveals a resource illustrated in Medusa in the practice area, NRCS Maryland will consult with the MD SHPO for that undertaking in accordance with the process specified in Stipulation V.c.

PRACTICE CODE	PRACTICE NAME
311	Alley Cropping
672	Building Envelope Improvement

PRACTICE CODE	PRACTICE NAME
382	Fence
374	Farmstead Energy Improvement
386	Field Border
412	Grassed Waterway
548	Grazing Land Mechanical Treatment
561	Heavy Use Area Protection
338	Prescribed Burning
391	Riparian Forest Buffer
558	Roof Runoff Structure
367	Roofs and Covers
381	Silvopasture Establishment
612	Tree/Shrub Establishment
380	Windbreak/Shelterbelt Establishment

APPENDIX A, PART 3: Conservation practices that require further consultation with the MD SHPO

The NRCS Maryland and MD SHPO agree that the following undertakings listed in Appendix A, Part 3 have the potential to affect historic and archeological properties and require further consultation with the MD SHPO. NRCS Maryland will consult with the MD SHPO for that undertaking in accordance with the process specified in Stipulation V.c.

PRACTICE CODE	PRACTICE NAME
560	Access Road
309	Agrichemical Handling Facility
333	Amending Soil Properties with Gypsum Products
366	Anaerobic Digester, Controlled Temperature
316	Animal Mortality Facility
396	Aquatic Organism Passage
585	Channel Bed Stabilization
317	Composting Facility
656	Constructed Wetland

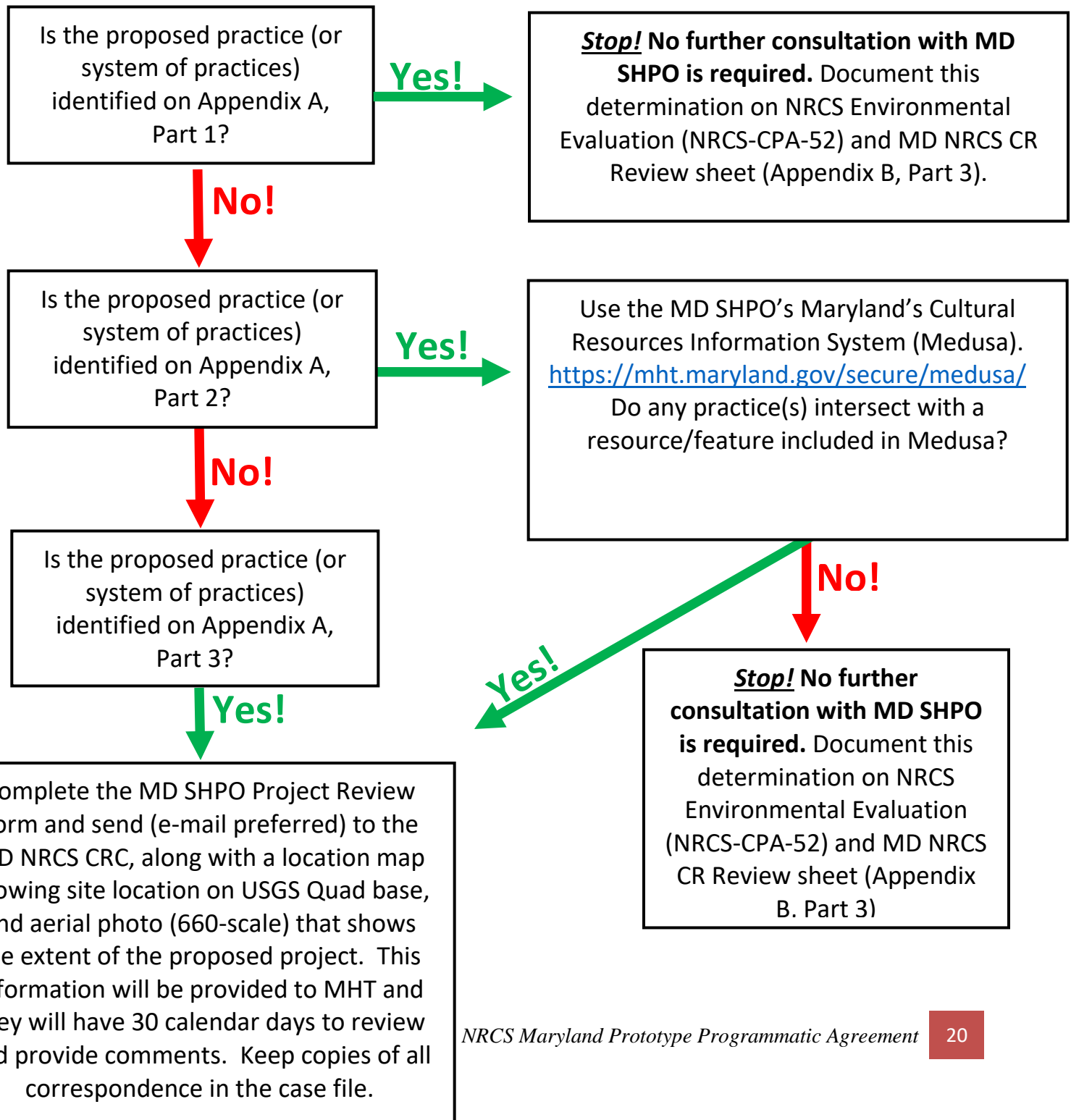
PRACTICE CODE	PRACTICE NAME
331	Contour Orchard and Other Perennial Crops
342	Critical Area Planting
605	Denitrifying Bioreactor
356	Dike
362	Diversion
432	Dry Hydrant
202	Edge-of-Field Water Quality Monitoring– System Installation
368	Emergency Animal Mortality Management
655	Forest Trails and Landings
410	Grade Stabilization Structure
430	Irrigation Pipeline
436	Irrigation Reservoir
441	Irrigation System, Microirrigation
442	Irrigation System, Sprinkler
447	Irrigation System, Tailwater Recovery
430DD	Irrigation Water Conveyance, Pipeline, High-Pressure, Underground, Plastic
527	Karst Sinkhole Treatment
468	Lined Waterway or Outlet
516	Livestock Pipeline
634	Manure Transfer
500	Obstruction Removal
378	Pond
533	Pumping Plant
654	Road/Trail/Landing Closure and Treatment
604	Saturated Buffer
350	Sediment Basin
632	Solid/Liquid Waste Separation Facility
572	Spoil Spreading
574	Spring Development
570	Stormwater Runoff Control
578	Stream Crossing
395	Stream Habitat Improvement and Management
580	Streambank and Shoreline Protection
587	Structure for Water Control
606	Subsurface Drain
607	Surface Drainage, Field Ditch
608	Surface Drainage, Main or Lateral
600	Terrace
575	Trails and Walkways
490	Tree/Shrub Site Preparation
620	Underground Outlet

PRACTICE CODE	PRACTICE NAME
630	Vertical Drain
360	Waste Facility Closure
735	Waste Gasification Facility
313	Waste Storage Facility
629	Waste Treatment
359	Waste Treatment Lagoon
638	Water and Sediment Control Basin
642	Water Well
351	Water Well Decommissioning
614	Watering Facility
658	Wetland Creation
659	Wetland Enhancement
657	Wetland Restoration

APPENDIX B

NRCS MARYLAND CULTURAL RESOURCES REVIEW PROCESS AND FORMS

Use the following diagram to determine whether a conservation practice could affect cultural resources, assuming they are present in the area of potential effect. Regardless of its category on this list, for any conservation practice or activity implemented in a manner that could adversely affect cultural resources, NRCS may choose (at their discretion) to send the MD SHPO for review and comment.



APPENDIX B, PART 2

PROJECT REVIEW FORM



PROJECT REVIEW FORM

Request for Comments from the Maryland Historical Trust/
MDSHPO on State and Federal Undertakings

MHT USE ONLY	
Date Received:	Log Number:

Project Name <input style="width: 95%;" type="text"/>	County <input style="width: 95%;" type="text"/>
---	---

Primary Contact:

Contact Name <input style="width: 95%;" type="text"/>	Company/Agency <input style="width: 95%;" type="text"/>
Mailing Address <input style="width: 100%;" type="text"/>	
City <input style="width: 30%;" type="text"/>	State <input style="width: 20%; text-align: center; border: 1px solid black; border-bottom: none; border-top: none;"/> Maryland
Email <input style="width: 30%;" type="text"/>	Zip <input style="width: 20%;" type="text"/>
Phone Number <input style="width: 20%;" type="text"/>	Ext. <input style="width: 10%;" type="text"/>

Project Location:

Address <input style="width: 95%;" type="text"/>	City/Vicinity <input style="width: 95%;" type="text"/>
Coordinates (if known): Latitude <input style="width: 15%;" type="text"/>	Longitude <input style="width: 15%;" type="text"/>
	Waterway <input style="width: 30%;" type="text"/>

Project Description:

List federal and state sources of funding, permits, or other assistance (e.g. Bond Bill Loan of 2013, Chapter #; HUD/CDBG; MDE/COE permit; etc.).	Agency Type	Agency/Program/Permit Name	Project/Permit/Tracking Number (if applicable)
	<input style="width: 100%;" type="text"/>		
	<input style="width: 100%;" type="text"/>		

This project includes (check all applicable):

<input type="checkbox"/> New Construction	<input type="checkbox"/> Demolition	<input type="checkbox"/> Remodeling/Rehabilitation
<input type="checkbox"/> State or Federal Rehabilitation Tax Credits	<input type="checkbox"/> Excavation/Ground Disturbance	<input type="checkbox"/> Shoreline/Waterways/Wetlands

Other\Additional Description:

Known Historic Properties:

This project involves properties (check all applicable):	
<input type="checkbox"/> Listed in the National Register	<input type="checkbox"/> Subject to an easement held by MHT
<input type="checkbox"/> Included in the Maryland Inventory of Historic Properties	<input type="checkbox"/> Designated historic by a local government
<input type="checkbox"/> Previously subject to archeological investigations	
Property\District\Report Name <input style="width: 95%;" type="text"/>	

Attachments:

All attachments are required. Incomplete submittals may result in delays or be returned without comment.	
<input type="checkbox"/> Aerial photograph or USGS Quad Map section with location and boundaries of project clearly marked.	
<input type="checkbox"/> Project Description, Scope of Work, Site Plan, and/or Construction Drawings.	
<input type="checkbox"/> Photographs (print or digital) showing the project site including images of all buildings and structures.	
<input type="checkbox"/> Description of past and present land uses in project area (wooded, mined, developed, agricultural uses, etc).	

MHT Determination:

<input type="checkbox"/> There are NO HISTORIC PROPERTIES in the area of potential effect	<input type="checkbox"/> The project will have NO ADVERSE EFFECT WITH CONDITIONS
<input type="checkbox"/> The project will have NO EFFECT on historic properties	<input type="checkbox"/> The project will have ADVERSE EFFECTS on historic properties
<input type="checkbox"/> The project will have NO ADVERSE EFFECT on historic properties	<input type="checkbox"/> MHT REQUESTS ADDITIONAL INFORMATION
MHT Reviewer:	Date:

Submit printed copy of form and all attachments by mail to: Beth Cole, MHT, 100 Community Place, Crownsville, MD 21032

Revised 6/21/

APPENDIX B, PART 3
MD NRCS CULTURAL RESOURCES REVIEW SHEET

Cooperator Name	County	Planner	Date
Farm/Tract/Field(s)	Program/Contract No. (if applicable)		

Exempt Practices and Plans (Appendix A, Part 1)

The following practices and plans have little or no potential to adversely affect historic properties. No further review or consultation with the MD SHPO is required. (check all that apply)

Practice Code	Practice Name	Practice Code	Practice Name
<input type="checkbox"/> 472	Access Control	<input type="checkbox"/> 449	Irrigation Water Management
<input type="checkbox"/> 591	Amendments for the Treatment of Ag Waste	<input type="checkbox"/> 670	Lighting System Improvement
<input type="checkbox"/> 314	Brush Management	<input type="checkbox"/> 484	Mulching
<input type="checkbox"/> 372	Combustion System Improvement	<input type="checkbox"/> 590	Nutrient Management
<input type="checkbox"/> 327	Conservation Cover	<input type="checkbox"/> 521C	Pond Sealing or Lining, Bentonite Sealant
<input type="checkbox"/> 328	Conservation Crop Rotation	<input type="checkbox"/> 521D	Pond Sealing or Lining, Compacted Clay Treatment
<input type="checkbox"/> 332	Contour Buffer Strips	<input type="checkbox"/> 521A	Pond Sealing or Lining, Flexible Membrane
<input type="checkbox"/> 330	Contour Farming	<input type="checkbox"/> 521B	Pond Sealing or Lining, Soil Dispersant
<input type="checkbox"/> 340	Cover Crop	<input type="checkbox"/> 528	Prescribed Grazing
<input type="checkbox"/> 324	Deep Tillage	<input type="checkbox"/> 329	Residue and Tillage Mgt., No-Till
<input type="checkbox"/> 554	Drainage Water Management	<input type="checkbox"/> 345	Residue and Tillage Mgt., Reduced Till
<input type="checkbox"/> 647	Early Successional Habitat Development/Mgt.	<input type="checkbox"/> 643	Restoration and Mgt. of Rare/Declining Habitats
<input type="checkbox"/> 201	Edge-of-Field WQ Monitoring– Data Collection and Evaluation	<input type="checkbox"/> 390	Riparian Herbaceous Cover
<input type="checkbox"/> 592	Feed Management	<input type="checkbox"/> 557	Row Arrangement
<input type="checkbox"/> 393	Filter Strip	<input type="checkbox"/> 646	Shallow Water Development and Management
<input type="checkbox"/> 394	Firebreak	<input type="checkbox"/> 585	Stripcropping
<input type="checkbox"/> 399	Fishpond Management	<input type="checkbox"/> 649	Structures for Wildlife
<input type="checkbox"/> 512	Forage and Biomass Planting	<input type="checkbox"/> 660	Tree/Shrub Pruning
<input type="checkbox"/> 511	Forage Harvest Management	<input type="checkbox"/> 645	Upland Wildlife Habitat Management
<input type="checkbox"/> 666	Forest Stand Improvement	<input type="checkbox"/> 633	Waste Recycling
<input type="checkbox"/> 383	Fuel Break	<input type="checkbox"/> 634	Waste Transfer
<input type="checkbox"/> 422	Hedgerow Planting	<input type="checkbox"/> 635	Vegetated Treatment Area
<input type="checkbox"/> 315	Herbaceous Weed Control	<input type="checkbox"/> 355	Well Water Testing
<input type="checkbox"/> 325	High Tunnel System	<input type="checkbox"/> 644	Wetland Wildlife Habitat Management
<input type="checkbox"/> 595	Integrated Pest Management	<input type="checkbox"/> 384	Woody Residue Treatment

Plan Code	Plan Name	Plan Code	Plan Name
<input type="checkbox"/> 102	Comprehensive Nutrient Management Plan	<input type="checkbox"/> 118	Irrigation Water Management Plan
<input type="checkbox"/> 104	Nutrient Management Plan	<input type="checkbox"/> 128	Agriculture Energy Management Plan
<input type="checkbox"/> 106	Forest Management Plan	<input type="checkbox"/> 130	Drainage Water Management Plan
<input type="checkbox"/> 108	Feed Management Plan	<input type="checkbox"/> 138	Conservation Plan Supporting Organic Transition
<input type="checkbox"/> 110	Grazing Management Plan	<input type="checkbox"/> 142	Fish and Wildlife Habitat Plan
<input type="checkbox"/> 112	Prescribed Burning Plan	<input type="checkbox"/> 146	Pollinator Habitat Plan
<input type="checkbox"/> 114	Integrated Pest Management	<input type="checkbox"/> 154	IPM Herbicide Resistant Weed Conservation Plan

Practices with Some Potential to Affect Cultural Resources (Appendix A, Part 2)

These practices may have some potential to affect historic and archeological properties if an undertaking's area of potential effects includes resources recorded in the MD SHPO's cultural resources inventory. For the practices listed below, use the MD SHPO's online Medusa to identify whether a practice intersects with a resource/feature that is included in their inventory.

If the Medusa screening identifies a resource/feature in the practice area, NRCS Maryland must consult with the MD SHPO. Fill out the MD SHPO Project Review Form and send to the MD NRCS Cultural Resources Coordinator.

If the Medusa screening does not identify any recorded resources/features in the practice area, no further consultation with the MD SHPO is needed for that practice. Use the following list to document practices that were screened with Medusa, and have no recorded resources/features in the practice area. (check all that apply)

Practice Code	Practice Name	Practice Code	Practice Name
<input type="checkbox"/> 311	Alley Cropping	<input type="checkbox"/> 338	Prescribed Burning
<input type="checkbox"/> 672	Building Envelope Improvement	<input type="checkbox"/> 391	Riparian Forest Buffer
<input type="checkbox"/> 382	Fence	<input type="checkbox"/> 558	Roof Runoff Structure
<input type="checkbox"/> 374	Farmstead Energy Improvement	<input type="checkbox"/> 367	Roofs and Covers
<input type="checkbox"/> 386	Field Border	<input type="checkbox"/> 381	Silvopasture Establishment
<input type="checkbox"/> 412	Grassed Waterway	<input type="checkbox"/> 612	Tree/Shrub Establishment
<input type="checkbox"/> 548	Grazing Land Mechanical Treatment	<input type="checkbox"/> 380	Windbreak/Shelterbelt Establishment
<input type="checkbox"/> 561	Heavy Use Area Protection		

Practices with Potential to Affect Cultural Resources (Appendix A, Part 3 - see eFOTG Section II-C)

Practice Code(s) or Name(s):

Fill out the MD SHPO Project Review Form and send to the MD NRCS Cultural Resources Coordinator.

NRCS Finding and MHT Determination

Cultural resources are not likely to be affected due to: (e.g. Practice listed on Appendix A, Part 1 or Practice listed on Part 2 but no feature identified in Medusa)

☐ Practice(s) Exempted ☐ No Historic Property Affected (Medusa review - no features identified)

Cultural resources are likely to be present and/or practice(s) with potential to affect: (e.g. Feature identified in Medusa or Practice listed on Appendix A, Part 3)

☐ MHT Determination (attached)

Planner Signature

Date

APPENDIX C
NOVEMBER 21, 2014 ACHP LETTER
AUTHORIZING
THE USE OF THIS PROTOTYPE
AGREEMENT

Milford Wayne Donaldson, FAIA
Chairman

Clement A. Price, Ph.D.
Vice Chairman

John M. Fowler
Executive Director



Preserving America's Heritage

November 21, 2014

Jason Weller, Chief
Natural Resources Conservation Service
United States Department of Agriculture
1400 Independence Avenue, SW, Room 5105-A
Washington, DC 20250

Ref: Prototype Programmatic Agreement for NRCS

Dear Chief Weller:

Since 2009, the Natural Resources Conservation Service (NRCS), an agency of the United States Department of Agriculture (USDA), has been working with the Advisory Council on Historic Preservation (ACHP) to develop a prototype programmatic agreement (PPA) that would provide NRCS with the ability to comply with the requirements of Section 106 of the National Historic Preservation Act (NHPA) while carrying out NRCS' mission of providing financial and technical assistance to agricultural producers (farmers, ranchers, and forest landowners) who voluntarily seek such assistance in order to make conservation improvements and address conservation concerns on their land. The PPA provides a framework for NRCS to develop state by state agreements that would expedite Section 106 compliance for routine activities, while still providing flexibility for conservation partners and stakeholders in coordinating historic preservation reviews.

Accordingly, I hereby designate the attached document as a PPA under 36 CFR § 800.14(b)(4) of the regulations implementing Section 106, "Protection of Historic Properties" (36 CFR Part 800). The PPA was developed by NRCS with input from the ACHP, the National Conference of State Historic Preservation Officers (NCSHPO), individual State Historic Preservation Officers (SHPOs), Tribal

Historic Preservation Officers (THPOs), federally recognized Indian tribes, Native Hawaiian organizations (NHOs), and historic preservation organizations (e.g., the National Trust for Historic Preservation, the Society for Historical Archaeology, the Society for American Archaeology), tribal membership organizations (e.g., the United South and Eastern Tribes), and other interested parties. It addresses NRCS' responsibilities under Section 106 for its conservation programs, and enables streamlining of Section 106 reviews by establishing review protocols, creates greater predictability in costs and time for consultation, and provides the flexibility to address specific situations and conditions to resolve adverse effects to historic properties. This PPA provides NRCS with a valuable tool to assist it in meeting its responsibilities under Section 106 as it continues to provide assistance and funding to farmers, ranchers, and forest landowners for their conservation improvements.

This PPA replaces the 2002 nationwide "Programmatic Agreement among the United States Department of Agriculture Natural Resources Conservation Service, the Advisory Council on Historic Preservation and the National Conference of State Historic Preservation Officers relative to Conservation Assistance," as amended in 2011 and 2012, which will expire on November 20, 2014. Existing State Level Agreements with SHPOs and Consultation Protocols with Tribal Nations, THPOs or NHOs developed pursuant to the 2002 amended nationwide Programmatic Agreement shall be void upon expiration of the nationwide Programmatic Agreement.

NRCS has many programs, practices, activities, and special initiatives that are implemented to address specific conservation issues. Not all states use the same programs and practices, activities and special initiatives; therefore, provisions within the PPA may be modified to allow states to focus on specific concerns and improve the management of effects to historic properties. When modifying the PPA at the state level, NRCS, SHPOs, THPOs, tribes, and NHOs should focus only on modifications that would further tailor historic preservation reviews to unique circumstances within a specific state. These areas include:

- Timeframes and communication methods,
- The roles and responsibilities of the PPA's signatories,
- References to applicable local and state laws, and
- A list of undertakings with little or no potential to affect historic properties, thus requiring no further Section 106 consultation with the relevant SHPO/Indian tribe/NHO.

The introductory "Whereas clauses" should remain unchanged and other stipulations within the PPA should be retained, with appropriate details added, as they reflect understandings between NRCS and the ACHP that were critical in developing the framework for this tool. Modifications to those sections in the attached PPA identified above will not change the status of the document as a PPA, so long as the modifications (1) are agreed to by NRCS and the relevant SHPO/Indian tribe/THPO/NHO, and (2) do not substantially change the consultative role given to other consulting partners.

Adoption of a PPA by a state is voluntary. That is, states may elect to implement the PPA or comply with the Section 106 regulations, 36 CFR Part 800. While the PPA offers a number of efficiencies to NRCS, SHPOs, and THPOs, if the required signatories in a given state choose not to adopt the PPA, NRCS must fulfill its Section 106 responsibilities for its individual undertakings through compliance with the requirements of 36 CFR Part 800.

NRCS must provide a signed copy of each state PPA to the NRCS Federal Preservation Officer (FPO), SHPO/Indian tribe/THPO/NHO, and any other signatories to the PPA. The ACHP is not required sign the PPA; however, all executed PPAs must also be filed with the ACHP prior to their use. This will

enable the ACHP to monitor the effectiveness of the PPA and engage NRCS in future discussions regarding any necessary changes or additions to the PPA based on patterns and trends.

We appreciate NRCS' cooperation and ongoing support of historic preservation initiatives. We are particularly appreciative of the efforts of NRCS' Senior Policy Official, Dr. Wayne Honeycutt, Ecological Sciences Director, Terrell Erickson, FPO, Sarah Bridges, and NRCS' Cultural Resources Specialists and Coordinators, particularly in Wyoming and South Dakota. Their contributions were invaluable.

We look forward to working with NRCS as a partner in this important interagency agreement.

Sincerely,

A handwritten signature in black ink, appearing to read "Milford Wayne Donaldson". The signature is written in a cursive, flowing style.

Milford Wayne Donaldson, FAIA Chairman

Enclosure

cc with enclosure: Dr. Wayne Honeycutt, SPO and Deputy Chief for Science and Technology
Sarah Bridges, FPO and National Cultural Resources Specialist

APPENDIX D
PROCEDURES FOR EMERGENCY RESPONSE
EMERGENCY WATERSHED PROTECTION (EWP) PROGRAM
MARYLAND EMERGENCY RECOVERY PLAN
REVISED JULY 2013

(Document not included. Available electronically upon request.)

APPENDIX E
GLOSSARY OF ACRONYMS USED IN THIS DOCUMENT

<u>Acronym</u>	<u>Acronym Meaning</u>
USDA	United States Department of Agriculture
NRCS	Natural Resources Conservation Service
ACHP	Advisory Council on Historic Preservation
NHL(s)	National Historic Landmark(s)
NRHP	National Register of Historic Places
MD SHPO	State Historic Preservation Officer
THPO	Tribal Historic Preservation Officer
NCMD SHPO	National Conference of State Historic Preservation Officers
NHO	Native Hawaiian Organization
NEPA	National Environmental Policy Act
CEQ	Council on Environmental Quality
DHS	Department of Homeland Security
FEMA	Federal Emergency Management Agency
NHPA	National Historic Preservation Act
FPO	Federal Preservation Officer (Federal Preservation Officer)
SPO	Senior Policy Official (NRCS)
NHQ	National Headquarters (NHQ)
APE	Area of Potential Effect—from ACHP regulations 36 CFR Part 800
CRS	Cultural Resources Specialist (NRCS—meets Secretary of Interior’s Professional Qualification Standards, generally an archaeologist or historian)
CRC	Cultural Resources Coordinator
EWP	Emergency Watershed Program (NRCS program)