

§ 3100.42

Stat. 852; 42 U.S.C. 4321 *et seq.*) which declares that it is the policy of the Federal Government to preserve important historic, cultural, and natural aspects of our national heritage. Compliance with NEPA requires consideration of all environmental concerns during project planning and execution.

(f) *Executive Order 11593, "Protection and Enhancement of the Cultural Environment"*, which gives the Federal Government the responsibility for stewardship of our nation's heritage resources and charges Federal agencies with the task of inventorying historic and prehistoric sites on their lands. E.O. 11593 also charges agencies with the task of identifying and nominating all historic properties under their jurisdiction, and exercising caution to insure that they are not transferred, sold, demolished, or substantially altered.

(g) *Historical and Archeological Data Preservation Act of 1974*. (Pub. L. 93-291; 88 Stat. 174.) which amends the Reservoir Salvage Act of 1960 to extend its provisions beyond the construction of dams to any alteration of the terrain caused as a result of any Federal construction project or federally licensed activity or program. In addition, the Act provides a mechanism for funding the protection of historical and archeological data.

(h) *Presidential memorandum of July 12, 1978, "Environmental Quality and Water Resource Management"* which directs the ACHP to publish final regulations, implementing section 106 of the National Historic Preservation Act (NHPA), and further directs each agency with water and related land resources responsibilities to publish procedures implementing those regulations.

(i) *36 CFR part 800, "Protection of Historic and Cultural Properties"* which establishes procedures for the implementation of section 106 of the NHPA, and directs publication of agency implementing procedures.

(j) *Land use policy of the USDA (Secretary's Memorandum No. 1827 Revised, with Supplement)* which establishes a commitment by the Department to the preservation of farms, rural communities, and rural landscapes.

(k) *Public Buildings Cooperative Use Act of 1976 (40 U.S.C. 611) and Executive*

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Order 12072 (Federal Space Management). The Act encourages adaptive use of historic buildings as administrative facilities for Federal agencies and activities; the Executive Order directs Federal agencies to locate administrative and other facilities in central business districts.

(l) *American Indian Religious Freedom Act of 1978 (42 U.S.C. 1996)* which declares it to be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians.

§ 3100.42 Definitions.

All definitions are those which appear in 36 CFR part 800. In addition, the following apply in this rule:

Cultural resources (heritage resources) are the remains or records of districts, sites, structures, buildings, networks, neighborhoods, objects, and events from the past. They may be historic, prehistoric, archeological, or architectural in nature. Cultural resources are an irreplaceable and nonrenewable aspect of our national heritage.

Cultural environment is that portion of the environment which includes reminders of the rich historic and prehistoric past of our nation.

§ 3100.43 Policy.

(a) The nonrenewable cultural environment of our country constitutes a valuable and treasured portion of the national heritage of the American people. The Department of Agriculture is committed to the management—identification, protection, preservation, interpretation, evaluation and nomination—of our prehistoric and historic cultural resources for the benefit of all people of this and future generations.

(b) The Department supports the cultural resource goals expressed in Federal legislation. Executive orders, and regulations.

(c) The Department supports the preservation and protection of farms, rural landscapes, and rural communities.

(d) The Department is committed to consideration of the needs of American

Indians, Eskimo, Aleut, and Native Hawaiians in the practice of their traditional religions.

(e) The Department will aggressively implement these policies to meet goals for the positive management of the cultural environment.

§ 3100.44 Implementation.

(a) It is the intent of the Department to carry out its program of management of the cultural environment in the most effective and efficient manner possible. Implementation must consider natural resource utilization, must exemplify good government, and must constitute a noninflationary approach which makes the best use of tax dollars.

(b) The commitment to cultural resource protection is vital. That commitment will be balanced with the multiple departmental goals of food and fiber production, environmental protection, natural resource and energy conservation, and rural development. It is essential that all of these be managed to reduce conflicts between programs. Positive management of the cultural environment can contribute to achieving better land use, protection of rural communities and farm lands, conservation of energy, and more efficient use of resources.

(c) In reaching decisions, the long-term needs of society and the irreversible nature of an action must be considered. The Department must act to preserve future options; loss of important cultural resources must be avoided except in the face of overriding national interest where there are no reasonable alternatives.

(d) To assure the protection of Native American religious practices, traditional religious leaders and other native leaders (or their representatives) should be consulted about potential conflict areas in the management of the cultural environment and the means to reduce or eliminate such conflicts.

§ 3100.45 Direction to agencies.

(a) Each agency of the Department shall consult with OEQ to determine whether its programs and activities may affect the cultural environment. Then, if needed, the agency, in con-

sultation with the OEQ, shall develop its own specific procedures for implementing section 106 of the National Historic Preservation Act, Executive Order 11593, the regulations of the ACHP (36 CFR part 800), the American Indian Religious Freedom Act of 1978 and other relevant legislation and regulations in accordance with the agency's programs, mission and authorities. Such implementing procedures shall be published as proposed and final procedures in the FEDERAL REGISTER, and must be consistent with the requirements of 36 CFR part 800 and this subpart. Where applicable, each agency's procedures must contain mechanisms to insure:

(1) Compliance with section 106 of NHPA and mitigation of adverse effects to cultural properties on or eligible for the National Register of Historic Places;

(2) Clear definition of the kind and variety of sites and properties which should be managed;

(3) Development of a long-term program of management of the cultural environment on lands administered by USDA as well as direction for project-specific protection;

(4) Identification of all properties listed on or eligible for listing in the National Register that may be affected directly or indirectly by a proposed activity;

(5) Location, identification and nomination to the Register of all sites, buildings, objects, districts, neighborhoods, and networks under its management which appear to qualify (in compliance with E.O. 11593);

(6) The exercise of caution to assure that properties managed by USDA which may qualify for nomination are not transferred, sold, demolished, or substantially altered;

(7) Early consultation with, and involvement of, the State Historic Preservation Officer(s), the ACHP, Native American traditional religious leaders and appropriate tribal leaders, and others with appropriate interests or expertise;

(8) Early notification to insure substantive and meaningful involvement by the public in the agency's decision-making process as it relates to the cultural environment;