

## § 65.9

## 36 CFR Ch. I (7–1–04 Edition)

Insular Affairs of the United States House of Representatives and not less than 30 nor more than 60 days shall be provided for the submittal of written comments on the proposed boundaries.

(2) The proposed boundary and any comments received thereon shall be submitted to the Associated Director for National Register Programs, NPS, who may approve the boundary without reference to the Advisory Board or the Secretary.

(3) NPS will provide written notice of the approved boundary to the same parties specified in paragraph (d)(1) of this section and by publication in the FEDERAL REGISTER.

(4) Management of the activities described in paragraphs (d)(1), (2), and (3) of this section is handled by the National Register of Historic Places, NPS, [Address: National Register of Historic Places, National Park Service, Department of the Interior, Washington, DC 20240].

(e) A technical correction to a boundary may be approved by the Chief, History Division, without Advisory Board review or Secretarial approval. NPS will provide notice, in writing, of any technical correction in a boundary to the same parties specified in (d)(1).

### § 65.9 Withdrawal of National Historic Landmark designation.

(a) National Historic Landmarks will be considered for withdrawal of designation only at the request of the owner or upon the initiative of the Secretary.

(b) Four justifications exist for the withdrawal of National Historic Landmark designation:

(1) The property has ceased to meet the criteria for designation because the qualities which caused it to be originally designated have been lost or destroyed, or such qualities were lost subsequent to nomination, but before designation;

(2) Additional information shows conclusively that the property does not possess sufficient significance to meet the National Historic Landmark criteria;

(3) Professional error in the designation; and

(4) Prejudicial procedural error in the designation process.

(c) Properties designated as National Historic Landmarks before December 13, 1980, can be dedesignated only on the grounds established in paragraph (a)(1) of this section.

(d) The owner may appeal to have a property dedesignated by submitting a request for dedesignation and stating the grounds for the appeal as established in subsection (a) to the Chief, History Division, National Park Service, Department of the Interior, Washington, DC 20240. An appellant will receive a response within 60 days as to whether NPS considers the documentation sufficient to initiate a restudy of the landmark.

(e) The Secretary may initiate a restudy of a National Historic Landmark and subsequently a proposal for withdrawal of the landmark designation as appropriate in the same manner as a new designation as specified in § 65.5 (c) through (h). Proposals will not be submitted to the Advisory Board if the grounds for removal are procedural, although the Board will be informed of such proposals.

(f)(1) The property will remain listed in the National Register if the Keeper determines that it meets the National Register criteria for evaluation in 36 CFR 60.4, except if the property is redesignated on procedural grounds.

(2) Any property from which designation is withdrawn because of a procedural error in the designation process shall automatically be considered eligible for inclusion in the National Register as a National Historic Landmark without further action and will be published as such in the FEDERAL REGISTER.

(g)(1) The National Park Service will provide written notice of the withdrawal of a National Historic Landmark designation and the status of the National Register listing, and a copy of the report on which those actions are based to (i) the owner(s); (ii) the appropriate State official; (iii) the chief elected local official; (iv) the Members of Congress who represent the district and State in which the landmark is located; and (v) if the landmark is located on an Indian reservation, the chief executive officer of the Indian tribe. In the case of a landmark with

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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

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

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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,