

**Norfolk District Standard Operating Procedures
for Section 106 Coordination with the
Virginia Department of Historic Resources (VDHR)
Revision Date: July 2018**

I. Review for Historic Resources

- A. Determine if the Corps is the “lead” Federal Agency.
- B. Determine Corps’ permit area for the project.
- C. Review the Corps’ GIS historic resources layer on Regulatory CorpsMap and/or VDHR’s V-CRIS for information on known historic resources in project area:
CorpsMap: <https://corpsmap.usace.army.mil/nao>
V-CRIS: <https://vcris.dhr.virginia.gov/vcris/Account/Login?ReturnUrl=%2fvcris%2f>
- D. Determine if there are any recorded historic resources (archaeological sites, architectural resources, historic landscapes/districts, battlefields, etc.) on the project site or within the Area of Potential Effects (APE) for indirect (visual) effects.
Note: the term “historic resource” throughout this document includes all properties identified on V-CRIS or CorpsMap indicated as “not evaluated”, “potentially eligible”, “eligible” for the National Register of Historic Places, or “listed” on the National Register. The term does not include archeological sites determined “not eligible” by VDHR or architectural properties determined “not eligible” by VDHR within the last five (5) years.
- E. If historic resources are present, consult VDHR’s V-CRIS database to obtain the archeological or architectural survey form(s).
- F. If project is an individual permit which requires a public notice, be sure to include information about the known historic resource(s) in the public notice (location information and maps are NOT to be included in the public notice).

II. Determining if Coordination with VDHR is Required

- A. Streamlined Review for General Permits:
If a NWP or RP project qualifies for streamlined review of historic resources (see “Norfolk District and VDHR Programmatic Streamlined Activities List” July 2018)
AND review of VDHR’s V-CRIS does not indicate the existence of historic resources on the project site or within the APE for indirect (visual) effects;
AND the activity is not associated with other actions requiring coordination;
THEN No coordination with VDHR is required.

- 1) Decision document statement is “No Effect (No Historic Properties Affected)” on historic properties;
 - 2) Place CorpsMaps and/or V-CRIS print out (PDF) in file;
 - 3) Choose appropriate subordinate action in Corps database (ORM2).
- B. Projects Not Qualifying for Streamlined Review – No Known Resources:
If no known historic resources are located on the project site;
AND Corps’ permit area is less than 1 acre;
AND No historic resources are within the APE for indirect (visual) effects.
THEN No coordination with VDHR is required.
- 1) Decision document statement is “No Effect” (No Historic Properties Affected);
 - 2) Place CorpsMap and/or V-CRIS print out (PDF) in file;
 - 3) Choose appropriate subordinate action in Corps database (ORM2).
- C. Projects Not Qualifying for Streamlined Review – Known Resources:
If known historic resources are located on the project site;
OR Corps’ scope of analysis (“permit area”) is greater than 1 acre;
OR historic resources are located within the APE for indirect (visual) effects;
THEN coordination with VDHR is required. Follow Section III.

III. Coordination Procedures

- A. Access V-CRIS to retrieve information about known historic resources in project area. Save maps and V-CRIS inventory forms to PDF format.
- B. Complete the “VDHR Coordination Form” and provide the information required by VDHR for project review.
- C. The Corps develops a finding of effect or initiates consultation if a finding of effect cannot yet be determined. The finding of effect on historic properties (i.e., no effect (no historic properties affected), no adverse effect, or adverse effect) is proposed in the submission to VDHR. The final determination of effect on historic properties is made in consultation with VDHR and other consulting parties that may have been identified. VDHR and other consulting parties have thirty (30) days to comment, starting the day after receipt of the consultation materials and proposed finding of effect.
- D. If the project has NOT been previously coordinated with VDHR, then enter project into VDHR ePIX system (<https://solutions.virginia.gov/ePIX/login.aspx>) to initiate coordination. Describe the Corps permit area/area of potential effects (APE), including both the APE for direct effects and for indirect (visual effects), as appropriate.

Attachments to upload to ePIX:

- 1) VDHR coordination memo including our effect determination;
- 2) Project Vicinity Map or Quad Sheet (with location marked);
- 3) Joint Permit Application
- 4) Plan view drawings with permit area (APE) marked. Include the APE for visual effects, if feasible;
- 5) V-CRIS inventory form(s) for known historic resources;
- 6) Photos of structures (if available);
- 7) Copies of previous correspondence from VDHR;

* Do not enter large documents into ePIX. ePIX can only handle documents 10 MB or less in size.

* New documents cannot be added to an existing ePIX file. Do not upload documents for an old VDHR file into ePIX. This generates a new VDHR file number. Additional documents may be sent to VDHR via e-mail (if less than 10 MB), Virginia's VITAShare system, or AMRDEC.

- E. Once submitted, you should receive email confirmation that VDHR has received the project. If you have not received confirmation within 24 hours, consider contacting VDHR by phone or email to check status.
- F. Consulting Parties: If any consulting parties have been identified, we must notify all consulting parties of our effect determination.
- G. VDHR requires one (1) hard copy (printed on acid-free paper and bound in plastic comb bindings) and a PDF of all archaeological reports submitted for review.
- H. VDHR has thirty (30) days from receipt (next business day after submission) to object to Corps' findings.
- I. Cultural Resource Survey or Additional Information
If VDHR recommends a survey or requests additional information:
 - 1) Coordinate with your supervisor to determine our action. VDHR will provide justification for survey requests.
 - 2) Corps will require archeological surveys within the permit area only. Coordinate with VDHR regarding the area to be surveyed prior to contacting applicant.
 - 3) The applicant may be informed about the additional information or survey requirements verbally but a letter must follow (see form letter in SOP Section 19 folder).
 - 4) Copies of any reports must be forwarded to both the Corps and VDHR for approval, and to any consulting parties for review and comment.
 - 5) VDHR requires one (1) Adobe PDF version and one (1) hard copy of the report. The hard copy must be printed on acid-free paper and bound with plastic comb bindings.
 - 6) Consultants should provide copies of reports directly to VDHR. Corps PM should send an email to VDHR to inform them the report will be

sent by the consultant (review time starts when VDHR receives hard copy). Remind the consultant that the Corps PM also needs a copy of any surveys/reports.

- J. If re-coordinating an old project with an existing VDHR file number due to permit modification, reauthorization, etc., then send to VDHR through email, U.S. Postal Service, VITAShare, or AMRDEC the materials listed in Section III. D. Documents larger than 10MB in size should not be sent via email.

IV. Battlefields and NHLs

- A. If the project will take place within the boundaries of a battlefield or a National Historic Landmark, additional coordination with the National Park Service is required. See VDHR Coordination Form for contact information.
- B. Yorktown Battlefield- for projects within the Study Area of the Battle of Yorktown (DHR Inventory No. 099-5283) (not Core or POTNR battlefield areas per CorpsMap and/or VCRIS):
- 1) Consult "Norfolk District and VDHR Programmatic Streamlined Activities List". If activity is listed as "Streamlined Review" (yes), coordination is not required for projects within Yorktown Battlefield Study Area only.
 - 2) Shoreline stabilization activities (bulkheads, riprap, living shorelines) without bank grading do not require coordination within the Yorktown Battlefield Study Area.

V. Assess Effects on Historic Properties

A. No Effect (No Historic Properties Affected)

If VDHR concurs with a finding of "No Effect" ("No Historic Properties Affected"), or if no response is received after 30 days from VDHR's receipt of such a finding, then:

Section 106 process ends (36 CFR 800.4 (d)(1)).

- 1) Include VDHR concurrence letter or document/no response in decision document;
- 2) Choose appropriate subordinate action in Corps database (ORM2).

If VDHR *objects* to our "No Effect" (No Historic Properties Affected) determination, then

- a. Review regulations for further guidance and discuss with Section Chief on a case-by-case basis.
- b. Consult with VDHR to resolve the disagreement.
- c. If the dispute cannot be resolved, follow the ACHP regulations at 36 CFR 800.4 (d)(1) (ii) and Section Chief's guidance.

If a consulting party or a member of the public objects to our “No Effect” (No Historic Properties Affected) determination, then

- a. Notify Section Chief and VDHR of the objection.
- b. Consult with Section Chief and VDHR to determine how to address the objection on a case-by-case basis.

B. No Adverse Effect

If VDHR concurs with a finding of “No Adverse Effect”, or if no response is received after 30 days from VDHR’s receipt of such a finding and any consulting parties do not object, then the permit may proceed. **Section 106 process ends.**

- 1) No coordination with ACHP is required for “No Adverse Effect” determinations, unless there is an objection by VDHR or a consulting party.
- 2) Choose appropriate subordinate action in Corps database (ORM2).

If VDHR *or other consulting parties* objects to our “No Adverse Effect” determination, then

- 1) Review regulations for further guidance and discuss with Section Chief on a case-by-case basis.
- 2) Consult with VDHR/consulting parties to resolve the disagreement.
- 3) If the dispute cannot be resolved, follow the ACHP regulations at 36 CFR 800.5 (c)(2) and Section Chief’s guidance.

C. Adverse Effect

In coordination with VDHR, we determine that there are properties eligible for the National Register (i.e., historic properties) that will be adversely affected by the undertaking.

Notify ACHP per 36 CFR 800.6(a)(1):

- 1) Download “e106 form” at <http://www.achp.gov/docs/e106-instructions.pdf>. Once the form is received, an automated receipt confirmation message will be sent and the 15-day clock for ACHP response begins.
- 2) Issue a Public Notice to inform the public about the project and effects to historic properties or have the applicant place a notice in the local newspaper.
- 3) A Memorandum of Agreement (MOA) must be executed to finalize Section 106, unless there is no resolution and the coordination is terminated (consult Section Chief regarding termination procedures).
- 4) A copy of the MOA must be forwarded to ACHP (36 CFR 800.6(b))(see form letter in Regulatory SOP Section 19 folder) prior to permit issuance.
- 5) For further details on adverse effect process, consult Appendix C and ACHP regulations at 36 CFR 800.6.
- 6) Choose appropriate subordinate action in Corps database (ORM2).

VI. Consulting parties

- 1) The local government must be invited to be a consulting party. Other interested parties may be invited to participate in the consultation if they request participation, or if we are aware of their interest in the project, or if recommended by VDHR. Identifying and inviting consulting parties is the Corps' responsibility.
- 2) Work with SHPO, ACHP (if involved), consulting parties, and the applicant to resolve adverse effects.
- 3) Check CorpsMaps for Tribal Interest areas and Regulatory Branch Tribal SOP for further guidance regarding Federally recognized Tribes participation as consulting parties.

VII. Dispute Resolution

If at any point in the coordination process there are disagreements with the agencies, consulting parties, or applicant on the course of action, consult with your Section Chief.