

§ 65.10

more than 50 owners, the general notice specified in § 65.5(d)(3) will be used.

(2) Notice of withdrawal of designation and related National Register listing and determinations of eligibility will be published periodically in the FEDERAL REGISTER.

(h) Upon withdrawal of a National Historic Landmark designation, NPS will reclaim the certificate and plaque, if any, issued for that landmark.

(i) An owner shall not be considered as having exhausted administrative remedies with respect to dedesignation of a National Historic Landmark until after submitting an appeal and receiving a response from NPS in accord with these procedures.

§ 65.10 Appeals for designation.

(a) Any applicant seeking to have a property designated a National Historic Landmark may appeal, stating the grounds for appeal, directly to the Director, National Park Service, Department of the Interior, Washington, DC 20240, under the following circumstances:

Where the applicant—

(1) Disagrees with the initial decision of NPS that the property is not likely to meet the criteria of the National Historic Landmarks Program and will not be submitted to the Advisory Board; or

(2) Disagrees with the decision of the Secretary that the property does not meet the criteria of the National Historic Landmarks Program.

(b) The Director will respond to the appellant within 60 days. After reviewing the appeal the Director may:

(1) Deny the appeal;

(2) Direct that a National Historic Landmark nomination be prepared and processed according to the regulations if this has not yet occurred; or

(3) Resubmit the nomination to the Secretary for reconsideration and final decision.

(c) Any person or organization which supports or opposes the consideration of a property for National Historic Landmark designation may submit an appeal to the Director, NPS, during the designation process either supporting or opposing the designation. Such appeals received by the Director before the study of the property or before its

36 CFR Ch. I (7–1–02 Edition)

submission to the National Park System Advisory Board will be considered by the Director, the Advisory Board and the Secretary, as appropriate, in the designation process.

(d) No person shall be considered to have exhausted administrative remedies with respect to failure to designate a property a National Historic Landmark until he or she has complied with the procedures set forth in this section.

PART 67—HISTORIC PRESERVATION CERTIFICATIONS PURSUANT TO SEC. 48(g) AND SEC. 170(h) OF THE INTERNAL REVENUE CODE OF 1986

Sec.

67.1 Sec. 48(g) and Sec. 170(h) of the Internal Revenue Code of 1986.

67.2 Definitions.

67.3 Introduction to certifications of significance and rehabilitation and information collection.

67.4 Certifications of historic significance.

67.5 Standards for Evaluating Significance within Registered Historic Districts.

67.6 Certifications of rehabilitation.

67.7 Standards for Rehabilitation.

67.8 Certifications of statutes.

67.9 Certifications of State or local historic districts.

67.10 Appeals.

67.11 Fees for processing rehabilitation certification requests.

AUTHORITY: Sec. 101(a)(1) of the National Historic Preservation Act of 1966, 16 U.S.C. 470a–1(a)(170 ed.), as amended; Sec. 48(g) of the Internal Revenue Code of 1986 (90 Stat. 1519, as amended by 100 Stat. 2085) 26 U.S.C. 48(g); and Sec. 170(h) of the Internal Revenue Code of 1986 (94 Stat. 3204) 26 U.S.C. 170(h).

SOURCE: 54 FR 6771, Feb. 26, 1990, unless otherwise noted.

§ 67.1 Sec. 48(g) and Sec. 170(h) of the Internal Revenue Code of 1986.

(a) Sec. 48(g) of the Internal Revenue Code of 1986, 90 Stat. 1519, as amended by 100 Stat. 2085, and Sec. 170(h) of the Internal Revenue Code of 1986, 94 Stat. 3204, require the Secretary to make certifications of historic district statutes and of State and local districts,

National Park Service, Interior

§ 67.1

certifications of significance, and certifications of rehabilitation in connection with certain tax incentives involving historic preservation. These certification responsibilities have been delegated to the National Park Service (NPS); the following five regional offices issue certifications for the States listed below them.

Alaska Regional Office, National Park Service, 2525 Gambell Street, Room 107, Anchorage, Alaska 99503:

Alaska

Mid-Atlantic Regional Office, National Park Service, U.S. Customs House, Second Floor, Second and Chestnut Streets, Philadelphia, Pennsylvania 19106:

Connecticut

Delaware

District of Columbia

Indiana

Maine

Maryland

Massachusetts

Michigan

New Hampshire

New Jersey

New York

Ohio

Pennsylvania

Rhode Island

Vermont

Virginia

West Virginia

Rocky Mountain Regional Office, National Park Service, 12795 West Alameda Parkway, P.O. Box 25287, Denver, Colorado 80225:

Colorado

Illinois

Iowa

Kansas

Minnesota

Missouri

Montana

Nebraska

New Mexico

North Dakota

Oklahoma

South Dakota

Texas

Utah

Wisconsin

Wyoming

Southeast Regional Office, National Park Service, 75 Spring Street SW, Atlanta, Georgia 30303:

Alabama

Arkansas

Florida

Georgia

Kentucky

Louisiana

Mississippi

North Carolina

Puerto Rico

South Carolina

Tennessee

Virgin Islands

Western Regional Office, National Park Service, 450 Golden Gate Avenue, P.O. Box 36063, San Francisco, California 94102:

Arizona

California

Hawaii

Idaho

Nevada

Oregon

Washington

(b) The Washington office of the NPS establishes program direction and considers appeals of certification denials. The procedures for obtaining certifications are set forth below. It is the responsibility of owners wishing certifications to provide sufficient documentation to the Secretary to make certification decisions. These procedures, upon their effective date, are applicable to future and pending certification requests, except as otherwise provided herein.

(c) States receiving Historic Preservation Fund grants from the Department participate in the review of requests for certification, through recommendations to the Secretary by the State Historic Preservation Officer (SHPO). The SHPO acts on behalf of the State in this capacity and, therefore, the NPS is not responsible for any actions, errors or omissions of the SHPO.

(1) Requests for certifications and approvals of proposed rehabilitation work are sent by an owner first to the appropriate SHPO for review. State comments are recorded on National Park Service Review Sheets (NPS Forms 10-168 (d) and (e)) and are carefully considered by the Secretary before a certification decision is made. Recommendations of States with approved State programs are generally followed, but by law, all certification decisions are made by the Secretary, based upon professional review of the application and related information. The decision of the Secretary may differ from the recommendation of the SHPO.

(2) A State may choose not to participate in the review of certification requests. States not wishing to participate in the comment process should notify the Secretary in writing of this fact. Owners from such nonparticipating States may request certifications by sending their applications directly to the appropriate NPS regional office listed above. In all other situations, certification requests are sent first to the appropriate SHPO.

(d) The Internal Revenue Service is responsible for all procedures, legal determinations, and rules and regulations concerning the tax consequences of the historic preservation provisions described in this part. Any certification made by the Secretary pursuant to this part shall not be considered as binding upon the Internal Revenue Service or the Secretary of the Treasury with respect to tax consequences under the Internal Revenue Code. For example, certifications made by the Secretary do not constitute determinations that a structure is of the type subject to the allowance for depreciation under section 167 of the Code.

§ 67.2 Definitions.

As used in these regulations:

Certified Historic Structure means a building (and its structural components) which is of a character subject to the allowance for depreciation provided in section 167 of the Internal Revenue Code of 1986 which is either:

- (a) Individually listed in the National Register; or
- (b) Located in a registered historic district and certified by the Secretary

as being of historic significance to the district.

Portions of larger buildings, such as single condominium apartment units, are no independently considered certified historic structures. Rowhouses, even with abutting or party walls, are considered as separate buildings. For purposes of the certification decisions set forth in this part, a certified historic structure encompasses the historic building and its site, landscape features, and environment, generally referred to herein as a "property" as defined below. The NPS decision on listing a property in the National Register of Historic Places, including boundary determinations, does not limit the scope of review of the rehabilitation project for tax certification purposes. Such review will include the entire historic property as it existed prior to rehabilitation and any related new construction. For purposes of the charitable contribution provisions only, a certified historic structure need not be depreciable to qualify; may be a structure other than a building; and may also be a remnant of a building such as a facade, if that is all that remains. For purposes of the other rehabilitation tax credits under section 48(g) of the Internal Revenue Code, any property located in a registered historic district is considered a certified historic structure so that other rehabilitation tax credits are not available; exemption from this provision can generally occur only if the Secretary has determined, prior to the rehabilitation of the property, that it is not of historic significance to the district.

Certified Rehabilitation means any rehabilitation of a certified historic structure which the Secretary has certified to the Secretary of the Treasury as being consistent with the historic character of the certified historic structure and, where applicable, with the district in which such structure is located.

Duly Authorized Representative means a State or locality's Chief Elected Official or his or her representative who is authorized to apply for certification of State/local statutes and historic districts.

Historic District means a geographically definable area, urban or rural,