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DEPARTMENT OF PARKS AND RECREATION**

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State Agency Consideration of Historical Resources Under Public Resources Code § 5024 and 5024.5: Effective Consultation with the State Historic Preservation Officer

The California State Legislature enacted Public Resources Code (PRC) § 5024 and 5024.5 as part of a larger effort to establish a state program to preserve historical resources. These sections of the code require state agencies to take a number of actions to ensure preservation of state-owned historical resources under their jurisdictions. These actions include evaluating resources for National Register of Historic Places (National Register) eligibility and California Historical Landmark (California Landmark) eligibility; maintaining an inventory of eligible and listed resources; and managing these historical resources so that they will retain their historic characteristics. Text of PRC § 5024 and 5024.5 can be found at <http://ohp.parks.ca.gov/pages/1071/files/Public%20Resources%20Code%205024.pdf>.

The following are recommendations to assist state agencies in complying with the requirements of Public Resources Code § 5024 and 5024.5 and understanding the expectations of the State Historic Preservation Officer (SHPO) regarding consultation on state projects that may affect historical resources. Ideally, this guidance will help minimize time and effort spent preparing submittals to the SHPO. Consultation documents that do not meet the following guidance may generate inquiries for further information, delaying conclusion of the consultation.

PRC § 5024 and 5024.5 were passed into legislation prior to the creation of the California Register of Historical Resources (California Register), which was established under PRC § 5024.1. PRC § 5024 and 5024.5 do not apply to state-owned historical resources that are exclusively eligible for or listed in the California Register (i.e., do not meet the criteria for the National Register or California Landmarks). Impacts to all California Register listed or eligible resources are considered under the California Environmental Quality Act (CEQA).

With relation to PRC § 5024 and 5024.5, historical resources are defined as those listed or eligible for listing in the National Register or as a California Landmark. The SHPO encourages state agencies to ensure that evaluations of historical resources are conducted by persons with expertise in the discipline appropriate to the resource type.

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Master List of State-Owned Properties

Creation of the Master List

PRC § 5024(a) established the master list of properties and required each state agency to “formulate policies to preserve and maintain, when prudent and feasible, all state-owned historical resources under its jurisdiction,” following the above-mentioned definition of historical resources.

Maintaining the Master List

State agencies are required to submit their Master List to the SHPO, who maintains the master list for all state agencies as a part of the State Historical Resources Inventory. Each state agency should retain a copy of its list so it can manage its historical resources in accordance with this code and comply with the provisions of PRC § 5024 and 5024.5 discussed below.

Annual Updates and Reporting

PRC § 5024(e) requires each state agency to submit annual inventory updates to the SHPO along with a summary of the previous year’s preservation activities. The agencies are responsible for submitting professional evaluations of potential historical resources to the SHPO for review and concurrence and addition to the agency and state master list.

Review of Projects Affecting State-Owned Historical Resources

Under PRC § 5024(f) and 5024.5, state agencies must provide notification and submit documentation to the SHPO early in the planning process for any project having the potential to affect state-owned historical resources on or eligible for inclusion in the Master List (buildings, structures, landscapes, archaeological sites, and other non-structural resources). Under PRC § 5024(f), state agencies request the SHPO’s comments on the project.

Under PRC § 5024.5, it is the SHPO’s responsibility to comment on the project and to determine if it may cause an adverse effect (PRC § 5024.5), defined as a substantial adverse change in the significance of a historical resource (PRC § 5020.1(q)). In this case, historical resources are defined as resources eligible for or listed in the National Register and/or resources registered for or eligible for registering as a California Landmark.

In order to facilitate review under PRC § 5024(f) and 5024.5, state agencies should provide the following information to the SHPO.

1. Letter Initiating Consultation: The state agency should provide a dated cover letter that requests consultation with the SHPO under PRC § 5024 and 5024.5. The letter should include the name of the proposed undertaking; the name and location of the cultural resource; whether or not it is listed in the Master List or

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considered by the agency to be eligible for inclusion in the Master List; anticipated date agency will issue a CEQA document for the proposed project; and information regarding agency point of contact authorized to act for the head of the agency.

2. Property Status: If the property is already listed please include a copy of the National Register Nomination or provide the appropriate California Landmark number.
3. Property Description and Statement of Significance: If a resource has not been evaluated but is likely to be affected by the Proposed Action, the state agency must evaluate the resource's eligibility using National Register criteria (found at <http://www.nps.gov/nr/publications/bulletins/nrb15/>) and California Landmark criteria (found at http://ohp.parks.ca.gov/?page_id=21747). A description of the historical resource and a statement of significance should be provided on a Department of Parks and Recreation (DPR) 523 form (available at http://ohp.parks.ca.gov/?page_id=1069). The description should clearly describe the building(s), its character-defining features, and setting. For archaeological resources, the agency should provide any cultural resources reports and DPR 523 forms prepared. These should provide details about site boundaries, and subsurface components, and if the site is part of an archaeological district, cultural landscape, or Traditional Cultural Property. The statement of significance should include an evaluation of the property and explain clearly how it qualifies under National Register or California Landmark criteria. The SHPO will review this information and either concur that the property is eligible and should be added to the Master List, or offer other comments.
4. Description of Proposed Action: The scope of work or project description should provide enough detail for the SHPO to understand the proposed work and how it might affect historical resources. Project maps, plans, and/or architectural drawings may need to be included.
5. Native American consultation: In Executive Order B-10-11 (available at <http://gov.ca.gov/news.php?id=17223>), Governor Jerry Brown established a policy encouraging all state agencies to communicate and consult with Federally Recognized Tribes and other California Native Americans. This consultation should include proposed projects that may affect tribal lands, cultural resources of concern to tribes, and/or Traditional Cultural Properties (TCPs) (information about TCPs is available at <http://www.nps.gov/nr/publications/bulletins/nrb38/>). If such consultation occurs, verification of this should be included in the agency submission to the SHPO.

When the above information is received by the SHPO, the following will occur:

- Within 30 days of the receipt of the request for consultation the SHPO will respond to the agency. However, if the proposed project involves complex

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resources, requires more documentation to determine effects, or involves the need for consultation between the SHPO and the head of the state agency, the review may take more than 30 days to reach agreement.

- If the SHPO agrees that the Proposed Action will not adversely affect state-owned historical resources on the Master List, then the SHPO will submit a letter to the state agency confirming this determination and conclude consultation under PRC § 5024 and 5024.5.
- If the SHPO finds that the Proposed Action will adversely affect state-owned historical resources—defined as a substantial adverse change in the significance of a historical resource (PRC § 5020.1(q))—the SHPO and the head of the state agency with jurisdiction over the resource will consult on “prudent and feasible measures that will eliminate or mitigate the adverse effects” (PRC § 5024.5(b)).
- The SHPO may request mediation from the Office of Planning and Research when the SHPO and state agency cannot agree upon adoption of prudent and feasible alternatives to eliminate or mitigate adverse effects on historical resources on the master list (PRC § 5024.5(d)).

If you have any questions about this process or need information regarding a specific submission, please contact:

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