

Standard Operating Procedures
07-SPGP-01

5. HISTORIC PROPERTIES:

A. A programmatic agreement (PA) regarding the SPGP Section 106 coordination process and between the Corps, DEQ, VDHR, and the Advisory Council for Historic Preservation (ACHP) has been executed. The DEQ Cultural Resources Specialist (CRS) responsibilities are described in the PA as follows:

I. VDEQ INITIAL SCREENING OF SPGP-01 APPLICATIONS

- a. Initial Screening and SOP: Applications for SPGP-01 permits or permit modifications will be submitted to VDEQ for initial screening for potential effects to historic properties. VDEQ and the Corps will follow the Standard Operating Procedures for SPGP-01, included as Appendix 5 of this PA.*
- b. DEQ-Cultural Resource Specialist (CRS) Review: The VDEQ-CRS will review information supplied with the permit application, pre-application correspondence from the Corps and the information available on the SHPO DSS for every SPGP-01 permit application to determine if any archeological sites, historic structures, battlefields, historic districts, and other types of historic properties are documented or likely to occur on or near the project boundaries.*
- c. VDEQ-CRS and NPS Coordination: The VDEQ-CRS will coordinate with the appropriate NPS office to determine if the proposed undertakings will have effects on historic site(s) located within the legislative boundaries of parks (including battlefields, historical parks, or other park units); if proposed undertakings may affect historic sites outside of park boundaries that are of interest to the NPS for resource protection; or if proposed undertakings impact views to or from historic sites within the park. If the NPS determines that the project may affect historic sites meeting any of these criteria, VDEQ will refer the project to the Corps for further review. VDEQ will allow the NPS ten (10) business days (with an additional 10 business day time extension, if requested) to comment on the project. If no comment is received after the ten (10) business day (including any extensions), then VDEQ will assume the NPS has no comments on the project.*

II. VDEQ-CRS EVALUATION AND FILE DOCUMENTATION

- a. VDEQ-CRS “no historic properties affected” determinations: When the VDEQ-CRS has completed Stipulation I. and determines that the following criteria apply, additional historic properties review is not required by VDEQ:
 - i. the DSS and permit application information indicates that there are no known historic properties within the project boundaries; or the DSS indicates that there are known historic properties within the project boundaries, but the Archaeological and/or Architectural Reports on file at VDHR indicate that these properties have been found ineligible for the NRHP by**

VDHR within the past ten (10) years, or the resource no longer exists; and

ii. the area within the project boundaries is not High Probability for archaeological properties. A High Probability determination is made by the VDEQ-CRS based on applicable local and regional site predictive models and/or evaluation of site predictive criteria including landform, soil drainage, proximity to surface water, historic map and other document information, and location with respect to known historic properties and/or archaeological site complexes; and

iii. The DSS and permit application information indicates that the project site is not located adjacent to known historic properties that may be indirectly affected; and

iv. VDEQ-CRS determines the permit area for the undertaking is less than one acre or the project boundaries are less than 5 acres.

The VDEQ-CRS will ensure that the determination of no historic properties affected is provided to the VDEQ project manager. Further coordination with the Corps and VDHR is not required.

- b. VDEQ Coordination with Corps: If the criteria in IIa. are not met, the VDEQ-CRS will coordinate with the appropriate Corps office to determine if Section 106 consultation is required.*
- c. File documentation. VDEQ will maintain the Cultural Resources Initial Screening Form and DSS printout and inventory forms in the project files for the life of the permit to document "no historic properties affected" determinations.*

III. CORPS SECTION 106 CONSULTATION

- a. Within fifteen (15) business days of VDEQ's initial request for coordination, unless a time extension is requested by the Corps project manager, the Corps will advise VDEQ whether or not additional Section 106 coordination is necessary. The Corps will base the decision upon the June 2007 SOP with VDHR. Should additional Section 106 consultation be required, the Corps will invite the VDEQ CRS to participate in the consultation with VDHR, but the Corps will conduct the actual consultation.*
- b. Upon completion of Section 106 consultation, the Corps will advise the VDEQ-CRS of the final resolution. The Corps will include any permit conditions required to avoid, minimize or mitigate adverse effects to historic properties or any Section 106 agreement documents (Memoranda of Agreement or Programmatic Agreements) in the SPGP-01 Special Conditions Form, which will be provided to VDEQ. The SPGP-01 Special Conditions Form and/or Section 106 agreement documents will be included in VDEQ's permit authorization.*
- c. The VDEQ will be a signatory to any project-specific Memorandum of Agreement or Programmatic Agreement where VDEQ is assigned duties under the stipulations of an agreement."*

- B. DEQ regional office staff will strive to forward the CRS necessary project specific information, including the Cultural Resources Initial Screening Form, within seven calendar days of receipt of an application for 07-SPGP-01.
1. The CRS will review the project application in accordance with the PA.
 2. The CRS will inform the DEQ project manager of the results of the screening within seven calendar days of receipt of the Cultural Resources Initial Screening Form.
 3. Within the 15 calendar day review period, if the CRS determines that there is no need for additional cultural resources coordination, based on the terms of the PA, the DEQ project manager will document the project file and continue processing the SPGP permit application, providing all requirements have been met.
 4. Within the 15 calendar days review period, if it is determined that there is need for additional cultural resources coordination, based on the terms of the PA, the CRS will inform the Corps and DEQ project managers of this finding and the DEQ project manager will forward the application and associated materials to the Corps via postal service or FTP site. The DEQ project manager will also inform the applicant that they must request a suspension of the processing of their VWP application or DEQ's permit decision may be to deny the permit.
 5. All coordination materials should be forward together in one coordination package.
 6. Upon receipt of the information from the CRS and within the 15 calendar days review period the Corps will notify the DEQ project manager as whether or not Section 106 coordination with VDHR is required.
 - a. If Section 106 coordination is not required the Corps will notify the DEQ project manager. The DEQ project manager will document the project file and move forward with processing of the SPGP permit application, providing all requirements have been met.
 - b. If Section 106 coordination is required then the Corps will begin the coordination process with VDHR per Stipulation III of the PA.
 - c. DEQ will move forward with issuance of the SPGP only upon receipt of written notification that Section 106 has been fulfilled.
 7. By copy of the Corps/VDHR coordination form Corps will invite the CRS to attend all meetings, site visits, and conference calls related to the historic properties consultation and resolution of the Section 106 process.
 8. Upon completion of the Section 106 coordination process the Corps will notify the DEQ project manager and advise them of any project specific conditions necessary to ensure Section 106 compliance (i.e landscape buffers, consulting party coordination, required compliance with Memoranda of Agreement, etc.) via the 07-SPGP-01 Special Conditions Form. The DEQ project manager will reactivate VWP permit processing and include the 07-SPGP-01 Special Conditions Form with the permit authorization package.
- C. The DEQ project manager will document the file with the following information:
1. A map of the project site from the VDHR Data Sharing System (DSS).
 2. Copy of the determination finding, either from the CRS or Corps.
 3. VDHR concurrence, if applicable.
 4. All other applicable information including, bur not limited to: surveys, DSS printouts, DSS aerial, MOA's, etc.