



Natural Resources Conservation Service
6013 Lakeside Blvd.
Indianapolis, IN 46278

July 24, 2007

INDIANA BULLETIN NO. IN 390-7-1

SUBJECT: PDM- Use of Technical Assistance and Financial Assistance Funds for Cultural, Historic, and Environmental Resource Compliance Activities for Natural Resources Conservation Service Programs

Purpose: To provide clarification and instruction for use of technical assistance (TA) and financial assistance (FA) funds for Natural Resources Conservation Service (NRCS) compliance with the National Historic Preservation Act (NHPA), the National Environmental Policy Act (NEPA), and the Endangered Species Act (ESA) compliance activities for NRCS Programs.

Expiration Date: September 30, 2007

Background. The installation of conservation practices for many of the conservation programs administered by NRCS may occur in areas that can affect resources protected or considered under NEPA, ESA, and NHPA. Program planning and implementation in these areas, including mitigation of the adverse effects, tends to be more complex than the initial identification and evaluation of protected endangered species, cultural resources, and other resources considered during planning and compliance review.

Compliance activities include more than identification, evaluation, and treatment of cultural, historic, or environmental resource sites during project planning and implementation. For example, actions may be needed to mitigate adverse effects.

It is NRCS's policy to make every effort to avoid adverse effects to these resources. However, where there are large or complex projects where multiple environmental, cultural, and historic resources have been identified, or where conservation program needs require placement of a practice in a specific locale, it may not be possible to completely avoid effects to these resources. In such cases, it may be necessary to mitigate the adverse effects of needed practice installation.

Explanation. Identification and evaluation of historic, cultural, and other environmental resources within a project area is an essential component of NRCS conservation planning and environmental compliance. NRCS employees shall use Conservation Technical Assistance Program (CTAP) funds for these activities within a project's area of potential effect. This is the case whether the activity is performed by NRCS employees, a Technical Service Provider, or under a contract during pre-contract planning for a project. CTAP activities include resource identification and the initial evaluation of significance, including definition of boundaries during

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the conservation planning process under normal CTAP planning activities or as a part of the initial planning of a potential NRCS program participant under EQIP, WHIP, WRP, EWP, CSP, or other NRCS program.

After a program contract is signed (i.e., point of obligation), NRCS employee's will use the benefiting program's TA funds for time charges for all follow-up compliance, including expanded cultural resource investigations and biological assessments that may be needed before applying the conservation practice.

If NRCS must continue cultural, historic, and other environmental resource compliance activities after the program contract has been signed, and the activities have been identified as a necessary component of conservation practice installation, the field employees may request that the STC utilize the benefiting program's FA funds to conduct complex compliance activities when this work is being performed by non-NRCS personnel. The activities will be treated as a required component of the practice specifications and, therefore, essential for successful practice installation. These activities would normally occur during Step 8 (Implementation) of the planning process. For example, Program FA funds may be used for:

1. Extended resource evaluation studies, resource treatment, or mitigation, including data recovery (site excavation and recording);
2. Meeting terms and conditions identified in a memorandum of agreement or programmatic memorandum of agreement with the State Historic Preservation Officer (SHPO) and/or the SHPO and Advisory Council on Historic Preservation, in accordance with 36 C.F.R. Part 800;
3. Meeting terms and conditions identified in a Biological Opinion; and/or
4. Meeting mitigation measures identified in an environmental assessment.

All cultural, historic, and other environmental resource compliance services that will utilize FA will be procured by NRCS. The use of participant contracts for implementing these services is not authorized.

In all cases where FA is to be used for cultural, historic, or other environmental resource compliance, the STC must explicitly approve, in writing, the expenditure and ensure that the costs are reasonable, appropriate, and consistent with NRCS policy. FA funds will not be used to pay for work performed by NRCS staff. The STC may not delegate this decision.

Contact. If you need program or policy information regarding this guidance, please contact Shannon Zezula, SRC, or Harold Thompson, ASTC – Programs, or the appropriate State NEPA, ESA, or Cultural Resource Leader.

/s/ Jill Reinhart {Acting For}

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State Conservationist