

**Office of Historic Preservation
Proposed Regulatory Action:
State Historic Rehabilitation Tax Credit
Proposed Regulation Text**

SECOND 15-DAY PUBLIC REVIEW AND COMMENT PERIOD
REGULATIONS TEXT MODIFICATIONS KEY

Proposed modifications to the regulation text are identified in this 15-Day Public Review and Comment as follows:

- Regulation text deletions and additions in the 45 day notice of proposed rulemaking action ----- No underline or strikethrough because all text is adopted.
- First 15-day notice of proposed rulemaking action text deletions (9/30/23) ----- ~~double strikethrough~~
- First 15-day notice of proposed rulemaking action text additions (9/30/23) ----- double underline
- Additional proposed additions in the second 15 day notice of proposed rulemaking action ----- *italics*
- Additional proposed deletions in the second 15 day notice of proposed rulemaking action ----- ~~**bold strikethrough**~~

These proposed regulations will add a new subchapter 1, "State Historic Rehabilitation Tax Credit" Section 4859 to Chapter 11.5 of Division 3 of Title 14 of the California Code of Regulations.

§4859.01. State Historic Rehabilitation Tax Credit Program Authority and Function.

(a) Section 17053.91 and Section 23691 of the California Revenue and Taxation Code directs the Office of Historic Preservation (OHP) to adopt regulations to establish a written application ~~which includes a summary of expected economic benefits of the project, establish a process~~ to determine that applicants meet project requirements and to ensure that the rehabilitation project meets the ~~Secretary of the Interior's~~ Standards for Rehabilitation, ~~as found in~~ part 67.7 of Title 36 of the Code of Federal Regulations, and establish a program to approve, or reject, all tax credit allocation applications.

(1) This program shall be known as the State Historic Rehabilitation Tax Credit (SHRTC).

~~(b) California Public Resources Code Section 5024.6 designates the State Office of Historic Preservation (OHP) as the authority to administer state and federal incentive programs for the preservation of historical resources, including the California Register of Historical Resources.~~

(b) ~~(c)~~ The OHP establishes program directions in coordination with the California Tax

Allocation Committee (CTCAC). ~~and considers appeals of certification denials. It is the responsibility of owners wishing certifications to provide sufficient documentation to the OHP to make certification decisions. These procedures, upon their effective date, are applicable to future and pending certification requests, except as otherwise provided herein.~~

(1) ~~The OHP is responsible for ensuring that the proposed rehabilitation project meets the **Secretary of the Interior's** Standards for Rehabilitation and that the property is a certified historic structure **or** that is a qualified residence or a certified historic building. Requests for certifications and approval of proposed rehabilitation work are sent by an owner to the OHP. State comments are recorded on State Tax Credit Review Sheets.~~

(2) ~~The CTCAC is responsible for all procedures, legal determinations, and rules and regulations concerning tax credit allocation and compliance. ~~the tax consequences of the historic preservation provisions described in this part.~~~~

(c) ~~(d)~~ Tax credits are allocated to for three funding categories as interpreted in the Revenue and Tax Code 17053.91(j) and 23691(j):

(1) A certified historic structure that is a qualified residence; ~~and~~

(2) A certified historic building with qualified rehabilitation expenditures of less than one million dollars; ~~and~~

(3) A certified historic building with qualified rehabilitation expenditure of one million dollars or more.

(d) ~~Projects completed before January 1, 2022 do not qualify to apply for the state historic rehabilitation tax credit.~~

Sections 17053.91 and 23691 of the Revenue and Taxation Code; Section 5024.6, Public Resources Code.

References: Secretary of the Interior's Standards for Rehabilitation, Part 67.7 of Title 36 of the Code of Federal Regulations; Sections 17053.91 and 23691, Revenue and Taxation Code.

§4859.02. Definition of Key Terms.

As used in these regulations:

(a) "California Register of Historical Resources" (California Register) means the California Register designed for use by state and local agencies, private groups, and citizens to identify, evaluate, register, and protect California's historical resources. ~~The procedures of criteria for the California Register appear in California Code of Regulations, California Register of Historical Resources (Title 14, Division 3, Chapter 11.5).~~

(b) California Tax Credit Allocation Committee (CTCAC) ~~that~~ co-administers the state rehabilitation of certified historic structures and qualified residences tax credit program and allocates the state tax credits against personal income and corporation taxes.

(c) “Certification” means the ~~approval status of a~~ approved project application for the completed project meets the Standards for Rehabilitation as affirmed by the OHP.

(d) “Certified Historic Structure” has the same meaning as defined in Section 47(c)(3) of the Internal Revenue Code, that is a structure in California and is listed on the California Register of Historical Resources. This means a structure that is either:

(1) Individually listed in the California Register; or

~~(2) Listed as a contributor to a registered historic district that is listed in the California Register. Located within the boundaries of a historic district listed in the California Register and designated as being a contributor to the significance of the historic district~~

~~(3) Rowhouses, even with abutting or party walls are considered as separate buildings. Portions of larger buildings, such as single condominium apartment units, are not independently considered certified historic structures.~~

(e) “Certified Rehabilitation” means any *completed* rehabilitation of a certified historic structure or qualified residence that which the OHP has **certified affirmed** to the CTCAC as being consistent with the Standards for Rehabilitation ~~historic character of the certified historic structure~~ **and, where applicable, within the registered historic district.** ~~with the district in which such structure is located.~~

(f) *“Dual Project” is a project applying for both the federal and state tax credit, where federal documentation standards are also used as SHRTC submittals.*

(g) ~~(f)~~ “Functionally related buildings” are those that have historically functioned together to serve an overall purpose.

~~(g) “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.~~

(h) ~~(g)~~ “Inspection” means a visit by an authorized representative of the OHP to a certified historic structure or qualified residence for the purposes of reviewing and evaluating the significance of the ~~structure~~ property and the ongoing or completed rehabilitation work.

(i) ~~(h)~~ “National Park Service, Technical Preservation Services” (NPS TPS) means the National Park Service, Washington Area Service Office, Technical Preservation Services, Heritage Preservation Services Office **and the National Register of Historic Places.**

(j) ~~(i)~~ “Office of Historic Preservation” (OHP) means the California Office of Historic Preservation designated by *Public Resources Code section 5024.6* **State statute** to administer historic preservation programs within California.

(k) ~~(j)~~ "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 and the California Franchise Tax Board for purposes of the applicable tax benefits.

(l) ~~(k)~~ "Property" means *a building and its site, and landscape features, and all buildings and constructed features contained within property boundaries.*

(m) ~~(l)~~ "Qualified Residence" has the same meaning as that term is defined in Section 163(h)(4) of the Internal Revenue Code, that will be owned and occupied by an individual taxpayer who has a modified adjusted gross income, as defined by Section 86(b)(2) of the Internal Revenue Code, of two hundred thousand dollars (\$200,000) or less, as the taxpayer's principal residence or what will be the taxpayer's principal residence within two years after the rehabilitation of the residence.

(n) ~~(m)~~ "Qualified Rehabilitation Expenditure" (QRE) has the same meaning as that term ~~a~~*s* defined in:

(1) Section 47(c)(2) of the Internal Revenue Code, except that qualified rehabilitation expenditures may include expenditures in connection with the rehabilitation of a building without regard to whether any portion of the building is or is reasonably expected to be tax-exempt use property.

(2) Section 47(c)(2) of the Internal Revenue Code ~~and~~ also means rehabilitation expenditures incurred by the taxpayer with respect to a qualified residence for the rehabilitation of the exterior of the building or rehabilitation necessary for the functioning of the home, including, but not limited to, rehabilitation of the electrical, plumbing, or foundation of the qualified residence.

(o) ~~(n)~~ "Registered Historic District" means any district listed in the California Register.

(p) ~~(o)~~ "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 that~~ are significant to its historic, architectural, and cultural values as determined by the OHP.

(q) ~~(p)~~ "Secretary of the Interior's Standards for Rehabilitation" (Standards for Rehabilitation) ~~means the Secretary of the Interior's Standards for Rehabilitation set forth in Secretary of the Interior's Standards for Rehabilitation, as found~~ *has the same meaning as that term is defined in part 67.7 of Title 36 of the Code of Federal Regulations and Section 4859.06-07 hereof.*

Sections 17053.91 and 23691 of the Revenue and Taxation Code; Section 5024.6, Public Resources Code.

References: Secretary of the Interior's Standards for Rehabilitation, Part 67.7 of Title 36 of the Code of Federal Regulations; Sections 17053.91 and 23691, Revenue and Taxation Code.

§4859.03. Initial Project Application. Certifications of significance, rehabilitation, and information collection.

(a) Property eligibility:

(1) The property must be listed on the California Register.

(A) Dual projects applying for the federal tax credit also are qualified to apply for state tax credit when the signed NPS Part 1 "Evaluation of Significance" form pursuant to 36 CFR 67.4 is received by OHP.

(B) Properties not listed on the California Register and applying for tax credit must first be nominated for and listed using the procedures found on the Registration Unit web pages on the OHP website and as cited criteria in California Code of Regulations CCR Title 14 Division 3, Chapter 11.5 section 4851 and Public Resources Code PRC 5024.1.

(2) *For properties not listed on the California Register, or the listing status is unclear, request clarification of the property listing status from the OHP:*

(A) *Send an email to calshpo.tax@parks.ca.gov, using subject line "CR listing status request for <property address, city and county>"*

(B) *In the body of the email, provide the full name of the correspondent, the historic name the building is known by (if any), and the year the building was built, if known. Photos of the property may be attached at the correspondent's option.*

(C) *The OHP will contact the correspondent by email within 10 business days of the initial email receipt with the property listing status and further directions for listing the property pursuant to section 4853.*

(3) *Nomination and listing of a property in the California Register is a separate regulatory action which must be completed before applying for state tax credit. For information on the nomination procedure, refer to section 4853.*

(b) Who may apply:

(1) ~~Ordinarily, The fee simple owner of the property, proposed for rehabilitation may apply for the certifications of significance or rehabilitation as described in Sections 4859.04, or~~

(2) *If an application is made by someone other than the fee simple owner, 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.*

(c) How to apply:

(1) Requests for ~~project certifications~~ *rehabilitation tax credits of historic significance and of rehabilitation shall be made on use the state tax credit Application forms v. 5/24 incorporated by reference herein available on the OHP website.*

(2) ~~The total Certifications of Applications for rehabilitation tax credit procedure~~ consists of two parts: ~~an Initial Project Application and a Completed Project Application.~~

(A) The Initial Project Application shall be used as *confirmation that the subject property is listed in the California Register (Initial Project Application form v. 5/24 Section 1), to submit a description of the proposed rehabilitation and supplemental material (Initial Project Application form v. 5/24 Section 2), and to request a tax credit allocation (Initial Project Application form v. 5/24 Section 3).* ~~to request confirm a certification of historic significance, request approval of an evaluation of a proposed rehabilitation project. and qualify for an allocation of the state tax credit. Information requested in the application is required to obtain a benefit.~~

1. *An Amendment form template (Initial Project Application form v. 5/24 Section 2) is provided as part of the Initial Project Application v.5/24 to revise the project if needed.*

(B) The Completed Project Application (Completed Project Application form v. 5/24 Section 4) shall be used to ~~certify document confirm that the completed rehabilitation project was completed as described in the Initial Project Application v. 5/24 and meets the Standards for Rehabilitation, and certifies the Qualified Rehabilitation Expense (QRE) cost (Completed Project Application form v. 5/24 Section 5) conforms to the approved description of the proposed project, and to verify the final qualified rehabilitation expenditure.~~

(3) *Certified historic structure projects receive a tax credit of 20% of the certified QRE costs. Applicants have the option to qualify for a 25% tax credit if the certified historic structure meets one of the following criteria:*

(A) *The structure is located on federal surplus property, if obtained by a local agency under Section 54142 of the Government Code, on surplus state real property, as defined by Section 11011.1 of the Government Code, or on surplus land, as defined by subdivision (b) of Section 54221 of the Government Code.*

(B) *The rehabilitated structure includes affordable housing for lower-income households, as defined by Section 50079.5 of the Health and Safety Code.*

(C) *The structure is located in a designated census tract, as defined in paragraph (7) of subdivision (b) of Section 17053.73.*

(D) *The rehabilitated structure is a part of a military base reuse authority established pursuant to Title 7.86 (commencing with Section 67800) of the Government Code.*

(E) *The structure is a transit-oriented development that is a higher density, mixed-use development within a walking distance of one-half mile of a transit station.*

Specific criteria documenting 25% tax credit qualification are in Appendix D of the Instructions v. 5/24, incorporated by reference herein.

(4) *Applicants apply for one of three tax credit allocation categories:*

(A) Qualified Residences

(B) Projects with QRE costs less than \$1,000,000

(C) Projects with QRE costs \$1,000,000 or more

(5) Each category is allocated specific budget amounts by the legislature every fiscal year. When the anticipated cost totals of every project in that category approach the total budgeted allocation amounts, OHP will announce that applications for that category are no longer accepted until the next fiscal year when allocations are budgeted again.

As each tax credit funding category is exhausted, OHP will stop taking applications for that category. OHP will return any unprocessed applications and fees to the applicant.

OHP will notify the public that the funding category is exhausted and applications are no longer being accepted by OHP email lists and the OHP social media.

When additional funding is available, OHP will begin accepting applications and will notify the public by OHP email lists and the OHP social media. Applications returned due to lack of allocation funding must resubmit their application.

(6) ~~(3)~~ OHP charges a fee to review the Initial Project Application and the Completed Project Application. The fee must be submitted with the application for the review to be performed. Fees will be calculated based on the rates published on in the Instructions v. 5/24 website. Fees are nonrefundable except where provided in subsection (c)(4).

(7) ~~(4)~~ Applications received by OHP are logged in their order of arrival.

(8) ~~(5)~~ Generally, Application reviews of certification are concluded within 30 days of receipt of a complete, adequately documented application submittal.

~~(6) Applications shall be submitted to the OHP electronically when also applying for the Federal Historic Preservation Tax Incentives program (dual project).~~

(9) ~~(7)~~ Applications and supporting supplemental documentation submitted for state tax credit Qualified Residences only, may be submitted either electronically or as a hard copy at the applicant's discretion.

(10) ~~(8)~~ Directions for electronic submission are found in the a Application i/nstructions v. 5/24 and on the OHP website.

(11) ~~(9)~~ The OHP may request hard copies of some or all application materials on a case-by-case basis when needed for review purposes.

(d) Upon receipt of a complete Initial Project Application describing the rehabilitation project, the OHP shall determine if the project is consistent with the Standards for Rehabilitation. If the project does not meet the Standards for Rehabilitation, the applicant will be advised of that fact notified in writing and will be advised of necessary revisions to meet the Standards for Rehabilitation.

~~(d) State tax credit applications are available from the OHP on the OHP website.~~

~~(1) State tax credit applications shall be submitted to the OHP electronically. The OHP may request hard copies of some or all application materials on a case by case basis when needed for review purposes.~~

(e) ~~When~~ If adequate documentation is not provided, the Applicant will be notified of the additional information needed to undertake the review. The review will be placed on “hold” until complete information is received, at which time the review period begins again. **When requested documentation is not provided, a denial of certification will be issued due to a lack of information.** A review period longer than expected ~~does not waive or alter any certification requirement.~~

~~(1) Applicants must submit confirmation of listing on the California Register with the description of the proposed project as part of their Initial Project Application. Reviews will not be processed until the property is confirmed as listed in the California Register.~~

(f) Application decisions by the OHP are conveyed in writing only to the applicant and to the CTCAC.

(g) ~~Application approval by the OHP is conveyed in writing only.~~ **Certifications Decisions are decided** ~~determined~~ based on the descriptions contained in the application form and other **available supplementary material information**. In the event of any discrepancy between the application form and **other**, supplementary material submitted with it (such as architectural plans, drawings, specifications, etc.), the applicant shall be requested to resolve the discrepancy in writing. In the event the discrepancy is not resolved, the description in the application form shall take precedence.

(h) An applicant will not be held responsible for prior rehabilitation work that was undertaken by previous owners.

(i) Because the circumstances of each rehabilitation project are unique to the individual historic structure involved, previous certifications granted to other rehabilitations do not form a precedent and may not be relied on as applicable to other projects.

(j) For rehabilitation projects that are to be completed in phases over the alternate 60-month period allowed in Section 47 of the Internal Revenue Code (and Section 17053.91 of the California Revenue and Taxation Code), the Initial Project Application and supporting architectural plans and specifications should identify the project as a 60-month phased rehabilitation project and describe the number, order, and general scope of each phase. If the Initial Project Application clearly identifies the project as a phased rehabilitation, the OHP will consider the project in all its phases as a single rehabilitation.

(1) Work undertaken in a later phase of a 60-month phased project that does not meet the Standards for Rehabilitation, whether or not submitted for review, may result in a

denial of certification of the entire rehabilitation, considered in the context of the project as a whole.

(k) Qualified Residence projects applications are not eligible for phasing.

(l) Applicants must commence rehabilitation within 365 days after issuance of the tax credit allocation by the CTCAC. If rehabilitation is not commenced within this time period, the tax credit allocation shall be forfeited, and the credit amount associated with the tax credit allocation shall be treated as an unused allocation tax credit amount. Applicants shall provide documentation, such as a Notice To Proceed or a signed construction contract, to the OHP before the deadline expires.

(m) The reviewed Initial Project Application form is sent by the OHP to the CTCAC for their action in the order reviews are completed.

(n) Once a proposed project has been approved certified, substantive changes in the work from those described in the application must be brought promptly to the attention of the OHP by written statement using the Amendment form v. 5/24 to ensure continued conformance to the Standards for Rehabilitation. The OHP will notify the applicant whether the revised project continues to meet the Standards for Rehabilitation. Amendments do not incur any additional fees.

(1) *Dual projects submitting Amendments use the federal Amendment/Advisory Determination Form pursuant to 36 CFR 67.6(d).*

~~(o) As each tax credit funding category is exhausted, OHP will stop taking applications for that category. OHP will return any unprocessed applications and fees to the applicant.~~

~~(p) OHP will notify the public by OHP email list and will post on the OHP website home page and the SHRTC page that the funding category is exhausted and applications are no longer being accepted.~~

~~(q) When additional funding is available, OHP will begin accepting applications and will notify the public by OHP email list and post on the OHP website home page and the SHRTC page.~~

~~(r) Completed Project Certifications will be issued only to owners of approved projects, with a copy issued to the applicant if the two are not the same.~~

Sections 17053.91 and 23691 of the Revenue and Taxation Code; Section 5024.6, Public Resources Code.

References: Secretary of the Interior's Standards for Rehabilitation, Part 67.7 of Title 36 of the Code of Federal Regulations; Sections 17053.91 and 23691, Revenue and Taxation Code.

§4859.04. Determination Certifications of Historic Significance.

(a) All individual properties and historic districts listed on the National Register of Historic Places are automatically listed on the California Register.

~~(b) A building must be listed on the California Register at the time of the tax credit application submittal. Buildings not yet listed are not eligible for the credit.~~

(b) *Dual project properties are automatically listed in the California Register when the federal Part 1 "Eligibility Evaluation of Significance" Form pursuant to 36 CFR 67.4 is signed by the NPS, returned to the applicant, and copied to the OHP.*

(c) ~~(b)~~ A property ~~individually~~ listed in the California Register, either individually or as a contributing resource to a registered historic district, is ~~generally~~ considered a certified historic structure or a qualified residence and no further action is required, except when:

(1) **Multiple Building Properties:** Some properties ~~individually~~ listed in the California Register include more than one building. In such cases, the applicant must submit additional information ~~as described in the Initial Project Application Narrative Template describing which requires descriptions of all the buildings. within the listing. The federal Standards for Evaluating Significance within Registered Historic Districts, as found in part 67.5 of Title 36 of the Code of Federal Regulations, will be used to determine which of the buildings included with the listing are significant to the property as described in Section 4859.05.~~

(2) **Buildings Functionally Related Buildings Historically:** Properties containing more than one building where the buildings are ~~judged~~ determined by the OHP to ~~have been~~ be functionally related historically, ~~to serve an overall purpose, such as a detached garage or a tank house, mill complex or a residence and carriage house, will be treated as a single certified historic structure, whether the property is individually listed in the California Register or is located within a registered historic district, when rehabilitated as part of an overall project. Buildings that are functionally related historically are those which have functioned together to serve an overall purpose during the property's period of significance. In the case of a property which contains more than one building where the buildings are judged to be functionally related historically, the applicant~~ must submit additional information ~~as described in the Initial Project Application Narrative Template v. 5/24. The applicant must~~ describing how the buildings were used together to perform a historical function and an evaluation will be made to determine whether the component related buildings contribute to the historic significance of the property.

~~(d) Demolition of separate structures as part of an overall rehabilitation project are described in Section 4859.05.~~

~~(e) Buildings Proposed to be Moved: If a building is to be moved as part of a rehabilitation for which certification is sought, the applicant must follow different procedures depending on whether the building is individually listed in the California Register or is within a registered historic district. If a building is moved, every effort should be made to re-establish its historic orientation, immediate setting, and general environment. Moving a building may result in the removal of the property from the California Register; consequently, a moved building may, in certain circumstances, be ineligible for rehabilitation certification.~~

~~(3) Documentation must be submitted that demonstrates:~~

~~(A) The effect of the move on the building's integrity and appearance (and proposed demolition, proposed changes in foundations, etc.);~~

~~(B) Photographs of the site and general environment of the proposed site;~~

~~(C) Evidence that the proposed site does not possess historical significance that would be adversely affected by the moved building;~~

~~(D) The effect of the move on the distinctive historical and visual character of the district, where applicable; and~~

~~(E) The method to be used for moving the building;~~

~~(f) For buildings individually listed in the California Register, the requirements contained in the California Code of Regulations, California Register of Historical Resources related to special considerations for moved buildings (Title 14, Chapter 11.5, Section 4852(d)(1)) must be met. If the documentation submitted by the applicant does not indicate these requirements were met, the OHP may deny certification of the project.~~

~~(g) If an applicant proposes to move a building into a registered historic district or proposes to move a building elsewhere within a registered historic district, the OHP, as part of its review of the proposed project, will determine if the building will remain listed in the California Register and therefore retain its status as a certified historic structure.~~

~~(h) If a building was moved after it was listed on the California Register and prior to an Initial Application being submitted, the applicant must note this in the Initial Application and provide the information indicated in Section 4859.04(d)(1)(A-D) above. The OHP will not review the proposed project until it is determined that the special consideration for moved buildings in the California Register (Title 14, Chapter 11.5, Section 4852(d)(1)) have been met and, therefore, the building continues to be a certified historic structure for purposes of the State Historic Rehabilitation Tax Credit.~~

~~(i) Applicants shall report to the OHP any substantial damage, alteration or changes to a property that occurs after issuance of a confirmation of significance and prior to a final certification of rehabilitation. The OHP may withdraw a certification of significance, upon thirty days' notice to the applicant, if a property has been damaged, altered, or changed effective as of the date of occurrence. The property may also be removed from the California Register, in accordance with the procedures in California Code of Regulations, California Register of Historical Resources (Title 14, Chapter 11.5). A revocation of certification of significance pursuant to this part may be appealed under Section 4859.07. For damage, alteration or changes caused by unacceptable rehabilitation work, see Section 4859.06(l).~~

Sections 17053.91 and 23691 of the Revenue and Taxation Code; Section 5024.6, Public Resources Code.

References: Secretary of the Interior's Standards for Rehabilitation, Part 67.7 of Title 36 of the Code of Federal Regulations; Sections 17053.91 and 23691, Revenue and Taxation Code.

§4859.05. Project Commencement, Completion, and Certification

- ~~(a) Applicants applying for tax credits shall comply with the procedures and requirements listed below.~~
- ~~(b) The OHP charges a fee as described in Section 4859.09 for reviewing all proposed rehabilitation work. No certification decisions will be issued on any application until the appropriate remittance is received.~~
- ~~(c) A rehabilitation project for certification purposes encompasses all work on the property, including interior and exterior of the certified historic structure(s), its site and environment, related demolition, new construction or rehabilitation work which may affect the historic qualities, integrity or site, landscape features, and environment of the certified historic structure(s).~~
- ~~(d) In general, an applicant undertaking a rehabilitation project will not be held responsible for prior rehabilitation work not part of the current project, or rehabilitation work that was undertaken by previous owners or third parties.~~
- ~~(e) Because the circumstances of each rehabilitation project are unique to the individual historic structure involved, previous certifications granted to other rehabilitations do not form a precedent and may not be relied on as applicable to other projects.~~
- ~~(f) Projects in construction or completed are not eligible to apply for the State tax credit except in the case of projects also applying for federal tax credits where phased work has already begun, and state tax credits are being requested for future phases for which work has not begun.~~
- ~~(g) An applicant must complete the Initial Project Application according to instructions accompanying the application. These instructions explain in detail the documentation required for certification of a rehabilitation project. The application must describe a proposed rehabilitation project. In all cases, documentation, including photographs adequate to document the appearance of the structure(s), both on the exterior and on the interior, and its site and environment prior to rehabilitation must accompany the application.~~
- ~~(h) Other documentation, such as window surveys or cleaning specifications, may be required to completely evaluate rehabilitation projects. Plans for any attached, adjacent, or related new construction must also accompany the application. Where necessary documentation is not provided after repeated requests, a denial of certification will be issued on the basis of lack of information.~~
- ~~(i) In situations involving rehabilitation of a certified historic structure in a historic district, the OHP will review the rehabilitation project first as it affects the certified historic structure and second as it affects the district, and will determine certification accordingly.~~
- ~~(j) For rehabilitation projects that are to be completed in phases over the alternate 60-~~

~~month period allowed in Section 47 of the Internal Revenue Code (and applicable sections of Section 17053.91 of the California Revenue and Taxation Code as it relates to a certified historic structure that is not a qualified residence), the Initial Project Application and supporting architectural plans and specifications should identify the project as a 60-month phased project and describe the number, order, and general scope of each phase within the overall rehabilitation project. If the Initial Project Application clearly identifies the projects as a phased rehabilitation, the OHP will consider the project in all its phases as a single rehabilitation.~~

~~(1) Work undertaken in a later phase of a 60-month phased project that does not meet the Standards for Rehabilitation, whether or not submitted for review, may result in a denial of certification of the entire rehabilitation, considered in the context of the project as a whole.~~

~~(2) Qualified residence project applications are not eligible for phasing.~~

~~(3) When a completed certified historic structure requests an advisory determination as part of a larger rehabilitation project, the requested certification will be based on review of the overall rehabilitation project for the certified historic structure.~~

~~(k) Upon receipt of the complete Initial Project Application describing the rehabilitation project, the OHP shall determine if the project is consistent with the Standards for Rehabilitation. If the project does not meet the Standards for Rehabilitation, the applicant will be advised of that fact in writing and, where possible, will be advised of necessary revisions to meet such Standards.~~

~~(l) Applicants must commence rehabilitation within 180 days after issuance of the tax credit allocation. If rehabilitation is not commenced within this time period, the tax credit allocation shall be forfeited, and the credit amount associated with the tax credit allocation shall be treated as an unused allocation tax credit amount.~~

~~(m) Once a proposed project has been initially approved, substantive changes in the work as described in the application must be brought promptly to the attention of the OHP by written statement to ensure continued conformance to the Standards. Such changes must be made using a state tax credit amendment/advisory determination application. The OHP will notify the applicant whether the revised project continues to meet the Standards. Verbal approvals of revisions are not provided; only written approval of an Amendment Application is valid.~~

(a) Upon project completion, the applicant shall submit to the OHP a Completed Project Application providing the project completion date, ~~a signed statement that the project has been completed consistent with the work as described in the Initial Project Application,~~ total cost and QRE costs attributed to the rehabilitation, photo documentation of the completed project, and all other information as required in the ~~a~~Application.

(b) The rehabilitation project must meet all of the ~~Secretary of the Interior's~~ Standards for Rehabilitation (**Section 4859.06**). Portions of the rehabilitation project not in conformance with the Standards for Rehabilitation may be grounds for denial of the project as a whole.

~~(e) Conformance to the Standards for Rehabilitation will be determined on the basis of the application documentation and other available information by evaluating the property as it existed prior to the commencement of the rehabilitation project, regardless of when the property becomes or became a certified historic structure.~~

(c) ~~(d)~~ For rehabilitation projects involving more than one certified historic structure where the structures are deemed by the OHP to have been functionally related historically to serve an overall purpose, ~~such as a mill complex or a residence and carriage house,~~ rehabilitation certification will be issued on the merits of the overall project rather than for each structure or individual component. ~~For rehabilitation projects where there is no historic functional relationship among the structures, the certification decision will be made for each separate certified historic structure regardless of how they are grouped for ownership or development purposes.~~

(d) For rehabilitation projects where there is no historic functional relationship among the structures, the certification decision will be made for each separate certified historic structure regardless of how they are grouped for ownership or development purposes.

~~(f) Demolition of a building as part of a rehabilitation project involving multiple buildings on the property may result in denial of certification of the rehabilitation. In projects where there is no historic functional relationship among the structures being rehabilitated, related new construction which physically expands one certified historic structure undergoing rehabilitation and directly requires the demolition of an adjacent structure will generally result in denial of certification of the rehabilitation unless a determination has been made by OHP that the building to be demolished is not historically significant. a certified historic structure.~~

(e) ~~(g)~~ In rehabilitation projects where the structures have been determined to be functionally related historically, demolition of a component may be approved, in limited circumstances, when:

(1) The component is outside the period of significance of the property; or

(2) The component is so deteriorated or altered that its integrity has been irretrievably lost; or

(3) The component is a secondary one that generally lacks historic, engineering, or architectural significance or does not occupy a major portion of the site and persuasive evidence is present to show that retention of the component is not technically or economically feasible.

(f) ~~(h)~~ The OHP reserves the right to inspect completed projects at any time up to five years after completion of the rehabilitation and to revoke certification if it is determined that the rehabilitation project was not undertaken as represented by the applicant in ~~his or her~~ their application and **supporting supplemental** documentation, or that the applicant undertook further unapproved project work inconsistent with the ~~Secretary's~~ Standards

for Rehabilitation. *In these situations, CTCAC will be notified of any change in certification status.*

(g) ~~(i)~~ Similarly, If a building located on a multiple building property has, through activities of the proposed tax credit project, lost those qualities which caused it to be designated a certified historic structure or qualified residence, it may be reclassified as no longer eligible for listing on the California Register and its certification may be withdrawn. ~~a noncontributor to the property. In either case, the delisting or certification of non-significance is considered effective as of the date of issue and is not considered to be retroactive.~~ In these situations, CTCAC will be notified of any change in certification status.

(h) ~~(j)~~ If a proposed, ongoing, or completed rehabilitation project does not meet the Standards for Rehabilitation, an explanatory letter will be sent to the applicant with a copy to CTCAC. A rehabilitated property not in conformance with the Standards for Rehabilitation and ~~which that~~ is determined to have lost those qualities ~~which that~~ caused it to be listed on the California Register, may be removed from the California Register in accord with California Code of Regulations, California Register of Historical Resources *section 4859 (Title 14, Chapter 11.5)*.

Sections 17053.91 and 23691 of the Revenue and Taxation Code; Section 5024.6, Public Resources Code.

References: Secretary of the Interior's Standards for Rehabilitation, Part 67.7 of Title 36 of the Code of Federal Regulations; Sections 17053.91 and 23691, Revenue and Taxation Code.

~~§4859.06. Standards for Rehabilitation.~~

~~(a) The Standards for Rehabilitation are the criteria used to determine if a rehabilitation project qualifies as a certified rehabilitation. The intent of the Standards for Rehabilitation is to assist the long-term preservation of a property's significance through the preservation of historic materials and features. The Standards for Rehabilitation pertain to historic buildings of all materials, construction types, sizes, and occupancy and encompass the exterior and interior of historic buildings. The Standards for Rehabilitation also encompass related landscape features and the building's site and environment, as well as attached, adjacent, or related new construction. To be certified, a rehabilitation project must be determined by the OHP to be consistent with the historic character of the structure(s) and, where applicable, the district in which it is located.~~

~~(b) The following Standards for Rehabilitation shall be applied to State Tax Credit the SHRTC rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility.~~

~~(1) A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.~~

~~(2) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.~~

~~(3) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.~~

~~(4) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.~~

~~(5) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.~~

~~(6) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.~~

~~(7) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.~~

~~(8) Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.~~

~~(9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work will be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.~~

~~(10) New additions and adjacent or related new construction shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.~~

~~(c) The quality of materials and craftsmanship used in a rehabilitation project must be commensurate with the quality of materials and craftsmanship of the historic building in questions. Certain treatments, if improperly applied, or certain materials by their physical properties, may cause or accelerate physical deterioration of historic buildings. Inappropriate physical treatments include but are not limited to: improper repointing techniques; improper exterior masonry cleaning methods; or improper introduction of insulation where damage to historic fabric would result. In almost all situations, use of these materials and treatments will result in denial of certification. Similarly, exterior additions that duplicate the form, material, and detailing of the structure to the extent that they compromise the historic character of the structure will result in denial of certification.~~

~~(d) Technical and economic feasibility are considered during the review of rehabilitation projects, but only to the extent that the OHP is able to certify that the overall project meets the Secretary's "Standards for Rehabilitation and is consistent with the historic character of the structure.~~

~~(e) For further information on appropriate and inappropriate rehabilitation treatments, applicants are to consult the Guidelines for Rehabilitating Historic Buildings published by the National Park Service Technical Preservation Services (NPS TPS), "Preservation Briefs" and additional technical information to help property applicants formulate plans for the rehabilitation, preservation, and continued use of historic properties consistent with the Secretary's Standards for Rehabilitation are available from the OHP and NPS TPS. Applicants are responsible for procuring this material as part of properly planning for a certified rehabilitation.~~

~~(f) In certain limited cases, it may be necessary to dismantle and rebuild portions of a certified historic structure or qualified residence to stabilize and repair weakened structural members and systems. In such cases, the OHP will consider such extreme intervention as part of a certified rehabilitation if:~~

~~(1) The necessity for dismantling is justified in supporting documentation;~~

~~(2) Significant architectural features and overall design are retained; and~~

~~(3) Adequate historic materials are retained to maintain the architectural and historic integrity of the overall structure.~~

~~(g) Prior approval of a project by Federal, State, and local agencies and organizations does not ensure certification by the OHP for State tax SHRTC purposes. For State tax SHRTC purposes, the OHP's interpretation of the Standards for Rehabilitation takes precedence over other project approvals in determining whether the rehabilitation project is consistent with the historic character of the property and, where applicable, the district in which it is located.~~

~~(h) The qualities of a property and its environment which that qualify it as a certified historic structure or qualified residence are determined considering all available information, including information derived from the physical and architectural attributes of the building. Such determinations are not limited to information contained in the California Register or related documentation.~~

§4859.067. Appeals.

(a) The applicant or a duly authorized representative may appeal a ~~any of the~~ ~~certifications or denials of certification. made under this part or any decisions made under Section 4859.05(v).~~

(b) Appeals must:

(1) Be in writing; e.g., letter or email; *using subject line "Denial Appeal <OHP project no.>.*

(2) Be addressed to: State Historic Preservation Officer, California Office of Historic Preservation, PO Box 942896, Sacramento CA 94296-0001 or info.calshpo.tax@parks.ca.gov.

(3) Be received by the OHP within 30 days of receipt of *the denial* by the applicant, ~~of~~ or a duly authorized representative, ~~the correspondence of the decision which that is the subject of the appeal~~; and,

(4) Include all information the applicant wishes the State Historic Preservation Officer (SHPO) to consider in deciding the appeal.

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

(d) The OHP will notify CTCAC that an appeal is pending.

(e) The ~~State Historic Preservation Officer~~ SHPO will consider the record of the decision in question, any further written submissions by the applicant, and other **available** *submitted* information **and will provide the appellant a written decision as promptly as circumstances permit**.

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

(f) ~~(g) In considering such appeals or administrative reviews, t~~The State Historic Preservation Officer SHPO shall ~~take in account~~ *consider* alleged errors in professional judgment or alleged prejudicial procedural errors by OHP officials. The ~~State Historic Preservation Officer~~ SHPO's decision may:

(1) Reverse the appealed decision; or

(2) Affirm the appealed decision; or

(3) Where appropriate, withhold a decision until receipt of additional information needed for review.

~~(h) The State Historic Preservation Officer SHPO may base his or her their decision in whole or part on matters or factors not discussed in the decision appealed from. The State Historic Preservation Officer SHPO is authorized to issue the certifications discussed in this part only if he or she the SHPO considers that: the requested certification meets the applicable statutory standard upon application of the Standards set forth herein or he or she considers that prejudicial procedural effort by a state official legally compels issuance of the requested certification.~~

~~(1) the requested certification meets the applicable statutory standard upon application of the Standards of Rehabilitation set forth herein; or~~

~~(2) that prejudicial procedural effort by a state official legally compels issuance of the requested certification.~~

(g) *The SHPO will return an Appeals decision within 45 days of receipt of the appeal.*

(h) ~~(i)~~ The decision of the ~~State Historic Preservation Officer~~ SHPO shall be the final administrative decision on the appeal. No person shall be considered to have exhausted ~~his or her~~ their administrative remedies with respect to the certifications or decisions described in this part until the ~~State Historic Preservation Officer~~ SHPO has issued a final administrative decision pursuant to this section.

(i) For dual projects, the SHPO may disagree with the NPS for denial of a project certification, the SHPO may separately approve the completed project for state tax credit and append a memorandum explaining reasons for approval to the OHP Completed review form.

Sections 17053.91 and 23691 of the Revenue and Taxation Code; Section 5024.6, Public Resources Code.

References: Secretary of the Interior's Standards for Rehabilitation, Part 67.7 of Title 36 of the Code of Federal Regulations; Sections 17053.91 and 23691, Revenue and Taxation Code.

~~**§4859.08. Fees for processing certification requests.**~~

~~(a) Fees charged by the OHP are calculated based on the Estimated and Final QRE project costs as defined by the applicant in the Initial Project Application and the Completed Project Application.~~

~~(b) Income-producing project fees:~~

~~(1) The Initial Project Application fee is .5% of the Total Estimated QRE project costs up to \$125,000, plus 0.075% of the QRE cost over \$125,000~~

~~(2) The Completed Project Application fee is 1% of the Final QRE project costs plus 0.15% of the QRE cost over \$125,000 of the Final QRE project costs minus the Initial Project Application fee already paid.~~

~~(3) The total fee, i.e., the combined Initial Project Application fee and Completed Project Application fee, is capped at \$6,000.~~

~~(c) Qualified Residence project fees:~~

~~(1) The Initial Project Application fee is calculated at .5% of the Total Estimated QRE project costs up to \$125,000.~~

~~(2) The Completed Project Application fee is 1% of the Final QRE project costs up to \$125,000 minus the Initial Project Application fee already paid.~~

~~(3) The total fee, i.e., the combined Initial Project Application fee and Completed Project Application fee, is capped at \$1,250.~~

~~(d) The OHP will calculate fees based on the rates listed above and will issue fee requests to an applicant after an application has been received. No payment should be made until requested by the OHP.~~

~~(e) A certification decision will not be issued on an application until the appropriate remittance is received.~~

~~(f) Fees are nonrefundable.~~

~~(g) CTCAC charges a separate fee to conduct its review.~~

-End-