

Attachment 4

Virginia NRCS Cultural Resources Procedures

Virginia NRCS Guidelines for defining the Area of Potential Effect

Virginia NRCS Guidelines for completing a Cultural Resources Survey for Field Office's

Virginia NRCS Cultural Resources Procedures

1. Trained NRCS Field Office personnel will determine whether or not a planned practice requires additional review under this State Level Agreement (“SLA”) using Attachment #3, Classification of Conservation Practice Effects on Cultural Resources. This process is detailed in Stipulation 2 of the SLA.

If the planned practice is listed as NG, Non-ground disturbing, it does not require additional review, and the Field Office (FO) personnel will note in the NRCS project file that the project does not require review by the Virginia Department of Historic Resources (DHR) and proceed with practice planning and installation.

2. If the practice is listed as G or PG, Ground disturbing or Potentially Ground disturbing, and does require additional review, FO personnel will conduct a visual field survey (Attachment 4) of the Area of Potential Effect (APE). Definition of the APE (Attachment 4) must include areas of direct effect (i.e. where ground disturbance will occur) and indirect effect (i.e. where secondary impacts may occur to an historic property’s setting). If the FO personnel determine that there is an unrecorded historic resource within the APE or there exists extraordinary potential for historic resources, such as deeply buried archaeological sites, the FO personnel will comply with Item 4, below.

Once the FO personnel complete the visual field survey of the APE and record any pertinent data and pictures, they will complete and submit a Request For Cultural Resources Review Form, a 1:24,000 topographic map showing tract and practice locations, a 1:5,000 aerial conservation plan map showing practice locations and forward everything to the Area Office (AO) Cultural Resources Coordinator (CRC) along with any additional pertinent data and pictures. The Area CRC will conduct a search of DHR’s Archives using the web-based Data Sharing System (DSS) to determine if any known historic resources are within the undertaking’s APE.

3. If no historic resource, either previously recorded or identified through field inspection, or no extraordinary potential for historic resources is identified within the APE, and the cumulative ground disturbance of the planned practice does not exceed one half (½) acre in extent, then the undertaking may continue without further review. Linear projects, such as fence or pipeline construction, are not subject to the ½-acre threshold and do not require additional review, regardless of length, unless there is a known historic resource or other extenuating circumstance. Records pertaining to the measures taken to identify historic resources must be maintained within the NRCS project file.
4. If an historic resource is identified during the field inspection the FO personnel will complete an NRCS Historic Properties Site Review Form (Attachment 5) and submit it to the State Office (SO) CRC. The SO CRC may then seek the comment of a NRCS Cultural Resources Specialist (CRS) or other qualified professional on the significance and treatment of the resource. If necessary, the CRS or other qualified professional will conduct a site visit. A DHR Archaeological Site Inventory Form will be completed for all new archaeological sites and this information must be entered into the DSS.
5. If DHR’s Archives show a known historic resource within the APE or an historic resource is identified during the field inspection, the FO personnel will re-evaluate alternatives to the planned undertaking with the landowner. If an alternative, non-sensitive location or non-

ground disturbing action can be planned, the FO personnel will document alternative(s) and proceed with assistance.

6. If it is found that a planned practice will impact an historic resource or if a practice will result in the cumulative ground disturbance of ½ acre or more in extent, all relevant information on the identification of historic resources will be submitted by the AO CRC. The AO CRC will submit all relevant data to include, but not limited to: cover letter, DHR/NRCS Concurrence and Recommendation Form, (Attachment 5), results of the Archives Search (DSS maps and reports), topographic and aerial maps showing practices and APE(s), and a project description to the DHR for concurrence. All of this information will be submitted online through DHR's web based Electronic Project Information Exchange (ePIX). DHR will have 30 days to review and comment on the project.
7. If DHR concurs with the NRCS "No Effect" or "No Adverse Effect" finding, then the project may proceed without further review. If DHR does not concur with the NRCS finding, then DHR will give recommendations to the AO CRC and the AO CRC will consult with the SO CRC to determine how NRCS will proceed per the DHR recommendations.
8. If additional cultural resources investigations are deemed necessary by the AO CRC, in consultation with DHR, then the SO CRC will arrange for a CRS or a qualified professional to conduct the necessary field investigation (Phase I or identification phase).
9. If NRCS funding/staff are not available to conduct field investigations, the Area CRC will discuss with the FO personnel the need and feasibility of further investigation. The FO personnel will then inform the landowner of NRCS requirements and ask if they are willing to pay for the work. If neither the landowner nor NRCS has any funding to conduct the necessary field investigations, then NRCS will withdraw any further assistance related to the planned practice.
10. If funding from NRCS or the landowner is available, but the landowner does not wish NRCS to proceed according to policy, then NRCS will withdraw any further assistance related to the planned practice.
11. If after a required field investigation (Phase I or identification phase) and funding is available and it is determined by the CRS (or qualified professional) and the SO CRC in consultation with DHR that the resource within the APE may be potentially eligible for inclusion in the National Register of Historic Places ("NRHP"), then the CRS (or qualified professional) will conduct a formal evaluation (Phase II or evaluation phase) of the site through a testing program in accordance with the Federal standards entitled Archaeology and Historic Preservation: Secretary of the Interior's *Standards and Guidelines* (48 FR 44742, September 29, 1983) and DHR's current state guidelines.
12. If the cultural resource is determined eligible for the listing in the NRHP, then NRCS, in consultation with DHR, shall develop a plan to reduce, mitigate or avoid any adverse effects upon the resource. The preferred alternative option is preservation in place by redesigning the planned practice to avoid any disturbance of the historic resource. When avoidance is not possible, NRCS will notify the Advisory Council on Historic Preservation ("Council") and determine Council participation in accordance with 36 CFR 800.6(a)(1). NRCS will develop a data recovery plan in consultation with DHR and other consulting parties, as appropriate. Details and conditions of the data recovery plan will be specified in a

Memorandum of Agreement (MOA) developed by NRCS pursuant to 36 CFR 800.6(b) and signed and agreed to by NRCS, DHR and other consulting parties as may be necessary.

13. If before or after the Phase II (evaluation) testing is conducted, NRCS determines in consultation with DHR that the historic resource fails to meet the criteria for inclusion in the NRHP, or if DHR fails to respond to such a determination within 30 days, then NRCS has met its Section 106 obligations and the practice may proceed.
14. No work related to any planned practice may proceed until the process detailed above has been fully satisfied through a valid effect finding between NRCS and DHR and the completion of all conditions stipulated in an MOA, if necessary.

Virginia NRCS Guidelines for defining the Area of Potential Effect

Guidelines for Defining the Area of Potential Effects (APE)

Virginia NRCS in Consultation with the Virginia State Historic Preservation Office

Section 106 of the National Historic Preservation Act requires federal agencies to define and document the Area of Potential Effects (APE) in consultation with the State Historic Preservation Office (SHPO). This requirement applies to any federal undertaking and should take place early in the environmental review process. The SHPO also uses Section 106 procedures as guidelines for consultation in certain state regulatory processes.

In the Section 106 process, the federal agency, or a representative of the federal agency, must identify historic properties and determine the effect of the proposed project on them. Thus, the reason for defining an APE is to determine the area in which historic properties must be identified, so that effects to any identified properties can, in turn, be assessed. (Historic properties are buildings, structures, objects, sites, and districts with significance in American history, architecture, archaeology, engineering, and culture. These properties may be **listed** in or **eligible** for the National Register of Historic Places.)

Definition

According to 36 CFR 800.16(d), the *Area of Potential Effects is the **geographic area** or areas within which an undertaking may directly or indirectly cause changes in the character or use of historic properties, if such properties exist. The area of potential effects is influenced by the **scale and nature of the undertaking** and may be different for different kinds of **effects** caused by the undertaking.*

Determining APE is a hypothetical process that considers the interplay of the three factors in bold.

Geographic Area

The project setting is an important factor in defining the APE. Varying combinations of geographical location, topography, soils, vegetation, and other environmental factors increase or decrease the likelihood of a project having physical, visual, and auditory effects on historic properties.

Consider how various environmental factors influence the APE:

- Is the setting a rural or urban area?
- Is the surrounding landscape wooded? open fields? hilly? flat?
- What is current land use—developed or agricultural?
- If developed, how? Industrial, residential, commercial? Define size and scale of development.
- What are the views from the project area and toward the project area?

Scale and Nature of the Undertaking

The scope of the project greatly affects the effort required to identify historic properties, and thus the way an APE is defined.

Consider different aspects of the scale and nature of undertaking when defining the APE:

- If new construction—how large, how many stories, and how many square feet?
- What is the extent of the ground disturbance? Are access roads or staging areas needed?
- Are additions to or demolition of an existing building involved?
- Is rehabilitation involved—entire building or just a few elements?
- What is the scale of new construction in relation to the surrounding setting?

Effects

The effects a project might have on historic properties vary with the **setting** and the **scale and nature** of the undertaking. Consider these examples of effect when defining an APE and remember that effect can be direct or indirect, beneficial or adverse:

- Physical changes to the area—actual takings, ground disturbance
- Visual changes, including changes to the appearance of buildings, structures, sites, or districts. Also changes in view sheds.
- Changes to existing pedestrian and traffic patterns.
- Changes in land use.

Key Points to Remember about the APE

- The federal agency, in consultation with the SHPO (or Tribal Historic Preservation Office), establishes the *Area of Potential Effects (APE)* in which identification efforts will occur.
- The APE is defined before identification actually begins, so it may not be known whether any historic properties are within the APE.
- The APE should include:
 - all alternative locations for all elements of the undertaking
 - all locations where the undertaking may result in ground disturbance
 - all locations from which elements of the undertaking (e.g. structures or land disturbance) may be visible or audible; and
 - all locations where the activity may result in changes in traffic patterns, land use, public access, etc.
- An APE may include areas that are not contiguous to the project area, and may not be the same area of effect defined under the National Environmental Policy Act (NEPA).

The Next Step – Identification of the APE and the Survey Area

The Identification process begins once the APE has been clearly defined. Archaeological and architectural surveys are required as part of the identification process.

The Archaeological APE and its associated survey are limited to the project footprint, whereas the architectural APE and its associated survey area for above ground resources--such as buildings, structures, sites, districts, and landscapes--will be larger, potentially taking into account the entire farm tract or even adjacent properties for visual, auditory, and other effects.

For more information:

- Contact one of the Virginia NRCS Area Office Cultural Resource Coordinators or the State Office Cultural Resources Coordinator.

**Virginia NRCS Guidelines for completing a Cultural Resources Survey
for Field Offices**

GUIDELINES FOR CONDUCTING A VISUAL CULTURAL RESOURCES SURVEY FOR VIRGINIA NRCS FIELD OFFICES

A cultural resource (CR) survey must take place before an undertaking associated with a NRCS practice or project can begin.

Field office personnel who have reached the proper level of training (NRCS CR Modules 1-6 with supervision, NRCS CR Modules 1-8 without supervision) may conduct surface reconnaissance for cultural resources.

SURVEY TECHNIQUES

1. Discuss with and check the recollections of the land owner about CR's in or around the planned APE and include these comments as part of the CR survey documentation.
2. Establish the entire area to be effected by the planned undertaking activity. Areas including steep slopes of 15% or greater, tidal areas, and permanent standing water (including hydric soil areas) may be omitted from the survey, unless known cultural resources are present. Always be aware of the possibility of wet area sites such as mill houses and boat landings etc.
3. Walk parallel survey transects (lines) across the applicable areas of the planned undertaking. Survey transects should be no more than 50 ft. apart (15 meters). Give closer attention to high probability areas; where high, well-drained soils and water sources are present or nearby. Do not hesitate to inspect areas off the survey transect where higher visibility or where subsurface disturbances have already taken place, such as, erosion, past construction, or turned up tree root balls, etc.
4. If an artifact(s) is found, give closer inspection to the area around the artifact. If more than two artifacts are found in a ten-foot square area and or soils have good potential to contain archaeological remains, contact CR Coordinator before proceeding with any activities that may impact the remains. If features (i.e. structural remains, fire pits) or any clear evidence for human occupation of the area over 50 years old will be affected by NRCS assistance contact the CR Coordinator to discuss the situation as soon as possible.
5. Always call the CR Coordinator when a human grave(s) or remains may be impacted or when uncertain about the age of artifacts or features found.
6. Always contact the CR Coordinator if cultural remains are located at any time in the Area of Potential Effect of an NRCS assisted practice or project.
7. Document your survey. Record the date of the survey, who conducted it, where it took place, what was found, and recollections of the landowner. Take pictures of the APE (and associated view shed if pertinent) and provide any additional information you may have gained relating to cultural resources associated with the work area.

NRCS Field Office
Cultural Resources Survey Documentation
Form

NRCS Cooperator/Reference Name: _____

Individual Conducting CR Survey: _____

Date of CR Survey: _____

NRCS Assisted Practices in Survey Area: _____

Comments and Discussion of Findings in Area Surveyed (always include comments from owner's recollections of CR's in the APE (Note: if any CR's are discovered contact CR Coordinator ASAP):

Signature and Date: _____

