

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, that possesses a significant concentration, linkage or continuity of sites, buildings, structures or objects united historically or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically during the period of significance but linked by association or function.

*Inspection* means a visit by an authorized representative of the Secretary or a SHPO to a certified historic structure for the purposes of reviewing and evaluating the significance of the structure and the ongoing or completed rehabilitation work.

*National Register of Historic Places* means the National Register of districts, sites, buildings, structures, and

### § 67.3

### 36 CFR Ch. I (7-1-04 Edition)

objects significant in American history, architecture, archeology, engineering, and culture that the Secretary is authorized to expand and maintain pursuant to section 101(a)(1) of the National Historic Preservation Act of 1966, as amended. The procedures of the National Register appear in 36 CFR part 60 *et seq.*

*Owner* means a person, partnership, corporation, or public agency holding a fee-simple interest in a property or any other person or entity recognized by the Internal Revenue Code for purposes of the applicable tax benefits.

*Property* means a building and its site and landscape features.

*Registered Historic District* means any district listed in the National Register or any district which is:

(a) Designated under a State or local statute which has been certified by the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of significance to the district, and

(b) Certified by the Secretary as meeting substantially all of the requirements for the listing of districts in the National Register.

*Rehabilitation* means the process of returning a building or buildings to a state of utility, through repair or alteration, which makes possible an efficient use while preserving those portions and features of the building and its site and environment which are significant to its historic, architectural, and cultural values as determined by the Secretary.

*Standards for Rehabilitation* means the Secretary's Standards for Rehabilitation set forth in section 67.7 hereof.

*State Historic Preservation Officer* means the official within each State designated by the Governor or a State statute to act as liaison for purposes of administering historic preservation programs within that State.

*State or Local Statute* means a law of a State or local government designating, or providing a method for the designation of, a historic district or districts.

[54 FR 6771, Feb. 26, 1990, as amended at 62 FR 30235, June 3, 1997]

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

(a) Who may apply:

(1) Ordinarily, only the fee simple owner of the property in question may apply for the certifications described in §§ 67.4 and 67.6 hereof. If an application for an evaluation of significance or rehabilitation project is made by someone other than the fee simple owner, however, the application must be accompanied by a written statement from the fee simple owner indicating that he or she is aware of the application and has no objection to the request for certification.

(2) Upon request of a SHPO the Secretary may determine whether or not a particular property located within a registered historic district qualifies as a certified historic structure. The Secretary shall do so, however, only after notifying the fee simple owner of record of the request, informing such owner of the possible tax consequences of such a decision, and permitting the property owner a 30-day time period to submit written comments to the Secretary prior to decision. Such time period for comment may be waived by the fee simple owner.

(3) The Secretary may undertake the certifications described in §§ 67.4 and 67.6 on his own initiative after notifying the fee simple owner and the SHPO and allowing a comment period as specified in § 67.3(a)(2).

(4) Owners of properties which appear to meet National Register criteria but are yet listed in the National Register or which are located within potential historic districts may request preliminary determinations from the Secretary as to whether such properties may qualify as certified historic structures when and if the properties or the potential historic districts in which they are located are listed in the National Register. Preliminary determinations may also be requested for properties outside the period or area of significance of registered historic districts as specified in § 67.5(c). Procedures for obtaining these determinations shall be the same as those described in § 67.4. Such determinations