

Review of projects by the Department of Historic Resources is governed by the Section 106 regulations, included in the *National Historic Preservation Act of 1966*, as amended. These appear at 36 CFR Part 800, and were most recently revised effective 11 January 2001. For further information about Section 106, and to view the text of the regulations, see the web site of the Advisory Council on Historic Preservation, the federal agency that oversees compliance with Section 106, at www.achp.gov.

According to the Section 106 regulations, once it is established that a project constitutes an undertaking, “if the undertaking is a type of activity that does not have the potential to cause effects on historic properties, assuming such historic properties were present (in the area of potential effect), the agency official has no further obligations under section 106 or this part” (see 800.3(a)(1)).

Therefore, no review of projects by the Department of Historic Resources is required if program activities are limited solely to those listed below because these activities do not have potential to affect historic properties:

- A. Replacement of existing water and/or sewer lines and systems in which a review of historic resources and cultural resources was previously done prior to construction of the original system, and where the replacement system will follow the path of the existing system exactly, causing no additional ground disturbance;
- B. Construction, replacement or upgrade of new or existing water and sewer systems in existing VDOT right-of-way, where a SHPO approved and accepted survey has been reviewed in the previous calendar year, and no historic buildings, structures, or objects or archaeological sites potentially eligible or eligible for listing, or listed in the National Register of Historic Places were identified;
- C. Properties less than fifty (50) years old, that do not meet the National Register criterion consideration applying to properties less than fifty years of age and that are not within potentially eligible, eligible, or National Register-listed historic districts;
- D. Rehabilitation (except reconstruction) of previously identified non-contributing buildings within a surveyed historic district, that is potentially eligible or eligible for listing in the National Register, for which the SHPO has reviewed and approved survey documentation within the previous calendar year;
- E. Community Development activities limited solely to the following:
 - 1) General Community Development activities, which will not involve the alteration of potentially historic properties including:

- 2) Grants or loans to participants in any Economic Development program funded by CDBG which may be used for working capital, equipment, furniture, fixtures, and debt refinancing or acquisition of non-historic buildings for reuse. Such activities shall require SHPO review only if such activities may involve changes to buildings, structures, objects, or historic districts which are either listed in or are considered potentially eligible or eligible for inclusion in the National Register;
- 3) Upgrading of existing curbs, sidewalks, streets, utilities, parks or other public facilities or infrastructures, except where significant historic materials retain their historic integrity and exhibit distinctive materials, methods of construction, or elements of design that would contribute to the character of a National Register-listed, potentially eligible, or eligible historic district or property;
- 4) Projects consisting of grants or loans to eligible families or entities to be applied solely to the purchase of residences or businesses;
- 5) Acquisition of property which is limited to the legal transfer of title with no physical improvements or changes proposed;
- 6) Repairs to housing involving only the following activities:
 - a) Repainting of exterior surfaces provided that destructive surface preparation treatments, including sandblasting, are not used, and the surface was painted previously;
 - b) Weatherization or energy conservation activities which do not significantly affect the exterior appearance, especially the front elevation, including:
 - Caulking, weather-stripping and other air infiltration control measures;
 - Storm windows or doors, and wooden screen doors which do not harm or obscure historic windows and doors or trim;
 - Repair and weather-stripping of windows and doors in a manner which does not harm or obscure historic windows and doors or trim;
 - Underpinning and ventilation of crawlspaces, except that underpinning of the front façade shall be accomplished by setting the underpinning material at least 2 inches behind the outer face of piers.
 - c) Lead-based Paint Abatement or “Management in Place” activities carried out in accordance with *Preservation Brief #37: Appropriate Methods for Reducing Lead Paint Hazards in Historic Housing*;
 - d) Alterations necessary to comply with the Americans with Disabilities Act (ADA) or to improve handicap accessibility for current or anticipated residents of properties which are carried out in accordance with *Preservation Brief #32: Making Historic Properties Accessible*;

- e) Asbestos siding or roofing materials of buildings potentially eligible for, eligible for, or listed in the National Register may be either removed and replaced or encapsulated with new roofing or siding materials which appearance, and when possible the materials, of the building's original roofing or siding, if not the asbestos material and if the material can be determined, or will match appropriate historic roofing and siding materials;
- f) Repairs to or replacement of deteriorated roof materials on buildings potentially eligible for, eligible for, or listed in the National Register with materials which, for properties in a potentially eligible, eligible, or National Register-listed historic district, match the appearance, and when possible the materials, of historic roofs on other similar contributing properties in the district; and for properties that are individually potentially eligible, eligible, or listed in the National Register, are historically appropriate to the building in appearance and materials;
- g) Repair or re-framing of structural roof elements as required to improve the drainage and durability of the roof as long as the appearance of the roof lines visible from the front elevation and from other prominent, visible points (for example, the exposed side façade on a corner lot) is not affected;
- h) Repair, replacement or installation of gutters and down spouts, as long as this does not damage historic materials or require removal of historic features;
- i) Installation of door and/or window locks and/or electronic security apparatus, as long as this does not damage historic doors, windows, or trim;
- j) Repair or re-pointing of chimneys, brick or other masonry features following the recommended approaches in *Preservation Brief #2: Re-pointing Mortar Joints in Historic Brick Buildings*;
- k) Repair of foundations and structural elements in a manner that is compatible with the scale and historic character of the district, for properties located in a historic district that is potentially eligible, eligible, or listed in the National Register. Underpinning and ventilation of crawlspaces is permitted and, whenever original brick piers remain in place, shall be accomplished by setting the underpinning material at least 2 inches behind the outer face of piers;
- l) Repair of front porches, ceilings, awnings, floors, rails, columns, cornices and other trim details with new materials used to match the historic features in design and materials; and
- m) Repair of windows, doors and siding with new materials, which match the original in design, color, texture and material composition.

Note: Historic Tax Credit Reviews do not take the place of Section 106 Reviews. For these historic properties, letter contact with the SHPO must be made indicating the property is to undergo or is undergoing Historic Tax Credit rehabilitation and will result in a No Adverse Effect finding. This creates a conditional concurrence where the SHPO will concur with No Adverse Effect pending submission of Part 3 of the Tax Credit Application by the grantee. A condition satisfaction letter is then issued by the SHPO to the grantee indicating Section 106 compliance. This correspondence documentation is then attached to the ERR.