

STATE HISTORIC PRESERVATION REVIEW

With evidence of Native American occupations extending as far back as 13,000 years ago, Vermont has a rich cultural, historical, and architectural legacy. This significant heritage manifests itself in the state's ancient Native encampments, agricultural farmsteads with timber-framed barns and rising silos, villages with white-spired churches and town halls marking the valley bottoms and maple-strewn hillsides, downtowns centered on railroad depots and sites of early industrial centers, summer retreats surrounding lakes and ponds, and ski resorts nested on the slopes of the green mountains. The strata of history is a component of the built and natural environment, recounting the stories of Vermont's buildings, economy, and communities.

Preservation of Vermont's historic resources is the primary initiative of the Vermont Division for Historic Preservation (VDHP). Serving as the State Historic Preservation Office (SHPO), VDHP plays an essential role in guiding the state's historic preservation agenda, keeping hundreds of years of history alive and vital, engaging people of all walks in Vermont's past through collecting, preserving, and discovering a shared priority and value for the human spirit that preceded us.

The Vermont Division for Historic Preservation (VDHP) is authorized by 22 V.S.A. § 723(10) to adopt rules and carry out the purposes of the Vermont Historic Preservation Act. VDHP is charged to fulfill responsibilities under the Vermont State Historic Preservation Act and the National Historic Preservation Act to identify, preserve, and interpret historic resources on behalf of the citizens of the state and promoting them as significant components of our communities. This is achieved, in part, by the regulatory review and comment process for projects involving federal or state funding, licenses or permits.

Since Clean Water Initiative Program funding programs can involve both state and federal funding, VDHP must be engaged in the successful implementation of clean water projects to ensure they have a minimal impact on the state's rich cultural, historical, and architectural legacy. The following sections of guidance provide information on which CWIP project types should pursue VDHP Project Review, when, how, and what the project proponents should expect from this process.

Project Types Subject to VDHP Project Review

Exempt Project Types

The following are CWIP project types categorically exempt from any VDHP Project Review:

- Sector based or multi-sector assessments and project identification

- Project development
- Stormwater/Road Equipment
- Forestry Equipment
- Illicit Discharge Detection and Elimination (IDDE)
- River Corridor and Wetland Easements
- Riparian Buffer Plantings
- Operation and Maintenance activities

These project types have no VDHP milestones or deliverables listed in the [Appendix B. Project Types Table](#).

Conditionally Exempt Project Types

The following project types are exempt from VDHP Project Review if they meet all the listed project qualifications:

Project Types

- Agricultural Pollution Prevention
- Roads
- Stormwater
- Roads/SW Gullies
- Forestry

Project Qualifications

- a. Project involves no new ground disturbance beyond the previously disturbed³¹ horizontal (surface area) and vertical (depth) footprint.
- b. Project causes no direct or indirect³² impact or disturbance to any man-made building or structure (including dams, culverts, and bridges) more than 50 years old.³³
- c. Project causes no direct or indirect impact or disturbance to any federally listed historic

³¹ Previous disturbance means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

³² Indirect impacts might include instances where natural systems readjust to a project's impacts in a manner that newly undermines or affects nearby Historic Sites.

³³ If the age of nearby structures is unknown, tax accessor records are a good resource. Connect with the applicable town clerk to access this information. You can also contact the State Architectural Historian (Devin Colman devin.colman@vermont.gov 802-585-8246) for guidance on age of building or structure that cannot be determined. If the age of an impacted building or structure cannot be determined, assume this qualification is NOT met and the project is NOT exempt from VDHP Project Review.

building or structure.³⁴

- d. Project Area of Potential Effect (APE)³⁵ is not located within, does not intersect with, and is not adjacent to a state-listed historic district,³⁶ Designated Downtown, or Village Center.³⁷
- e. Project APE is not located within, does not intersect with, and is not adjacent to a federally listed historic district or site.³⁸

It is the responsibility of project proponents to confirm their projects meet these conditional qualifications and continue to do so as the project advances through to implementation. If the project proponent is in any way unsure, they should assume their project does not meet these qualifications and is not exempt from VDHP Project Review.

Non-exempt Project Types

Non-exempt project types are all project types listed in [Appendix B. Project Types Table](#) not otherwise listed above as exempt or conditionally exempt. All non-exempt project types, or

³⁴ Federally listed historic buildings and structures are not mapped digitally. A full listing of federally listed historic buildings and structures in Vermont can be found in the Historic Sites Spreadsheet on the CWIP Applicant & Recipient Resources Page here: <https://dec.vermont.gov/water-investment/cwi/grants/resources>. Filter the "BUILDINGS & STRUCTURES" tab by Column E ("City") for the town and neighboring towns of your project's APE. If no historic buildings or structures are listed, your project meets this qualification. If historic buildings or structures are listed, use the links in Column G ("External Link") to determine the geographic location and extent of the listed historic buildings or structures. Contact the State Architectural Historian (Devin Colman devin.colman@vermont.gov 802-585-8246) for guidance as necessary. If these available resources are insufficient to confidently determine whether the project causes direct indirect impact or disturbance to any federally listed historic building or structure, proceed assuming this qualification is NOT met, and the project is NOT exempt from VDHP Project Review.

³⁵ The project APE or "area of potential effects" means the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The APE is influenced by the scale and nature of an undertaking and may be different from different kinds of effects caused by the undertaking [36 C.F.R. § 800.16(d)]. When determining a project's APE remember to consider/include extent of restoration footprint; new, upgraded or existing access or haul roads; staging, storage, and stockpile areas; disposal sites or waste areas; borrow areas and other source locations for fill material; and areas impacted by drainage diversions or mechanical tree clearing and similar landscape alterations.

³⁶ Find state-listed historic districts through this mapping tool: <https://geodata.vermont.gov/datasets/ee5cdb1b9c094139ad00f7f02785d2b2/explore?location=44.264850%2C-72.514584%2C12.77>.

³⁷ Find a map of Designated Downtowns and Village Centers here: <https://accd.vermont.gov/community-development/designation-programs/downtowns>.

³⁸ Federally listed historic districts and sites are not mapped digitally. A full listing of federally-listed historic districts and sites in Vermont can be found in the Historic Sites Spreadsheet on the CWIP Applicant & Recipient Resources Page here: <https://dec.vermont.gov/water-investment/cwi/grants/resources>. Filter the "DISTRICTS & SITES" tab by Column E ("City") for the town and neighboring towns of your project's APE. If no historic districts or sites are listed, your project meets this qualification. If historic districts or sites are listed, use the links in Column G ("External Link") to determine the geographic location and extent of the listed historic districts/sites. Contact the State Architectural Historian (Devin Colman devin.colman@vermont.gov 802-585-8246) for guidance as necessary. If these available resources are insufficient to confidently determine whether the project APE is located within, intersects with or is adjacent to a listed district or site, proceed assuming this qualification is NOT met, and the project is NOT exempt from VDHP Project Review.

conditionally exempt project types that do not meet the project qualifications, are subject to the VDHP Project Review Processes as outlined below.

VDHP Project Review Process

VDHP Project Review consists of identifying a project's potential effect to historic buildings and structures, historic districts, historic landscapes and settings, and to known or potential archaeological resources. These resources are known, collectively as "Historic Properties" or "Historic Sites." This consultative process, also known as Project Review, occurs between the Vermont State Historic Preservation Office (VDHP) and project proponent. Purpose of review is to assure that Historic Properties/Sites are not affected, or if affected, are not adversely affected.

Step 1: Confirm Project Type

Confirm project type is either non-exempt or conditionally exempt and fails to meet the project qualifications.

Step 2: Complete a VDHP Preliminary Project Review

Complete the VDHP Preliminary Project Review section of the VDHP Project Review Form³⁹ and submit to VDHP. VDHP will conduct a desk review to determine whether the project location is considered sensitive and if a professional consultant is needed by checking the appropriate boxes and returning the form to the project proponent. VDHP findings as a result of this review will clarify next steps for the project proponent. These steps may include:

1. Finding of Historic Properties/Sites Affected:
 - a. Recommendation of further historic assessment performed by a consultant(Architectural Historian or Historian as appropriate) who meets the minimum qualifications under the Secretary of the Interior's Professional Qualification Standards (48 FR 44738-9). Purpose of this work will be to identify potential sites and to seek ways to avoid or minimize an Adverse Effect on the Historic Site.
 - b. Recommendation of further archaeological assessment consultation performed by an archaeologist (the Archaeologist) who meets the minimum qualifications under the Secretary of the Interior's Professional Qualification Standards (48 FR 44738-9). Purpose of this work will be to identify potential sites and to seek ways to avoid or minimize an Adverse Effect on the Historic Site.
2. Finding of No Historic Properties/Sites Affected/No Effect: For projects that have received this determination from VDHP, the project proponent may continue to advance design plans without further historic or archeological resource assessment consultation. These projects still need to complete **Step 5: VDHP Final Project Review**. Additionally, VDHP should be notified and re-engaged if the approved plans change during final design. This includes if the APE is adjusted or the area, depth, or location of ground

³⁹ The VDHP Project Review Form is available on the CWIP Applicant & Recipient Resources Page here: <https://dec.vermont.gov/water-investment/cwi/grants/resources>.

disturbance changes.

Step 3: Proceed with Cultural Resource Assessments (if applicable)

Proceed with any archaeological or historic assessment consultation as requested by VDHP. This may be an iterative process in which the professional consultant may recommend additional consultation and, unless VDHP disagrees, the project proponent should plan to perform that work should they wish to proceed with the project.

For projects that receive a recommendation for further historic assessment consultation, this may include:

1. Historic Resource documentation to evaluate the eligibility of structures in the project area for inclusion on the state and National Registers of Historic Places.

In addition to assessment reports, the professional consultant shall submit a Determination of Eligibility (DOE) Form and Vermont Architectural Resource Inventory (VARI) Form as appropriate to VDHP for review and approval. Upon receipt, VDHP shall have 30 days to respond. Non-response by VDHP within 30 days will constitute concurrence with documents submitted. Project proponents should proceed following VDHP's final determination or, in the absence of this, should proceed assuming VDHP concurrence with final recommendations provided by the professional consultant. For projects involving historic properties or historic sites that are listed in or potentially eligible for inclusion in the State or National Registers of Historic Places, the consultation process may require the Federal Advisory Council on Historic Preservation or Vermont Advisory Council on Historic Preservation participation with extended review time.

For projects that receive a recommendation for further archaeological assessment consultation, this may include:

1. Archaeological Resource Assessment (ARA)⁴⁰
2. Phase I site identification survey (in some cases, the need for a Phase I site identification survey may be readily apparent without an ARA).
3. Phase II Site Evaluation
4. Phase III Data Recovery (generally completed as a mitigation measure)

A report of each study phase shall be submitted to VDHP. Each study should include a determination by the consulting Archaeologist as to whether or not additional archaeological studies are necessary. Vermont Archaeological Inventory (VAI) Forms are also required as appropriate. Upon VDHP's receipt of archaeological resource assessments, other archaeological reports, or end-of-field documents, VDHP shall have 30 days to respond. Non-response by VDHP within 30 days will constitute concurrence with documents submitted. Project proponents should proceed following VDHP's final determination or, in the absence of this, should proceed assuming VDHP concurrence with final recommendations provided by the

⁴⁰ Learn more about these steps here:

https://outside.vermont.gov/agency/ACCD/ACCD_Web_Docs/HP/Archaeology/ARCHEO_GUIDELINES.pdf

consulting Archaeologist. For projects involving historic properties or historic sites that are listed in or potentially eligible for inclusion in the State or National Registers of Historic Places, the consultation process may require the Federal Advisory Council on Historic Preservation or Vermont Advisory Council on Historic Preservation participation with extended review time.

Step 4: Address Adverse Effects

To the extent possible, historically and archaeologically sensitive areas should be avoided. It is strongly encouraged to have project designs developed in tandem with archaeological and historic assessment consultation to ensure potential effects to historic properties/sites are avoided or minimized to the maximum extent possible. An open and iterative conversation between engineering and historic/archaeological consultants will ensure an accurate APE is mapped and informs the archaeological and historic assessment consultation. Even with archaeological or historic resources nearby, a project can proceed with a finding of No Historic Properties/Sites Affected /No Effect or No Adverse Effect as long as it can demonstrate avoidance to the archaeological/historic resources.

If the historic/archaeological consultant determines that the proposed final design plans and scope of work will have an Adverse Effect on a Historic Property/Site, the project proponent will need to work with the consultants and VDHP to develop a Treatment Plan or other agreement document. The intent of the Treatment Plan is to help the project arrive at No Adverse Effect (if possible) or to mitigate an Adverse Effect. This Treatment Plan may include such activities as:

1. Redesign of one or more project components;
2. Specific construction conditions;
3. Construction monitoring by a qualified Archaeologist and/or Architectural Historian/Historian;
4. Site documentation and archiving, or public facing informational signage; and
5. Rehabilitation of an affected historic building or structure in accordance with the *Secretary of the Interior's Standards for Rehabilitation*.

Step 5: VDHP Final Project Review

All non-exempt project types, or conditionally exempt project types that do not meet the project qualifications, must complete a VDHP Final Project Review of 100% Final Design plans once completed. To do this, complete the VDHP Final Project Review section of the VDHP Project Review Form⁴¹ and submit to VDHP. The review may be simple if the preliminary review issued a finding of No Historic Properties/Sites Affected/No Effect, and the project has not changed. For projects that required further archaeological or historic assessment consultation, or development of a Treatment Plan this VDHP Final Project Review must signal VDHP concurrence with all findings and proposed Treatment Plan strategies if applicable.

⁴¹ Project proponents should be completing the Final Project Review section on the same form that was completed and signed for Preliminary Project Review such that all the Preliminary Project Review data entry and VDHP signoffs are included in the Final Project Review submission.

VDHP Project Review Timing and Budgeting

For all non-exempt and conditionally exempt project types, CWIP's standard milestones have integrated VDHP Preliminary Project Review as part of the Preliminary (30%) Design Phase but this can happen earlier if appropriate for the project. CWIP's standard milestones also have integrated VDHP Final Project Review as part of the 100% Final Design Phase, and Treatment Plan implementation as part of implementation phases (if applicable).

CWIP recognizes that the exploratory and iterative nature of historic and archaeological assessment consultation, if required by VDHP, can be difficult to predict and budget for within the 100% Final Design Phase.

1. CWIP encourages Funding Program Administrators to be flexible in granting additional cultural resource funds as the iterative process progresses as long as the project remains cost-competitive (in terms of ecological and community benefits gained per dollar spent).
2. Project proponents should do everything in their power to avoid impacts to historic and archaeological resources and should be cautious about advancing any projects that cannot practically avoid these impacts. Failure to adequately demonstrate avoidance leads to mounting costs both in terms of required cultural resource assessment consultation as well as, potentially, the mitigation strategies that must be implemented under a Treatment Plan. Although some clean water projects may be worth this expense in terms of the resulting ecological and community co-benefits, not all projects may continue to demonstrate a cost-competitive advantage over other clean water projects.

Costs associated with VDHP Project Review are eligible and may fall under the Project Completion or another budget category depending on how cultural resource work is contracted. Funding Program Administrators may request case-specific budgeting guidance from CWIP as needed. Eligible expenses include costs for identifying and evaluating historic buildings, structures and archaeological sites; for project reviews and determination of effect; for necessary studies; and for implementation for Treatment Plans. This also includes project manager personnel time needed to oversee these tasks and perform the necessary procurement and contracting of professional cultural consultant services.