

(d) Who may apply. Requests for certification of State or local statutes may be made only by the Chief Elected Official of the government which enacted the statute or his or her authorized representative. The applicant shall certify in writing that he or she is authorized by the appropriate State or local governing body to apply for certification.

(e) Statute certification process. Requests for certification of State or local statutes shall be made as follows:

(1) The request shall be made in writing from the duly authorized representative certifying that he or she is authorized to apply for certification. The request should include the name or title of a person to contact for further information and his or her address and telephone number. The authorized representative is responsible for providing historic district documentation for review and certification prior to the first certification of significance in a district unless another responsible person is indicated including his or her address and telephone number. The request shall also include a copy of the statute(s) for which certification is requested, including any by-laws or ordinances that contain information necessary for the certification of the statute. Local governments shall also submit a copy of the State enabling legislation, if any, authorizing the designation of historic districts.

(2) Requests shall be sent to the SHPO in participating States and directly to appropriate NPS WASO in nonparticipating States.

(3) The Secretary shall review the statute(s) and assess whether the statute(s) and any by-laws or ordinances that contain information necessary for the certification of the statute contain criteria which will substantially achieve the purposes of preserving and rehabilitating properties of historic significance to the district(s) based upon the standards set out above in §67.8(a). The SHPO shall be given a 30-day opportunity to comment upon the request. Comments received from the SHPO within this time period will be considered by the Secretary in the review process. If the statute(s) contain such provisions and if this and other provisions in the statute will substan-

tially achieve the purpose of preserving and rehabilitating properties of historic significance to the district, the Secretary will certify the statute(s).

(4) The Secretary generally provides written notification within 30 days of receipt by the NPS to the duly authorized representative and to the SHPO when certification of the statute is given or denied. If certification is denied, the notification will provide an explanation of the reason(s) for such denial.

(f) Amendment or repeal of statute(s). State or local governments, as appropriate, must notify the Secretary in the event that certified statutes are repealed, whereupon the certification of the statute (and any districts designated thereunder) will be withdrawn by the Secretary. If a certified statute is amended, the duly authorized representative shall submit the amendment(s) to the Secretary, with a copy to the SHPO, for review in accordance with the procedures outlined above. Written notification of the Secretary's decision as to whether the amended statute continues to meet these criteria will be sent to the duly authorized representative and the SHPO within 60 days of receipt.

(g) The Secretary may withdraw certification of a statute (and any districts designated thereunder) on his own initiative if it is repeal or amended to be inconsistent with certification requirements after providing the duly authorized representative and the SHPO 30 days in which to comment prior to the withdrawal of certification.

§67.9 Certifications of State or local historic districts.

(a) The particular State or local historic district must also be certified by the Secretary as substantially meeting National Register criteria, thereby qualifying it as a registered historic district, before the Secretary will process requests for certification of individual properties within a district or districts established under a certified statute.

(b) The provision described herein will not apply to properties within a State or local district until the district has been certified, even if the statute

National Park Service, Interior

§ 67.9

creating the district has been certified by the Secretary.

(c) The Secretary considers the duly authorized representative requesting certification of a statute to be the official responsible for submitting district documentation for certification. If another person is to assume responsibility for the district documentation, the letter requesting statute certification shall indicate that person's name, address, and telephone number. The Secretary considers the authorizing statement of the duly authorized representative to indicate that the jurisdiction involved wishes not only that the statute in question be certified but also wishes all historic districts designated by the statute to be certified unless otherwise indicated.

(d) Requests shall be sent to the SHPO in participating States and directly to the appropriate NPS WASO in nonparticipating States. The SHPO shall be given a 30-day opportunity to comment upon an adequately documented request. Comments received from the SHPO within this time period will be considered by the Secretary in the review process. The guidelines in National Register Bulletin 16, "Guidelines for Completing National Register of Historic Places Forms," provide information on how to document historic districts for the National Register. Each request should include the following documentation:

(1) A description of the general physical or historical qualities which make this a district; and explanation for the choice of boundaries for the district; descriptions of typical architectural styles and types of buildings in the district.

(2) A concise statement of why the district has significance, including an explanation of the areas and periods of significance, and why it meets National Register criteria for listing (see 36 CFR part 60); the relevant criteria should be identified (A, B, C, and D).

(3) A definition of what types of properties contribute and do not contribute to the significance of the district as well as an estimate of the percentage of properties within the district that do not contribute to its significance.

(4) A map showing all district properties with, if possible, identification

of contributing and noncontributing properties; the map should clearly show the district's boundaries.

(5) Photographs of typical areas in the district as well as major types of contributing and noncontributing properties; all photographs should be keyed to the map.

(e) Districts designated by certified State or local statutes shall be evaluated using the National Register criteria (36 CFR part 60) within 30 days of the receipt of the required documentation by the Secretary. Written notification of the Secretary's decision will be sent to the duly authorized representative or to the person designated as responsible for the district documentation.

(f) Certification of statutes and districts does not constitute certification of significance of individual properties within the district or of rehabilitation projects by the Secretary.

(g) Districts certified by the Secretary as substantially meeting the requirements for listing will be determined eligible for listing in the National Register at the time of certification and will be published as such in the FEDERAL REGISTER.

(h) Documentation on additional districts designated under a State or local statute the has been certified by the Secretary should be submitted to the Secretary for certification following the same procedures and including the same information outlined in the section above.

(i) State or local governments, as appropriate, shall notify the Secretary if a certified district designation is amended (including boundary changes) or repealed. If a certified district designation is amended, the duly authorized representative shall submit documentation describing the change(s) and, if the district has been increased in size, information on the new areas as outlined in §67.9. A revised statement of significance for the district as a whole shall also be included to reflect any changes in overall significance as a result of the addition or deletion of areas. Review procedures shall follow those outlined in §67.9 (d) and (e). The Secretary will withdraw certification of repealed or inappropriately amended certified district designations, thereby

§ 67.10

36 CFR Ch. I (7–1–11 Edition)

disqualifying them as registered historic districts.

(j) The Secretary may withdraw certification of a district on his own initiative if it ceases to meet the National Register Criteria for Evaluation after providing the duly authorized representative and the SHPO 30 days in which to comment prior to withdrawal of certification.

(k) The Secretary urges State and local review boards of commissions to become familiar with the Standards used by the Secretary of the Interior for certifying the rehabilitation of historic properties and to consider their adoption for local design review.

§ 67.10 Appeals.

(a) The owner or a duly authorized representative may appeal any of the certifications or denials of certification made under this part or any decisions made under § 67.6(f).

(1) Appeals must:

(i) Be in writing; e.g. letter, fax, or e-mail;

(ii) Be addressed to the Chief Appeals Officer, Cultural Resources, National Park Service, U.S. Department of the Interior, 1849 C Street, NW., Washington, DC 20240;

(iii) Be received by NPS within 30 days of receipt by the owner or a duly authorized representative of the decision which is the subject of the appeal; and

(iv) Include all information the owner wishes the Chief Appeals Officer to consider in deciding the appeal.

(2) The appellant may request a meeting to discuss the appeal.

(3) NPS will notify the SHPO that an appeal is pending.

(4) The Chief Appeals Officer will consider the record of the decision in question, any further written submissions by the owner, and other available information and will provide the appellant a written decision as promptly as circumstances permit.

(5) Appeals under this section constitute an administrative review of the decision appealed from and are not conducted as an adjudicative proceeding.

(b) The denial of a preliminary determination of significance for an individual property may not be appealed by

the owner because the denial itself does not exhaust the administrative remedy that is available. The owner instead must seek recourse by undertaking the usual nomination process (36 CFR part 60).

(c) In considering such appeals or administrative reviews, the Chief Appeals Officer shall take in account alleged errors in professional judgment or alleged prejudicial procedural errors by NPS officials. The Chief Appeals Officer's decision may:

(1) Reverse the appealed decision;

(2) Affirm the appealed decision;

(3) Resubmit the matter to WASO for further consideration; or

(4) Where appropriate, withhold a decision until issuance of a ruling from the Internal Revenue Service pursuant to § 67.6(b)(2).

The Chief Appeals Officer may base his decision in whole or part on matters or factors not discussed in the decision appealed from. The Chief Appeals Officer is authorized to issue the certifications discussed in this part only if he considers that the requested certification meets the applicable statutory standard upon application of the Standards set forth herein or he considers that prejudicial procedural error by a Federal official legally compels issuance of the requested certification.

(d) The decision of the Chief Appeals Officer shall be the final administrative decision on the appeal. No person shall be considered to have exhausted his or her administrative remedies with respect to the certifications or decisions described in this part until the Chief Appeals Officer has issued a final administrative decision pursuant to this section.

[54 FR 6771, Feb. 26, 1990, as amended at 76 FR 30541, May 26, 2011]

§ 67.11 Fees for processing certification requests.

(a) Fees are charged for reviewing certification requests according to the schedule and instructions provided in public notices in the FEDERAL REGISTER by NPS.

(b) No payment should be made until requested by the NPS. A certification decision will not be issued on an application until the appropriate remittance is received.