



National Historical Preservation Act **Section 106**

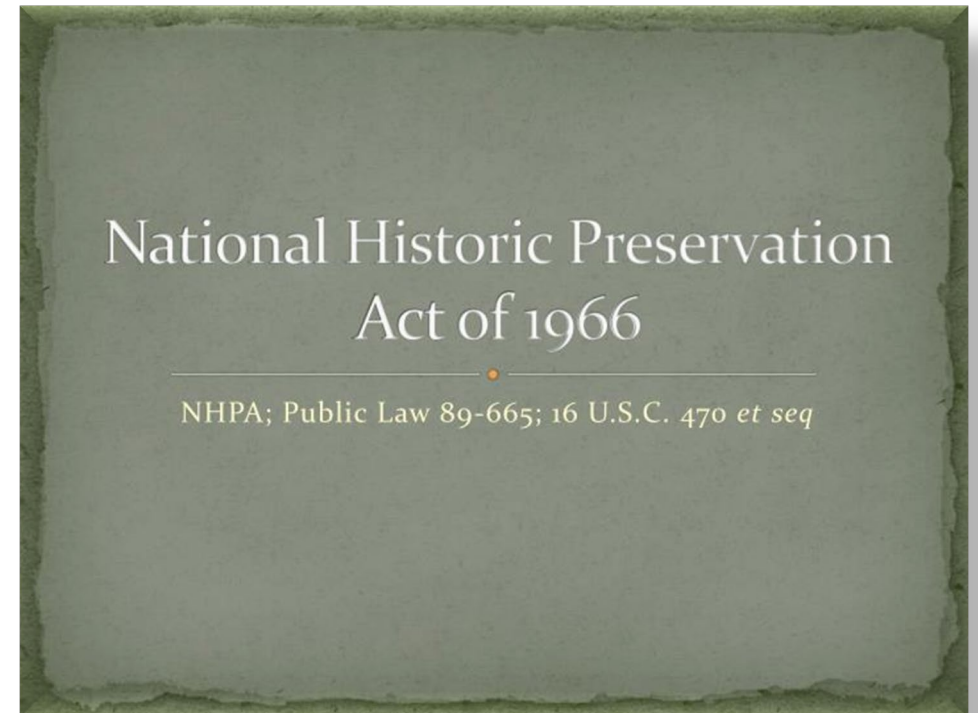


National Historic Preservation Act

The [National Historic Preservation Act](#) (NHPA) was signed into law on October 15, 1966. It establishes a national preservation program and a system of procedural protections, which encourage both the identification and protection of historic resources, including archeological resources, at the federal level and indirectly at the state and local level.

Why was the National Historic Preservation Act enacted?

By the mid-1960s, federally-funded infrastructure and urban renewal projects had resulted in the rapid destruction of places significant in the nation's history. Congress recognized that the federal government's historic preservation program was inadequate to ensure that future generations could appreciate and enjoy the rich heritage of the nation. NHPA was enacted in recognition that historic places were being lost or altered, and that preservation was in the public's interest.



Advisory Council on Historic Preservation

The Section 106 Review process is overseen by the [Advisory Council on Historic Preservation](#) (ACHP), and it has lasting benefits because it relies heavily on input from various consulting parties, including State Historic Preservation Offices, Tribal Historic Preservation Offices, state and local preservation and history organizations, and other interested or concerned individuals.



If it is determined that the federal project will have adverse effects on the historic resource, the federal agency must begin to explore ways— in consultation with the other parties— to prevent, minimize, or mitigate the adverse effects. This type of checks and balances system found within the Section 106 review process has helped prevent and mitigate the loss of many significant historic sites across the nation.

NHPA – Compliance Awareness

FEMA has increased scrutiny of approved & permitted DMS sites, in accordance with Section 106. Applicants must document DDMS site compliance with Historical Preservation, under section 106 of the National Historic Preservation Act, in order to avoid issues with reimbursement. Section 106 ensures that historical sites are preserved in situations where ground disturbances could occur.

Previously approved and utilized are the less likely to have issues being approved for debris operations.

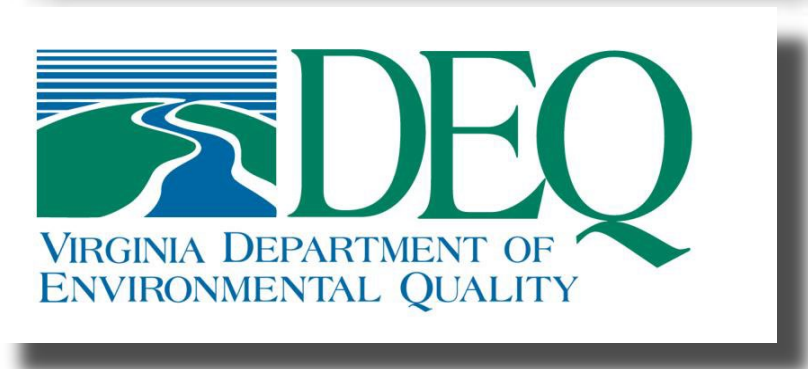
DDMS sites that are **pre-authorized** annually with VA DEQ need to also be coordinated with the VA Department of Historical Resources.



NHPA – Sec 106 Compliance Changes

Key Actions for Success

- Document all DDMS Site reviews and approvals prior to operating the DDMS (VA DEQ & VA DHR).
- For sites pre-authorized with DEQ, **obtain a copy of the state’s historical coordination** (VA DHR) prior to operating the DMS.
- For any **new DMS** that is not pre-authorized annually, obtain **approval from both the VA DEQ and VA DHR** prior to using the site for debris operations.
- Sites which have been previously approved, or developed, and minimize new ground disturbance, are good examples to minimize historical review concerns.



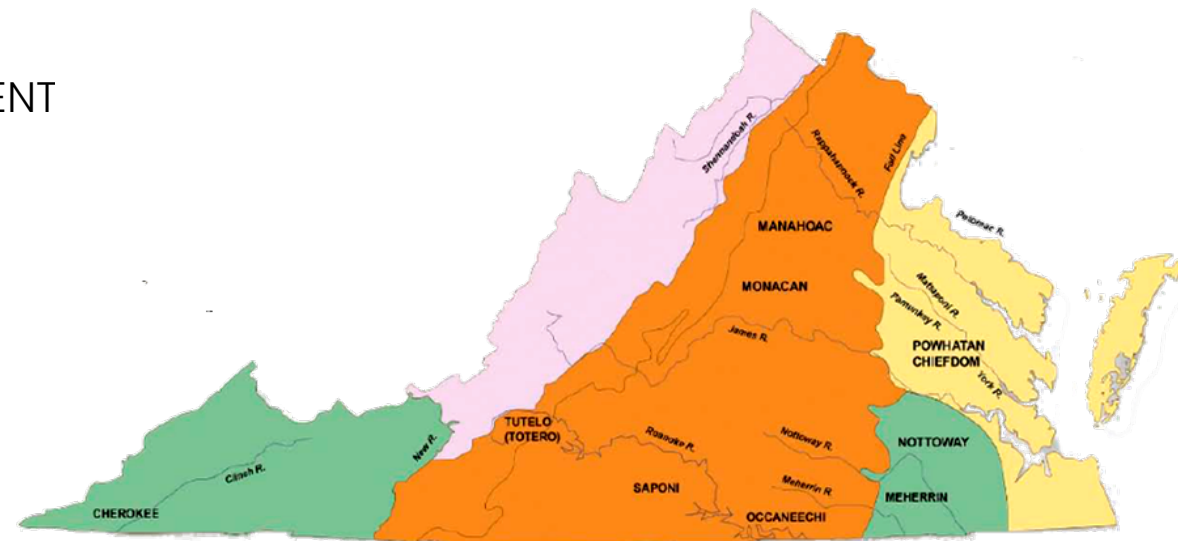
[DHR – Virginia Department of Historic Resources » Review & Compliance Division \(RCD\)](#)

[VA Guidance on Creating Section 106 Agreements | Advisory Council on Historic Preservation \(achp.gov\)](#)

FEMA Programmatic Agreement

PROGRAMMATIC AGREEMENT AMONG:

- THE FEDERAL EMERGENCY MANAGEMENT AGENCY
- THE VIRGINIA STATE HISTORIC PRESERVATION OFFICER
- THE VIRGINIA DEPARTMENT OF EMERGENCY MANAGEMENT
- CATAWBA INDIAN NATION
- CHICKAHOMINY INDIANS – EASTERN DIVISION
- DELAWARE NATION
- DELAWARE TRIBE OF INDIANS
- NANSEMOND INDIAN NATION
- UPPER MATTAPONI INDIAN TRIBE



This agreement was proposed June 4, 2020. Its purpose is to enforce the NHPA Section 106 Review Process. FEMA does not currently show this as an accepted agreement on FEMA.gov, but it has been executed by the State. It also, proposes categorical allowances when certain elements exist...

FEMA Allowances

First Tier Allowances on Previously Disturbed Soils

GROUND DISTURBING ACTIVITIES AND SITE MODIFICATION, when proposed activities described below substantially conform to the **original footprint** and/or are performed in **previously disturbed soils**, including the area where the activity is staged.

- Debris removal and collection, including removal of snow, uprooted trees, limbs, and branches from public rights of way and public areas and areas as well as the transport and disposal of such waste to existing licensed waste facilities or landfills. This includes the temporary establishment and expansion of non-hazardous debris staging, reduction, and disposal areas at licensed transfer stations, or existing hard-topped or graveled surfaces (e.g. parking lots, roads, athletic courts) but not the creation of new or temporary access roads.
- Removal of debris from private property provided that buildings are not affected, ground disturbance is minimal, and in-ground elements, such as driveways, walkways, or swimming pools are left in place.
- Chipping and disposal of woody debris by broadcasting within existing rights-of way.

With all of that being said...better safe than sorry

Make the CALL!!

- **Local Historical Societies**
- **State Historical Preservation Office**
- **Advisory Council on Historic Preservation**



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