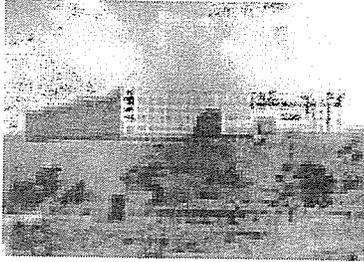


**WHITE PAPER ON CULTURAL RESOURCES COMPLIANCE
THE PUERTO RICO INSULAR PENITENTIARY
RIO PIEDRAS
SAN JUAN, PUERTO RICO**



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THE PUERTO RICO INSULAR PENITENTIARY PROPOSED INTERVENTION OF A NATIONAL REGISTER PROPERTY

SCOPE:

This paper addresses the Cultural Resources Compliance needs and potential alternatives for the National Register Listed property known as the Puerto Rico Insular Penitentiary (commonly known as the “Oso Blanco”). The property is located within the proposed Knowledge Corridor.

As part of the proposed development of the Knowledge Corridor, the Puerto Rico Insular Penitentiary will need to be incorporated into the overall plan. The Penitentiary has been listed on the National Register of Historic Places and as such is subject to federal regulatory review for historic preservation compliance.

As part of this document, an annotated copy of the official National Register nomination form is included as Appendix 1. The highlighted sections and annotations to the official nomination specifically relate to the key issues of compliance for federal review.

Appendix 2 contains a highlighted text from National Register Bulletin #15. National Park Service, Department of the Interior, which details how and why a property is listed on the National Register. This information is essential in understanding not only why a property was listed, but more importantly what were the criteria which made it eligible, and hence, those elements of a property which are subject to a greater or lesser degree of scrutiny in the compliance process. As such, Appendix 1 and 2 should be referenced back and forth in understanding the compliance process of Section 106 which is described hereafter.

The document remainder of this paper is divided into three basic sections:

- I. Compliance requirements as per Section 106 of the National Historic Preservation Act.
- II. Alternative approaches to the treatment of National Register Properties.
- III. Case examples of modifications to historical institutional buildings.

I. Compliance requirements as per Section 106 of the National Historic Preservation Act

Proposed development of the Puerto Rico Insular Penitentiary will necessitate that any proposed plans and designs will need to undergo federal regulatory review and be approved prior to development. The federal compliance process is a result of the National Historic Preservation Act [which is included in Appendix 3]. The specific regulatory review process, commonly referred to as Section 106, is detailed in the Code of Federal Regulations known as 36 CFR Part 800. Appendix 4 contains an electronic version of this Code which has been highlighted to indicate the parts of the Code which specifically will pertain to the development of the Puerto Rico Insular Penitentiary.

Although the legal regulatory agency for cultural resources compliance is the Advisory Council on Historic Preservation (ACHP), the normal review process is coordinated through the Puerto Rico State Historic Preservation Office (PRSHPO). If agreement on the compliance issues are met with the PRSHPO, the ACHP will not normally intervene. If, however, there is disagreement with the PRSHPO (or “interested parties”), the ACHP becomes a key element in the review process. Appendix 5 contains a copy of a document produced by the US Department of Veterans Affairs which has an excellent synopsis of the 106 process, and is included in this paper to explain the compliance process in succinct detail.

Appendix 6 contains the Advisory Council’s official web version of the 106 process with explanatory material. This document has been highlighted specifically to address the issues relevant to the Puerto Rico Insular Penitentiary. This document provides in depth detail and is linked directly to the legislative base of 36 CFR Part 800. Additional information in greater depth is available on the Advisory Council web site www.achp.gov.

It should be noted that in addition to the federal regulatory process, it is possible that Commonwealth agencies including the Puerto Rico Institute of Culture and the Puerto Rico Planning Board may need to be consulted.

II. Alternative approaches to the treatment of National Register Properties

Appendix 7 contains the Secretary of the Interior’s Standards for the Treatment of Historic Properties: with Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings. The document is included in its totality, however, the sections most relevant to the Puerto Rico Insular Penitentiary property have been highlighted in its table of contents.

It would be premature to detail what can and what can not be done with the property from a regulatory perspective without an initial set of designs or concepts for a proposed use and the modifications it would require. It is at this phase of the design/concept stage in which it will be necessary to work closely with a design team together with historic preservation specialists. Nevertheless, it is clear that modifications to the Penitentiary building can be done, it is a matter of degree. In this sense, the preceding appendices should provide the basic elements for early decision alternatives of viable development schemes.

Appendix 8 has been included to give further direction to the formation of design alternatives at this point in time, assuming that proposed development schemes will want to rehabilitate for “adaptive reuse”, rather than restore the building to make it economically viable. This document, excerpted from the web “Rehab Yes/No Learning Program” from the National Park Service gives general guidance and examples of what can and what can not be done in an historic property rehabilitation.

III. Case examples of modifications to historical institutional buildings.

Normally, an initial concern of a potential developer of a historic property is that it can not be altered but must be “restored”, however, this is not the case. A few case examples have been included in the final appendices to show contemporary modifications of large institutional, and penal historic properties.

Appendix 9 contains basic information on the presently on-going conversion of the Charles Street Jail in Boston into a 305-room hotel for the adjacent Massachusetts General Hospital. Brief descriptions of the project are included in the appendix with information from the architectural consulting firms.

A second case example is the Allegheny Jail in Pittsburgh which is included in Appendix 10. This award-winning adaptive reuse of an historic penal institution demonstrates the degree of design flexibility of modern interventions into an historic institutional building.

The final case example, Laurel Hill Project in the District of Columbia, is included in Appendix 11. This project involves a large institutional penal complex. The document, which details citizens’ vocality in an historic district, provides insight into the potential involvement of “interested parties” (i.e. citizens) in any National Register property. It also brings to light one further consideration for potential issues of the Puerto Rico Insular Penitentiary - Tax Credits. Although residents of Puerto Rico do not pay federal taxes, there may be certain criteria which would allow the benefit of federal tax credits to a National Register property in Puerto Rico. Note should also be made of the Concept description included in the Executive Summary of Laurel Hill.

Final Comments

This white paper has been designed to give a general orientation into the intricacies of the design and regulatory review process of a National Register Property. Although detail has been included to provide depth of understanding, in no way should this document be construed as all-inclusive or definitive (with the exception of the legislative data). As in any regulatory process, the viable development of project goals in harmony with regulatory goals and vice versa, ultimately depends on early planning, closely coordinated exchange of information, and consistency in the delivery of this information.

APPENDIX 1:
NATIONAL REGISTER NOMINATION OF
PUERTO RICO INSULAR PENITENTIARY

United States Department of the Interior
National Park Service

**NATIONAL REGISTER OF HISTORIC PLACES
REGISTRATION FORM**

24

1. Name of Property

historic name: *Puerto Rico Island Penitentiary*

other names/site number: "*Presidio Insular*", "*Penitenciaría Estatal*," and "*Oso Blanco*"

2. Location

street & number: *South of SR # 21*

N/A not for publication

city or town: *Río Piedras*

X vicinity

state: *Puerto Rico* code: *P.R.* county: *San Juan* code: *127* zip code: *00926*

3. State/Federal Agency Certification

As the designated authority under the National Historic Preservation Act of 1966, as amended, I hereby certify that this X nomination request for determination of eligibility meets the documentation standards for registering properties in the National Register of Historic Places and meets the procedural and professional requirements set forth in 36 CFR Part 60. In my opinion, the property X meets does not meet the National Register Criteria. I recommend that this property be considered significant nationally X statewide locally. (See continuation sheet for additional comments.)



Enid Torregrosa de la Rosa, S.H.P.O.

January 22, 2003

Signature of certifying official / Title

Date

Puerto Rico State Historic Preservation Office

State or Federal agency and bureau

In my opinion, the property meets does not meet the National Register criteria.
(See continuation sheet for additional comments.)

Signature of commenting or other official

Date

State or Federal agency and bureau

4. National Park Service Certification

I, hereby certify that this property is:

entered in the National Register

See continuation sheet.

determined eligible for the National Register

See continuation sheet.

determined not eligible for the National Register

removed from the National Register

other (explain): _____

Gabon H. Beall 3/7/03

Jay _____
 Signature of the Keeper Date of Action

5. Classification

Ownership of Property	Category of property	Number of Resources within Property:		
		Contributing	Noncontributing	
<input type="checkbox"/> private	<input checked="" type="checkbox"/> building(s)			
<input type="checkbox"/> public-local	<input type="checkbox"/> district	<u>1</u>	<u>3</u>	building
<input checked="" type="checkbox"/> public-State	<input type="checkbox"/> site	<u>0</u>	<u>0</u>	sites
<input type="checkbox"/> public-Federal	<input type="checkbox"/> structure	<u>0</u>	<u>0</u>	structures
	<input type="checkbox"/> object	<u>0</u>	<u>0</u>	objects
		<u>1</u>	<u>3</u>	Total

Name of related multiple property listing: N/A

Number of contributing resources previously listed in the National Register: 0

6. Function or Use

Historic Functions

GOVERNMENT/ Correctional Facility

Current Functions

GOVERNMENT/ Correctional Facility

7. Description

Architectural Classification

Mixed / Art Deco, Mediterranean Revival

Materials

foundation: *concrete*
 walls: *concrete with cement plaster finish*
 roof: *concrete with cement plaster finish*
 other: *ceramic glazed tiles, terracotta, and marble*

Narrative Description:

(See continuation sheets.)

8. Statement of Significance

Applicable National Register Criteria

(Mark "x" in one or more boxes for the criteria qualifying the property for National Register listing.)

A Property is associated with events that have made a significant contribution to the broad patterns of our history.

Areas of Significance
Architecture
Social History

B Property is associated with the lives of persons significant in our past.

Period of Significance
1933- 1953

C Property embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components lack individual distinction.

D Property has yielded, or is likely to yield information important in prehistory or history.

Significant Dates
1933

Criteria Considerations

(Mark "X" in all the boxes that apply.)

Significant Person
N/A

A owned by a religious institution or used for religious purposes.

B removed from its original location.

C a birthplace or a grave.

D a cemetery.

E a reconstructed building, object, or structure.

F a commemorative property

G less than 50 years of age or achieved significance within the past 50 years.

Cultural Affiliation
N/A

Architect/Builder
Roldán, Francisco
Higuera, Antonio

Narrative Statement of Significance

(See continuation sheets)

9. Major Bibliographical References

(See continuation sheet)

Previous documentation on file (NPS)

- preliminary determination of individual listing (36 CFR 67) has been requested.
- previously listed in the National Register
- previously determined eligible by the National Register
- designated a National Historic Landmark
- recorded by Historic American Buildings Survey # _____
- recorded by Historic American Engineering Record # _____

Primary Location of Additional Data

- State Historic Preservation Office
- Other State agency
- Federal agency
- Local government
- University
- Others

Name of repository: *General Archives of Puerto Rico, Archive of Architecture and Construction University of Puerto Rico, and Department of Correction*

10. Geographical Data

Acreege of Property: five (5) acres

UTM References

(Place additional UTM references on a continuation sheet)

Zone Easting Northing

1 19 809500 2035773

2 _____

Zone Easting Northing

3 _____

4 _____

____ See continuation sheet.

Verbal Boundary Description

See attached sketched location plan.

Boundary Justification

(See Continuation Sheets)

11. Form Prepared By

Name: *Gloria Milagros Ortiz, Santiago Gala (Architects) and José Marull (Historian)*
organization: *Puerto Rico State Historic Preservation Office* date: *November 22, 2002*
street and number: *P.O. Box 9066581* telephone: *(787) 721-3737*
city or town: *San Juan* state: *Puerto Rico* zip code: *00906-6581*

Property Owner

name: *Government of Puerto Rico, Department of Correction and Rehabilitation*
street & number: *Call Box # 71307* telephone: *(787) 749-0470*
city or town: *San Juan* state: *Puerto Rico* zip code: *00936*

United States Department of the Interior
National Park Service

National Register of Historic Places
Continuation Form

*Puerto Rico Insular Penitentiary
San Juan, Puerto Rico*

Section 7 Page 1

NARRATIVE DESCRIPTION

Summary Paragraph

The Puerto Rico Insular Penitentiary is a four-story, reinforced concrete, Art Deco/Neo Moorish correctional facility with a rectangular floor plan of symmetrical composition, an entrance portico and an interior central court. The walls are finished with smooth cement plaster and decorated with glazed ceramic tiles. The exterior façades are articulated by a rhythmic sequence of recessed and embossed bays and meet at the at each corner of the building with four turrets suggesting a fortress-like image. In contrast, the interior façades are open to the court by means of light, uninterrupted arcades exposing the corridors that provide horizontal circulation throughout the building. This prison is located in Monacillos, a suburban ward of Río Piedras in the Municipality of San Juan. The building lies in a five acre promontory bounded in the west by PR #18, on the north by PR # 21 and to the south by Buena Vista Creek. The property is in excellent condition, though urban sprawl has replaced its original rural setting. Two exterior staircases and a total of three administrative, medical and boarding facilities built around the Penitentiary inflict a minimum impact on the original design.

The Puerto Rico Insular Penitentiary, commonly known today as the “*Penitenciaría Estatal*” (State Penitentiary) or “*Oso Blanco*” (White Bear) is a monumental rectangular, four story concrete building with a large enclosed central court in an Art Deco style with Neo Moorish details. The property is located in a prominent five acre plot on a promontory in the Monacillos ward of the Río Piedras area of San Juan facing road PR# 18 on the northwest, which connects San Juan to the southern part of the island (Figure #1, floor plan), road PR# 21 to the north and road PR# 1 to the east. Located at the west façade, the building’s entrance is emphasized by a portico symmetrical in design and sequence, and of monumental character (Figures 2 and 3). The articulated facades are a mixture of massive concrete austerity and a restrained intent of embellishment using glazed ceramic tiles and terracotta in selected areas. Except for the first floor level of the south interior wall, which is closed, all of the courtyard’s surrounding walls are open arcades on the first level and open galleries on the remaining upper floors.

Footings, walls, and floors are built of reinforced concrete and exposed surfaces finished with smooth cement plaster. The facades are divided in 24 by 35 vertical bays with repetitive windows that reflect the distribution of the inner prison cells. Two projecting panels that subdivide both lateral and front facades interrupt the repetitive rhythm of the vertical bays.

United States Department of the Interior
National Park Service

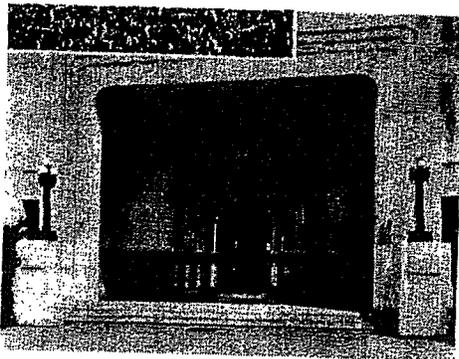
**National Register of Historic Places
Continuation Form**

*Puerto Rico Insular Penitentiary
San Juan, Puerto Rico*

Section 7 Page 2

The facades meet at the four corners with massive towers that impart the building with a strong fortress type expression. Medieval type buttresses in the lower section of the towers visually emphasize this quality (Figures 4 and 5). The reinforced corners are topped with three round arches that are grouped together by an orthogonal plane lavishly ornamented with glazed tiles of Moorish influence and a sentry box observation station that resembles Old San Juan's Spanish guard posts (Figure 6). The building mass is divided horizontally in two sections with the upper three floors resting upon the base-like podium of the first floor (Figure 7, western elevation).

The building unfolds as a sequence of architectural spaces, and thus, sensations. A wide opening on the portico frames a recessed entrance with a dramatic and imposingly ornamented archway that rests on four columns on each side. The entrance features ornamental terracotta sculptures in relief of two standing women representing Law and Justice. A panel above the lobulated archway, set back between the two figures, reads in Spanish: "*ODIA AL DELITO Y COMPADECE AL DELINCUENTE*", which translates as, "hate crime and pity the delinquent" (Figure 8). An interior vestibule with a security booth and control doors lead to the principal stairwell). There is a strong sense of containment in this space notably contrasting with the following space in the sequence: the interior open courtyard. This interior courtyard is the largest of its kind in Puerto Rico measuring approximately 340 feet long by 225 feet wide.



Entrance portico



View of the interior courtyard. c. 1950

The open arcades and galleries on each floor define the main hierarchical space—the open courtyard—and connect all parts of the building and provide excellent horizontal circulation (Figure # 9). The central court and galleries provided cross ventilation to the individual cells. Vertical circulation was originally provided by stairways located in the central volumes of the west and east sections of the building. At a later date, additional stairs were constructed in each

United States Department of the Interior
National Park Service

**National Register of Historic Places
Continuation Form**

*Puerto Rico Insular Penitentiary
San Juan, Puerto Rico*

Section 7 Page 3

of the patio corners. New modern stair towers have been added at the central section of the exterior façade in the north and south wings. Ornament in the interior of the building is applied to the principal stairwell space and on the columns around the courtyard. Glazed ceramic tiles in geometrical designs with Moorish influence within a square panel decorate the upper central part of each column in the first floor level (Figure # 10).

Three buildings have been constructed, on facing the southern façade and two on the eastern façade of the old insular penitentiary building. An intensive therapy unit, connected by a narrow passageway to the southern façade, is a two story concrete building constructed in 1975 that had a capacity to service 92 persons. An infirmary building, connected to the eastern façade, is a four story concrete building constructed in 1983 with a capacity of 67 persons. In the same year (1983) a one story concrete building was constructed in the proximity of the eastern façade to the north of the infirmary building and served as administrative offices of the Penitentiary

Two buildings facing the northern façade were constructed in 1987 - a one story concrete building used as kitchen; and a two story concrete and zinc roof building used as annex (annex 352) houses 448 inmates. Further to the northeast there are ten smaller concrete buildings that were constructed within the grounds of the old Penitentiary.

Although changes have occurred to the building and its surrounding site, it has retained its preferential location, standing high above the surrounding roads and developed areas. It has also retained its feeling, workmanship, and association. Changes, such as, additional stairways, two detached auxiliary buildings to the north and south, have not impaired or affected its imposing physical footprint nor diminished its historic or monumental character because of their position and scale. However, the eastern façade's integrity was affected by construction of the infirmary with its four floors and being attached to the eastern façade.

The monumental scale of the patio and external massing with its impressive vestibule, spatial sequence and ornamental details are almost intact, conserving, in general, the character defining features that make the building eligible for inclusion in the National Register of Historic Places.

United States Department of the Interior
National Park Service

National Register of Historic Places
Continuation Form

*Puerto Rico Insular Penitentiary
San Juan, Puerto Rico*

Section 8 Page 4

NARRATIVE STATEMENT OF SIGNIFICANCE

Summary Paragraph

The Puerto Rico Insular Penitentiary, is significant at State level for its importance in the areas of architecture and social history. The building, inaugurated in 1933, was designed by architect Francisco Roldán and constructed Antonio Higuera for the Puerto Rico Department of the Interior. The Insular Penitentiary was the crucial in the implementation of the Government of Puerto Rico's prisoner rehabilitation program on the Island. The property is eligible by criterion C under the area of architecture as the first modern penitentiary built in Puerto Rico and for the unique way it combined traditional Hispanic references and novel outlines representing a progressive public image for Puerto Rico.

Background to the development of the model penitentiary

In 1833 the Spanish Colonial Government built "La Princesa", the first penitentiary of the Puerto Rico, in the Puntilla district south of the city of San Juan. Due to its location and because of the rapid development that occurred in the Puntilla district later in that century the space for expansion of facilities was limited. Although old penitentiary in the Puntilla were expanded in 1879 to accommodate more inmates, by in the 1890s the facilities were overcrowded¹.

Aware of need of new facilities to replace the old penitentiary the American civilian government, approved in its first year (May 1, 1900 to May 1, 1901) an act that called for the creation of a modern penitentiary in Puerto Rico². However, at that time no funds were approved for the construction of new facilities.

James S. Harlan, the Attorney General of Puerto Rico, in his 1902 report picked up the call for a new penitentiary. He commented on the inadequacy of the old penitentiary:

¹ Maria de los Angeles Castro, Arquitectura de San Juan de Puerto Rico (Siglo XIX), (Río Piedras: Editorial Universitaria, 1980), 308.

² First Annual Report of Charles H. Allen, Governor of Porto Rico, (Washington: Government Printing Office, 1901), 25.

United States Department of the Interior
National Park Service

National Register of Historic Places
Continuation Form

*Puerto Rico Insular Penitentiary
San Juan, Puerto Rico*

Section 8 Page 5

I have recently inspected the penitentiary at San Juan. All persons convicted of felony are sentenced to confinement therein; but the capacity of the building is not nearly equal to the demands of the law. At the date of my visit 705 prisoners should have been present, whereas 200 had been transferred to the district jail, because of the crowded conditions of the main institution. The penitentiary is without an infirmary, and the sick are cared for at the district jail. The sanitary conditions of the penitentiary building are very unwholesome, but perhaps as good as the structure and surrounding circumstances permit. The floors are old, rough and decayed.³

In 1907 the Puerto Rican legislature approved the sum of \$120,000 "for the purpose of erecting a model penitentiary". The new penitentiary, which would house 1,000 prisoners, was to be built in the Puerta de Tierra area, east of the city of San Juan "just north of the military road and west of land now reserved for the marine hospital"⁴. That next year a competition between nine architects for the design of the new penitentiary was conducted and a design was selected.⁵. Although a design was selected, the project was not made because the Government of Puerto Rico considered the budget insufficient to construct a "building as the law required". An attempt was made to for additional funding but these failed along with the rest of the appropriations.

Governor Horace M. Towner (1923-1929) in his first speech (June 23, 1923) to Puerto Rican Legislature revived Interest in a new penitentiary. Towner called for the construction of a state penitentiary among other public works of great magnitude⁶. The Legislature responded, in a special session, approving Act. No. 13 "To authorized the issuance of bonds of the People of Porto Rico in the amount of \$6,000,000.00 for the construction of Public Improvements, to provide funds for the payment of said bonds and for other purposes"⁷.

The penitentiary was conceived as an individual component of a group of interdependent welfare institutions that included a Psychiatric Hospital and an Insular Tuberculosis Sanatorium. These

³ Third Annual Report of the Governor of Porto Rico, (Washington: Government Printing Office, 1902), 73.

⁴ Report of the Commissioner of the Interior of Porto Rico (June 30, 1907) (Washington: Government Printing Office, 1907), 320.

⁵ The competition was won by Horace Trumbauer of Philadelphia. Annual Report of the Governor of Porto Rico for the fiscal year 1907-1908, (Washington: Government Printing Office, 1909), 169.

⁶ María Luis Moreno, La Arquitectura de la Universidad de Puerto Rico Recinto de Río Piedras, (Río Piedras: Editorial de Universidad de Puerto Rico, 2000), 30, 31.

⁷ "Memoire for the construction of the Puerto Rico Island Penitentiary, at Río Piedras, Puerto Rico" in Specifications for the construction of a building for the Puerto Rico Island Penitentiary, July 1926.

United States Department of the Interior
National Park Service

**National Register of Historic Places
Continuation Form**

*Puerto Rico Insular Penitentiary
San Juan, Puerto Rico*

Section 8 Page 6

institutions were located in undeveloped lands in the Monacillos Ward of the Municipality of Río Piedras, outside the dense urban center of San Juan. The prison was part of a larger public works construction project development. The master plan of the complex had been designed by Bennet, Parsons & Frost using open land development ideals in which axial connections tied the structures together maintaining an environment that stimulated contact with nature. The surrounding agricultural lands were to be worked by the inmates helping to provide for their own sustenance. All of these institutions, along with the Department of Agriculture's Experimental Station were to share facilities common to all four, such as roads, sewage disposal, ice, and laundry facilities.⁸ The building's original budget of \$750,000 was later reduced leaving only \$525,000.00 to purchase the land, building roads, architect services and the construction of the building⁹.



Aerial photograph of the Penitentiary, 1938

⁸ In a document titled "Plans in Preparation for the Improvement of Porto Rico", the firm Bennet, Parsons & Frost points out the qualities of the welfare project: "Another mile further out in the open country, the Insular Government has acquired 600 acres for a [...]. The sanatorium was constructed several years ago. Sites for the other institutions have now been fixed so as to bring them into a large composition by means of a large entrance plaza opening from the main highway. The grouping of these welfare institutions, together with a psychiatric, to which both the insane and the criminal are related, is from the medical and sociological viewpoint a most desirable arrangement and probably is not excelled by similar institutions in any state of the Union. An important feature of this plan is the development of the grounds for orange groves, pineapple plantations and vegetables gardens to be maintained by the occupants of the buildings. Altogether a community of 3,000 persons will be formed when this project reaches its full development showing the importance of having an adequate plan prepared in advance of its growth." (AACUPR).

⁹ Memoire for the construction of the Puerto Rico Island Penitentiary, at Río Piedras, Puerto Rico" in Specifications for the construction of a building for the Puerto Rico Island Penitentiary. July 1926. In Report of the Attorney General of Porto Rico 1923 (Washington: Government Printing Office, 1925), 9, as mentioned in Fernando Picó' El día menos pensado, 29.

NPS Form 10-900-a
(8-86)

United States Department of the Interior
National Park Service

**National Register of Historic Places
Continuation Form**

*Puerto Rico Insular Penitentiary
San Juan, Puerto Rico*

Section 8 Page 7

Architect who designed the Penitentiary

The renowned Puerto Rican architect Francisco Roldán designed the Penitentiary in 1926. Although little is known about his personal background Roldán was recognized by his contemporaries as an outstanding illustrator (Roldán "el moderno") whose work appeared in several local publications (*Revista de las Antillas*, *El Gráfico*, *El Diluvio* and *Puerto Rico Ilustrado* magazines). His artistic work, of Secessionist inspiration, coincided with his years as a draftsman and later as architect for the Puerto Rican Department of the Interior. Along with a team of other known architects –such as Pedro de Castro- Roldán worked on the design of institutional buildings in Puerto Rico during the first half of the 20th century.

In 1920 Roldán left the Department along with de Castro to work with Czech architect Antonin Nechodoma whose Whrightian approach to design and ornament was influential in most of his subsequent projects.¹⁰ Throughout his private practice, Roldán produced his most remarkable examples such as González Padín Building, *El Mundo* Building, the Puerto Rican Athenæum (in the San Juan Municipality), Arecibo Municipal Hospital, the Maternity Clinic for Auxilio Mutuo Hospital and the State Penitentiary (at the Río Piedras Municipality). The Penitentiary was Roldán's last known built work on the Island before his hasty and enigmatic exodus to New York.

Construction of the Puerto Rico Insular Penitentiary

The work on the Puerto Rico Insular Penitentiary began in 1927 under the direction of Antonio Higuera, project contractor. Although the original contract for building of the penitentiary was for \$460,000 (due to the budget cuts) and only contemplated three floors, the plans were changed to include an additional fourth floor after additional funds were made available that year. During the construction of the building completion was delayed by of the San Felipe Hurricane in 1928. However, the Government of Puerto Rico continued construction using prison labor and by 1930 the first three floors were completed. The next year a labor force of 173 prisoners that were lodged at night in the partially completed building executed work in the penitentiary and surrounding agricultural lands¹¹.

¹⁰ 19th Annual Report of the Governor of Porto Rico to the Secretary of War, (Washington: Government Printing Office, 1920), 408.

¹¹ Report of the Attorney General of Porto Rico, (San Juan, August 14, 1931), 12.

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The year previous to the inauguration of the penitentiary (1932) the newly appointed Attorney General, Charles R. Winter reported the new penitentiary was fully equipped to accommodate the remaining 800 prisoners held in the old penitentiary. The Department of the Interior was working on making the facilities able to support the penal population and had not turned over the new penitentiary to the Department of Justice.

However, 250 prisoners were lodged in that penitentiary who are working on the building and on the grounds and working in other Government agencies nearby. The Department began the work of preparing and planting the land around the new penitentiary in vegetables and fruit trees and at the present there are 50 cuerdas [acres] under cultivation and 30 additional cuerdas [acres] in process of cultivation. Up to the end of the fiscal year, 29,243 pounds of sugar, 10,779 pounds of yucca, 8,846 pounds of cabbage, 16,191 pounds of sweet potatoes, 3,223 pounds of tomatoes, 19,630 pounds of yautía, 991 pounds of beans, 858 pounds of peppers, 1,698 pounds of eggplant and other vegetables had been harvested and used in feeding the prisoners. The aim of the Department is to make the new penitentiary self-supporting.

The new penitentiary is fully equipped and ready to accommodate the remaining 800 prisoners who are now in the old penitentiary. As soon as the Department of the Interior turn the institution over to the Department of Justice, the prisoners will be transferred there.¹²

In May 14, 1933 at the inauguration ceremony Governor James R. Beverly, Attorney General Charles E. Winter and Commissioner of the Interior Francisco Pons among other important public officials. In his speech, Winter addressed the two essential needs this novel penal system and its emblematic building would fulfill: humane reform and regeneration of the delinquent and the institution's self sufficiency: Winter expressed that according to sustained modern criminology theory, this institution will be considered a place of mental and physical regeneration for inmates where sound moral habits will be taught and academic, industrial and agricultural instruction are provided to those who need it. The Puerto Rico Insular Penitentiary, with a projected capacity of 1,500 inmates, was expected to reduce the economic burden on the Government by using prison labor harvest crops from the adjoining agricultural lands that would supply food for the nourishment of the inmates; and the manufacture of the majority of the

¹² Report of the Attorney General of Porto Rico, (San Juan, 1932), 16.

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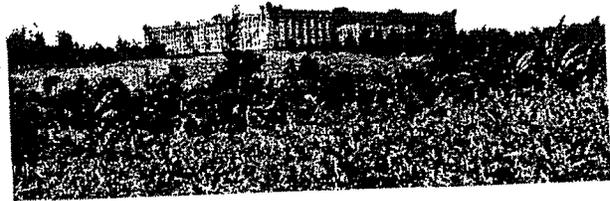
furniture, clothing, shoes and hats necessary for the inmates' use as well as other Governmental institutions such as hospitals, offices, and asylums.¹³

In his report (1933) Winter indicated the efforts being made to make the penitentiary able to meet the requirements of modern criminology and a self-supporting institution.

This institution is equipped with modern devices to meet the exigencies of present criminology. It is located on an area of 112 acres of which approximately 70 acres will be dedicated to the raising of vegetables and other products. The main building, which consists of a four-story structure and other additional dependencies, including the land, cost the Insular Government the sum of \$733,822.82, and \$46,000 were expended in the purchase of equipment. With a view of making every possible economy all the necessary furniture was made by the prisoners at the Penitentiary shops. Every effort is being made to make this institution a self-supporting one. To achieve this end the prisoners are being taught industrial trades so that positions within the institution now filled by outside might be filled by them in the future. The farm products will be used in the maintenance of prisoners. This will substantially reduce the expenses incurred by the Government in the operation of the Penitentiary.¹⁴



Roadway to main entrance of Penitentiary.
c. 1939



Partial view of northern and western façade. c. 1939

¹³ "Fue inaugurada oficialmente la nueva Penitenciaría de Puerto Rico," *El Mundo*, 16 May 1933, 2.

¹⁴ *Report of the Attorney General to the Governor of Puerto Rico for the fiscal year ending June 30, 1933*, (San Juan: negociado de Materiales, Imprenta y Transporte, 1933), 16, 18.

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The first floor of the building was dedicated to administration offices, two schoolrooms, psychiatric hall, workshops, dinning hall (with capacity of 500) kitchen and bathrooms. The institution's workshops were located in this floor as well. The 332 cells were distributed in the second and third floors while the 12 wards, isolated one from the others, were located in the fourth floor. The wards were reserved for the prisoners of good conduct.



Toy making shop. c 1939



Cabinet making shop. c. 1939

Penitentiary importance in the Penal System in Puerto Rico

The Penitentiary played an important role in the Penal System in Puerto Rico. It was through this institution that all the prisoners were evaluated and classified. Initially the prisoners were classified in first, second and third class (*Primera, Segunda* and *Tercera*) based on their good conduct. This system gave special benefits including wages for work done inside and outside the institution to those in the first class (the best behaved prisoners). Also, these were inmates could be sent to rural penal camps in Guavate (Cayey), Zarzal, Punta Lima (Naguabo), Limón (Mayagüez) Sabana Hoyos and La Pica (Jayuya). Later, this classification changed to reflect the institution's need to determine the security threat (maximum, medium and minimum) posed by inmates. Even today the Penitentiary continues serving as the main prisoner-processing center in the Puerto Rico penal system. In addition to the classification, individual evaluation of the criminal behavior of each inmate was attempted in order to implement an appropriate rehabilitation program. The Attorney General of Puerto Rico expressed this ideal in 1946,

Our greatest endeavor is individual treatment of the offender. Each offender is a problem by itself and should be the object of careful study and investigation to determine

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the causes that led him to violate the law and to ascertain the method and treatment applicable to his case.¹⁵

Medical and psychological support was also provided to the inmates in the new facilities. A physician and a minor surgeon and dentist were provided for the penal population. In 1933, the Attorney General sought legislation to establish a psycho-pathological clinic to diagnose mental conditions in individuals accused of a crime in order to fix criminal responsibility and for the examination and treatment of those inmates with criminal tendencies. Psychiatrist from the Psychiatric Hospital of Health Department provided assistance to the prisoners of the institutions until 1941 when the Legislature create the position of the Psychiatrist.

Although brigades of inmates continued the practice (from the Spanish Colonial period) of working in government construction project in the Island, most of the work was done within the institution¹⁶. As stated in the first article of Puerto Rico Insular Penitentiary's Regulations of 1933 (*Reglamento para el Regimen y Gobierno de la Penitenciaría de Puerto Rico en Río Piedras*) the institution will provide education in school, industrial and agricultural (general and vocational) to those who may need them so that they will be able to rejoin society as productive citizen once they have completed their term of incarceration. Considering the general illiteracy problem that was faced by a large part of the population in Puerto Rico at the beginning of the 20th century it was critical to use the education to help change of patterns of behavior within the inmate population to turn them away from criminal activity.

In the first year, vocational education in the Penitentiary was started with the following shops: photography and finger prints; carpentry; cabinet-work; barber shop; laundry; mechanic; electricity; plumbing; printing office and binding; hat-making; broom and brush manufacture; and cloth weaving¹⁷. The first crop from the farms was affected by the San Ciprián Hurricane (1932) that destroyed all the crops of trees, vegetables, and seedlings in the farm of the Penitentiary. After the hurricane a new crop, planted in 37 acres, provided a small harvest of sugar cane, fruits and vegetables. One year later (1934) a toy making shop was opened while the existing shops' production of articles ascended to \$19,410.26, while the value of the farm produce was of approximately \$4,500. Among products generated were the license plates for automobiles. Later in 1941 four rooms were dedicated within the institution to the general

¹⁵ *Report of the Attorney General of Puerto Rico* (1946), 62.

¹⁶ Fernando Picó, *El día menos pensado*, (Río Piedras: Ediciones Huracán, 1994), 113.

¹⁷ "Fue inaugurada oficialmente la nueva Penitenciaría de Puerto Rico," *El Mundo*, 16 May 1933, 2.

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education of the prisoners and also "shops and an academy of music for the industrial and musical instruction". Also that year the production of the manufactured articles by the shops ascended to \$35,335.62 while the value of farm production was approximately \$7,346.71.

In 1946 with help of the Department of Education and of Justice; education program in the Penitentiary was substantially improved when several recommendations made in 1945 by the Committee of Officers of the Department were carried. These included the appointment of a Principal, amplification of the library, organization of a curriculum committee by noteworthy teachers of the Island, and an extension of a course in Hygiene.¹⁸

The report (1946) praised the vocational education program as the most varied offered to the inmates of the Island because the establishment offered the best facilities in its physical plant, and because the sentences were longer.

At this institution there are now, shops of woodwork, haberdashery, shoe-making, electricity, plumbing, broom and brush manufacture, typewriter repairing, duco painting toys, photography and binding; and the institution; moreover, has a farm where sugar cane, bananas and other minor crops are grown, for the consumption of the inmates... The total output of the shops in shoe-making, woodwork, haberdashery, toys and brooms amounted nearly to \$37,848.81, and that of the farm to \$9,997.48, in vegetables and poultry.¹⁹

Inmates interested in acquiring some training at the shops and farms could register in learning those trades that would help making a living upon their discharge.

¹⁸ Report of the Attorney General of Puerto Rico (1946), 38

¹⁹ Report of the Attorney General of Puerto Rico, (1946), 44.

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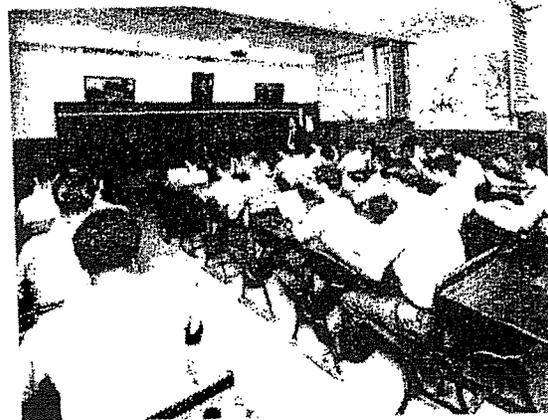
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Prisoners tending the Penitentiary farm



Classroom in the Penitentiary, c. 1939

In the 1950s and 1960s the education efforts continued as the education level of the inmates improved diplomas were given for ninth grade and fourth year of high school²⁰.

The period of significance for this property is limited to the 1953 to conform to National Register 50 year cut off date for those properties without exceptional importance.

The institution in crisis in 1950

The Penitentiary faced severe crowding problems by 1950 when the inmate population reached a total of 2,648. The large population could not all be employed in jobs in the work brigades in government projects or in the shops or farms of the institution. On October 25, 1950 there were 1,267 inmates employed (997 in the institution and 270 outside) and 1,184 unemployed that were unemployed. All of the cells were filled to capacity and even 400 prisoners had to sleep in the hallways or in the platforms of the stairways²¹. This situation coupled with the lack of sufficient personnel led to one of the largest and famous escapes in the penal history of Puerto Rico. After a strong riot one hundred ten prisoners escaped the Penitentiary. Since this escape occurred two days before the Nationalist insurrection of 1950 and so it became popularly associated to the Two years later (1952) there was a decrease in the population thanks to "the annexation of a new

²⁰ Fernando Picó, *El día menos pensado*, (Rio Piedras: Ediciones Huracán, 1994), 112.

²¹ Helen V. Tooker, "El Presidio tiene 4 serias deficiencias", *El Mundo*, 29 October 1950, 11.

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building with a capacity for 400 inmates, the transfer of more inmates to camps, and by wider use of the parole system”²².

However, it is indicative of the problems faced by the administration with the increasing prisoner population that by 1956 the Secretary of Justice reported that the shops converted the carpentry, brooms, weaving, polishing and cabinetwork workshops as dormitories to house 400 inmates. Also, it indicated that the shops converted to office spaces and visitors’ room²³.

By 1970 the prisoner rehabilitation policy suffered the impact of an increased crime rate that affected the Island. As a result in this criminality rate due to primarily the drug traffic, the Government of Puerto Rico imposed longer prison terms, which resulted in doubling the inmate population.

Architectural Importance of the Penitentiary

The new prison displayed a novel architectural expression that was used effectively to represent the beginning of a new period in the penal history of Puerto Rico as well as the United States. In his speech for the inauguration, Commissioner of the Interior Francisco Pons describe it as a “modern” building in which unnecessary ornament is suppressed and structural lines are employed in every possible way in order to achieve an gracious whole. The austere fortress-type building emphasizing punishment and confinement, is softened by the use of highly decorative architectural elements such as, terra cotta tiles and relieves, glazed ceramic tiles and open interior spaces, expressing the concern for the body and mind rehabilitation. It is precisely by means of contrasts that Roldán achieves to make the new prison building representative of the change in philosophy of the new penal system. The building, is an early example of the Art Deco style, popularized in the *Exposition Internationale Des Arts Décoratifs et Industriels Modernes* held in Paris, France in 1925, creatively combined with Neo Moorish elements, typical in Roldán’s work. It was a completely fresh and modern type of building and construction in Puerto Rico at that time in the outskirts of the urban area of San Juan.

As stated above, the Penitentiary’s design was greatly influenced by the Art Deco movement like most of architect Roldán’s latter works. The imagery of this movement, popularized around the

²² Report of the Attorney General of Puerto Rico, (1952), 88.

²³ Informe del Secretarios de Justicia, (San Juan, 1956), 37.

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world by the Paris Exposition of 1925, which strongly emphasized the future rather than the past, was quite theatrical and, in fact, adopted by the movie industry. Art Deco became a mediator or compromise between conservative and radical design. Streamlined curves, contours, and ziggurat like iconography were employed as a sculptural and expressive device that affected the building's massing and ornamental treatment. The State Penitentiary building contains details in the overall massing which resemble the type of treatment used in other Art Deco structures. The repetitive nature of the structural vertical bays as expressed in the exterior elevations reminds the viewer of industrial structures. Fenestration, achieved through deep cuts into the massing of the building, is combined with the use of recessed surfaces creating rich contrasts of light and shadow. Equally, the series of layers or planes receding in the corners of the towers and principal vestibule and the more solid volume of the facade in opposition to the transparent interior arcades and patio reinforces the resemblance of the structure to a fortress. This similarity is further delivered as a metaphorical image of the intent to create a more "Puerto Rican" architectural expression by adding the corner sentry boxes reminiscent of Old San Juan's fortifications ---Spanish guard posts. The incorporation of large scale and imposing human figures in the entrance portico, typical of Art Deco architecture, further highlights the large monumental scale of the overall massing of the Penitentiary. Architect Roldán achieves additional contrast by applying ornamental decorations like glazed ceramic tiles with Moorish-influenced geometrical patterns to the structural elements of the building in the same manner he does in other works.

Its monumental image and prominence, historic character and significance have not been impaired nor diminished enduring seven decades later, as the unique building it was intended to be, and definitely a historic landmark.

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MAJOR BIBLIOGRAPHICAL REFERENCES

Boletín Oficial de la Camara de Comercio de Puerto Rico. Año X, # 6. September 1954. Page 99.

Fernández Bales, Alexander and Diana Rivera, "Life and Work of Francisco Roldán". Puerto Rico State Historic Preservation Office (PRSHPO), 1996.

Monteagudo, Antonio M., ed. Golden Album of Puerto Rico. La Habana: Talleres de Artes Gráficas, 1939.

Moreno, Maria Luisa. La Arquitectura de la Universidad de Puerto Rico Recinto de Rio Piedras. San Juan: Editorial de la Universidad de Puerto Rico, 2000.

Picó, Fernando. El día menos pensado, Historia de los presidiarios en Puerto Rico (1793-1993). Río Piedras: Ediciones Huracan, 1994.

Rebori, Andrew N. "The work of William E. Parsons en the Philippines, (Part I)". *The Architectural Record*, XLI, No. 4 (April 1917), p. 305-324; (Part II), XLI, No. 5 (May 1917), p.423-434.

Revista de Obras Públicas de Puerto Rico. January 1924. Pages 15-16.

Vivoni Farage, Enrique. "La reclusión como texto de la penalidad: Esbozo de una historia de la arquitectura carcelaria en Puerto Rico". Unedited text.

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GEOGRAPHICAL DATA

Verbal Boundary Description

See attached site map.

Boundary Justification

The Puerto Rico Insular Penitentiary's original 112 acre extension has been reduced by the construction of new correctional facilities (where it had its agricultural lands) and the expansion urban sprawl that occurred in the 1950s. The composition of the Insular Penitentiary at its period of significance (1933-1953) with its main building and its agricultural lands has been altered by these new developments. For this reason only the main building is being nominated. Excluded are the three buildings constructed between 1979 and 1983 (adjunct to or in the immediate vicinity of the main building) and the fence facing northern façade are considered non-contributing.

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Photographer: Alexander Fernández Bales
Date: May, 1996
Location of negatives: Puerto Rico State Historic Preservation Office

Description of Photographs:

1. Floor plan and situation map of the Penitentiary.
2. View of the western façade looking southeast.
3. View of the entrance portico looking southeast.
4. View of the northwestern corner looking northeast.
5. View of the tower in the northern façade looking east.
6. Close up of the sentry box observation station looking east.
7. Drawing depicting details of the western façade.
8. Close up of the text in the panel in the entrance portico looking southeast.
9. View of the interior patio looking northwest.
10. Close up of interior courtyard decoration looking southwest.

APPENDIX 2:
NATIONAL REGISTER BULLETIN #15,
NATIONAL PARK SERVICES,
DEPARTMENT OF THE INTERIOR



NATIONAL REGISTER BULLETIN
HOW TO APPLY THE NATIONAL REGISTER
CRITERIA FOR EVALUATION



U.S. Department of the Interior, National Park Service
National Register, History and Education

II. NATIONAL REGISTER CRITERIA FOR EVALUATION

Criteria for Evaluation

The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

- A.** That are associated with events that have made a significant contribution to the broad patterns of our history; or
- B.** That are associated with the lives of significant persons in or past; or
- C.** That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- D.** That have yielded or may be likely to yield, information important in history or prehistory.

Criteria Considerations

Ordinarily cemeteries, birthplaces, graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past 50 years shall not be considered eligible for the National Register. However, such properties *will qualify* if they are integral parts of districts that do meet the criteria or if they fall within the following categories:

- a.** A religious property deriving primary significance from architectural or artistic distinction or historical importance; or
- b.** A building or structure removed from its original location but which is primarily significant for architectural value, or which is the surviving structure most importantly

associated with a historic person or event; or

- c. A birthplace or grave of a historical figure of outstanding importance if there is no appropriate site or building associated with his or her productive life; or
- d. A cemetery that derives its primary importance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events; or
- e. A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived; or
- f. A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own exceptional significance; or
- g. A property achieving significance within the past 50 years if it is of exceptional importance.

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[Comments or Questions](#)



**NATIONAL REGISTER BULLETIN****HOW TO APPLY THE NATIONAL REGISTER
CRITERIA FOR EVALUATION**[Previous](#)[Table of Contents](#)[Next](#)**U.S. Department of the Interior, National Park Service
National Register, History and Education****IV. HOW TO DEFINE CATEGORIES OF HISTORIC PROPERTIES**

1. Building
2. Structure
3. Object
4. Site
5. District

The National Register of Historic Places includes significant properties, classified as buildings, sites, districts, structures, or objects. It is not used to list intangible values, except in so far as they are associated with or reflected by historic properties. The National Register does not list cultural events, or skilled or talented individuals, as is done in some countries. Rather, the National Register is oriented to recognizing physically concrete properties that are relatively fixed in location.

For purposes of National Register nominations, small groups of properties are listed under a single category, using the primary resource. For example, a city hall and fountain would be categorized by the city hall (building), a farmhouse with two outbuildings would be categorized by the farmhouse (building), and a city park with a gazebo would be categorized by the park (site). Properties with large acreage or a number of resources are usually considered districts. Common sense and reason should dictate the selection of categories.

BUILDING

A building, such as a house, barn, church, hotel, or similar construction, is created principally to shelter any form of human activity. "Building" may also be used to refer to a historically and functionally related unit, such as a courthouse and jail or a house and barn.

Buildings eligible for the National Register must include all of their basic structural elements. Parts of buildings, such as interiors, facades, or wings, are not eligible independent of the rest of the existing building. The whole building must be considered, and its significant features must be identified.

If a building has lost any of its basic structural elements, it is usually considered a "ruin" and is categorized as a site.

Examples of buildings include:

administration building	garage	school
carriage house	hotel	shed
church	house	social hall
city or town hall	library	stable
courthouse	mill building	store
detached kitchen, barn, and privy	office building	theater
dormitory	post office	train station
fort		

STRUCTURE

The term "structure" is used to distinguish from buildings those functional constructions made usually for purposes other than creating human shelter.

Structures nominated to the National Register must include all of the extant basic structural elements. Parts of structures can not be considered eligible if the whole structure remains. For example, a truss bridge is composed of the metal or wooden truss, the abutments, and supporting piers, all of which, if extant, must be included when considering the property for eligibility.

If a structure has lost its historic configuration or pattern of organization through deterioration or demolition, it is usually considered a "ruin" and is categorized as a site.

Examples of structures include:

aircraft	corncrib	irrigation system
apiary	dam	kiln
automobile	earthwork	lighthouse
bandstand	fence	railroad grade
boats and ships bridge	gazebo	silo
cairn	grain elevator	trolley car
canal	highway	tunnel windmill
carousel		

OBJECT

The term "object" is used to distinguish from buildings and structures those constructions that are primarily artistic in nature or are relatively small in scale and simply constructed. Although it may be, by nature or design, movable, an object is associated with a specific setting or environment.

Small objects not designed for a specific location are normally not eligible. Such works include transportable sculpture, furniture, and other decorative arts that, unlike a fixed outdoor sculpture, do not possess association with a specific place.

Objects should be in a setting appropriate to their significant historic use, roles, or character. Objects relocated to a museum are inappropriate for listing in the National Register.

Examples of objects include:

boundary marker	fountain
monument	sculpture
milepost	statuary

SITE

A site is the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archeological value regardless of the value of any existing structure.

A site can possess associative significance or information potential or both, and can be significant under any or all of the four criteria. A site need not be marked by physical remains if it is the location of a prehistoric or historic event or pattern of events and if no buildings, structures, or objects marked it at the time of the events. However, when the location of a prehistoric or historic event cannot be conclusively determined because no other cultural materials were present or survive, documentation must be carefully evaluated to determine whether the traditionally recognized or identified site is accurate.

A site may be a natural landmark strongly associated with significant prehistoric or historic events or patterns of events, if the significance of the natural feature is well documented through scholarly research. Generally, though, the National Register excludes from the definition of "site" natural waterways or bodies of water that served as determinants in the location of communities or were significant in the locality's subsequent economic development. While they may have been "avenues of exploration," the features most appropriate to document this significance are the properties built in association with the waterways.

Examples of sites include:

battlefield	designed landscape	rock carving
campsite	habitation site	rock shelter
cemeteries significant for	natural feature (such as a	ruins of a building or structure
<input type="checkbox"/> information potential or	<input type="checkbox"/> rock formation) having	shipwreck
<input type="checkbox"/> historic association	<input type="checkbox"/> cultural significance	trail
ceremonial site	petroglyph site	village site

DISTRICT

A district possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.

Concentration, Linkage, & Continuity of Features

A district derives its importance from being a unified entity, even though it is often composed of a wide variety of resources. The identity of a district results from the interrelationship of its resources, which can convey a visual sense of the overall historic environment or be an arrangement of historically or functionally related properties. For example, a district can reflect one principal activity, such as a mill or a ranch, or it can encompass several interrelated activities, such as an area that includes industrial, residential, or commercial buildings, sites, structures, or objects. A district can also be a grouping of archeological sites related primarily by their common components; these types of districts often will not visually represent a specific historic environment.

Significance

A district must be significant, as well as being an identifiable entity. It must be important for historical, architectural, archeological, engineering, or cultural values. Therefore, districts that are significant will usually meet the last portion of Criterion C plus Criterion A, Criterion B, other portions of Criterion C, or Criterion D.

Types of Features

A district can comprise both features that lack individual distinction and individually distinctive features that serve as focal points. It may even be considered eligible if all of the components lack individual distinction, provided that the grouping achieves significance as a whole within its historic

context. In either case, the majority of the components that add to the district's historic character, even if they are individually undistinguished, must possess integrity, as must the district as a whole.

A district can contain buildings, structures, sites, objects, or open spaces that do not contribute to the significance of the district. The number of noncontributing properties a district can contain yet still convey its sense of time and place and historical development depends on how these properties affect the district's integrity. In archeological districts, the primary factor to be considered is the effect of any disturbances on the information potential of the district as a whole.

Geographical Boundaries

A district must be a definable geographic area that can be distinguished from surrounding properties by changes such as density, scale, type, age, style of sites, buildings, structures, and objects, or by documented differences in patterns of historic development or associations. It is seldom defined, however, by the limits of current parcels of ownership, management, or planning boundaries. The boundaries must be based upon a shared relationship among the properties constituting the district.

Discontiguous Districts

A district is usually a single geographic area of contiguous historic properties; however, a district can also be composed of two or more definable significant areas separated by nonsignificant areas. A discontiguous district is most appropriate where:

- Elements are spatially discrete;
- Space between the elements is not related to the significance of the district; and
- Visual continuity is not a factor in the significance.

In addition, a canal can be treated as a discontiguous district when the system consists of man- made sections of canal interspersed with sections of river navigation. For scattered archeological properties, a discontiguous district is appropriate when the deposits are related to each other through cultural affiliation, period of use, or site type.

It is not appropriate to use the discontiguous district format to include an isolated resource or small group of resources which were once connected to the district, but have since been separated either through demolition or new construction. For example, do not use the discontiguous district format to nominate individual buildings of a downtown commerical district that have become isolated through demolition.

Examples of districts include:

business districts	estates and farms with large	residential areas
canal systems	acreage/numerous properties	rural villages
groups of habitation sites	industrial complexes	transportation networks
college campuses	irrigation systems	rural historic districts

**NATIONAL REGISTER BULLETIN****HOW TO APPLY THE NATIONAL REGISTER
CRITERIA FOR EVALUATION**[Previous](#)[Table of Contents](#)[Next](#)**U.S. Department of the Interior, National Park Service
National Register, History and Education****VI. HOW TO IDENTIFY THE TYPE OF SIGNIFICANCE OF A
PROPERTY****INTRODUCTION**

When evaluated within its historic context, a property must be shown to be significant for *one or more of the four Criteria for Evaluation - A, B, C, or D* (listed earlier in [Part II](#)). The Criteria describe how properties are significant for their association with important events or persons, for their importance in design or construction, or for their information potential.

The basis for judging a property's significance and, ultimately, its eligibility under the Criteria is *historic context*. The use of historic context allows a property to be properly evaluated in a nearly infinite number of capacities. For instance, Criterion C: Design/Construction can accommodate properties representing construction types that are unusual or widely practiced, that are innovative or traditional, that are "high style" or vernacular, that are the work of a famous architect or an unknown master craftsman. *The key to determining whether the characteristics or associations of a particular property are significant is to consider the property within its historic context.*

After identifying the relevant historic context(s) with which the property is associated, the four Criteria are applied to the property. Within the scope of the historic context, the National Register Criteria define the kind of significance that the properties represent.

For example, within the context of "19th Century Gunpowder Production in the Brandywine Valley," Criterion A would apply to those properties associated with important events in the founding and development of the industry. Criterion B would apply to those properties associated with persons who are significant in the founding of the industry or associated with important inventions related to gunpowder manufacturing. Criterion C would apply to those buildings, structures, or objects whose architectural form or style reflect important design qualities integral to the industry. And Criterion D would apply to properties that can convey information important in our understanding of this industrial process. If a property qualifies under more than one of the Criteria, its significance under each should be considered, if possible, in order to identify all aspects of its historical value.

National Register Criteria for Evaluation**

1. [Criterion A: Event](#)
2. [Criterion B: Person](#)
3. [Criterion C: Design/Construction](#)

4. Criterion D: Information Potential

**For a complete listing of the Criteria for Evaluation, refer to Part II of this bulletin

The National Register Criteria recognize different types of values embodied in districts, sites, buildings, structures, and objects. These values fall into the following categories:

Associative value (Criteria A and B): Properties significant for their association or linkage to events (Criteria A) or persons (Criteria B) important in the past.

Design or Construction value (Criterion C): Properties significant as representatives of the manmade expression of culture or technology.

Information value (Criterion D): Properties significant for their ability to yield important information about prehistory or history.

CRITERION A: EVENT

Properties can be eligible for the National Register if they are associated with events that have made a significant contribution to the broad patterns of our history.

Understanding Criterion A: Event

To be considered for listing under Criterion A, a property must be associated with one or more events important in the defined historic context. Criterion A recognizes properties associated with single events, such as the founding of a town, or with a pattern of events, repeated activities, or historic trends, such as the gradual rise of a port city's prominence in trade and commerce. The event or trends, however, must clearly be important within the associated context: settlement, in the case of the town, or development of a maritime economy, in the case of the port city. Moreover, the property must have an important association with the event or historic trends, and it must retain historic integrity. (See Part V: How to Evaluate a Property Within its Historic Context.)

Several steps are involved in determining whether a property is significant for its associative values:

- Determine the nature and origin of the property,
- Identify the historic context with which it is associated, and
- Evaluate the property's history to determine whether it is associated with the historic context in any important way.

Applying Criterion A: Event

Types of Events

A property can be associated with either (or both) of two types of events:

- A specific event marking an important moment in American prehistory or history and
- A pattern of events or a historic trend that made a significant contribution to the development of a community, a State, or the nation.

EXAMPLES OF PROPERTIES ASSOCIATED WITH EVENTS

Properties associated with specific events:

- *The site of a battle.*
- *The building in which an important invention was developed.*

- *A factory district where a significant strike occurred.*
- *An archeological site at which a major new aspect of prehistory was discovered, such as the first evidence of man and extinct Pleistocene animals being contemporaneous.*
- *A site where an important facet of European exploration occurred.*

Properties associated with a pattern of events:

- *A trail associated with western migration.*
- *A railroad station that served as the focus of a community's transportation system and commerce.*
- *A mill district reflecting the importance of textile manufacturing during a given period.*
- *A building used by an important local social organization.*
- *A site where prehistoric Native Americans annually gathered for seasonally available resources and for social interaction.*
- *A downtown district representing a town's growth as the commercial focus of the surrounding agricultural area.*

Association of the Property with the Events

The property you are evaluating must be documented, through accepted means of historical or archeological research (including oral history), to have existed at the time of the event or pattern of events and to have been associated with those events. A property is not eligible if its associations are speculative. For archeological sites, well reasoned inferences drawn from data recovered at the site can be used to establish the association between the site and the events.

Significance of the Association

Mere association with historic events or trends is not enough, in and of itself, to qualify under Criterion A: the property's specific association must be considered important as well. For example, a building historically in commercial use must be shown to have been significant in commercial history.

Traditional Cultural Values

Traditional cultural significance is derived from the role a property plays in a community's historically rooted beliefs, customs, and practices. Properties may have significance under Criterion A if they are associated with events, or series of events, significant to the cultural traditions of a community. *(For more information, refer to National Register Bulletin: Guidelines for Evaluating and Documenting Traditional Cultural Properties.)*

Eligible

- A hilltop associated in oral historical accounts with the founding of an Indian tribe or society is eligible.
- A rural community can be eligible whose organization, buildings, or patterns of land use reflect the cultural traditions valued by its long-term residents.
- An urban neighborhood can be eligible as the traditional home of a particular cultural group and as a reflection of its beliefs and practices.

Not Eligible

- A site viewed as sacred by a recently established utopian or religious community does not have traditional cultural value and is not eligible.
-

CRITERION B: PERSON

Properties may be eligible for the National Register if they are associated with the lives of persons significant in our past.

(For further information on properties eligible under Criterion B, refer to National Register Bulletin: Guidelines for Evaluating and Documenting Properties Associated with Significant Persons.)

Understanding Criterion B: Person

Criterion B applies to properties associated with individuals whose specific contributions to history can be identified and documented. Persons "significant in our past" refers to individuals whose activities are demonstrably important within a local, State, or national historic context. The criterion is generally restricted to those properties that illustrate (rather than commemorate) a person's important achievements. (The policy regarding commemorative properties, birthplaces, and graves is explained further in Part VII: How to Apply the Criteria Considerations.)

Several steps are involved in determining whether a property is significant for its associative values under Criterion B. First, determine the importance of the individual. Second, ascertain the length and nature of his/her association with the property under study and identify the other properties associated with the individual. Third, consider the property under Criterion B, as outlined below.

EXAMPLES OF PROPERTIES ASSOCIATED WITH PERSONS

Properties associated with a Significant Person:

- *The home of an important merchant or labor leader.*
- *The studio of a significant artist.*
- *The business headquarters of an important industrialist.*

Applying Criterion B: Person

Significance of the Individual

The persons associated with the property must be individually significant within a historic context. A property is not eligible if its only justification for significance is that it was owned or used by a person who is a member of an identifiable profession, class, or social or ethnic group. It must be shown that the person gained importance within his or her profession or group.

Eligible

- The residence of a doctor, a mayor, or a merchant is eligible under Criterion B if the person was significant in the field of medicine, politics, or commerce, respectively.

Not Eligible

- A property is not eligible under Criterion B if it is associated with an individual about whom no scholarly judgement can be made because either research has not revealed specific information about the person's activities and their impact, or there is insufficient perspective to determine whether those activities or contributions were historically important.

Association with the Property

Properties eligible under Criterion B are usually those associated with a person's productive life, reflecting the time period when he or she achieved significance. In some instances this may be the person's home; in other cases, a person's business, office, laboratory, or studio may best represent his or her contribution. Properties that pre- or post-date an individual's significant accomplishments are usually not eligible.

The individual's association with the property must be documented by accepted methods of historical or archeological research, including written or oral history. Speculative associations are not acceptable. For archeological sites, well reasoned inferences drawn from data recovered at the site are acceptable.

Comparison to Related Properties

Each property associated with an important individual should be compared to other associated properties to identify those that best represent the person's historic contributions. The best representatives usually are properties associated with the person's adult or productive life. Properties associated with an individual's formative or later years may also qualify if it can be demonstrated that the person's activities during this period were historically significant or if no properties from the person's productive years survives. Length of association is an important factor when assessing several properties with similar associations.

A community or State may contain several properties eligible for associations with the same important person, if each represents a different aspect of the person's productive life. A property can also be eligible if it has brief but consequential associations with an important individual. (Such associations are often related to specific events that occurred at the property and, therefore, it may also be eligible under Criterion A.)

Association with Groups

For properties associated with several community leaders or with a prominent family, it is necessary to identify specific individuals and to explain their significant accomplishments.

Eligible

- A residential district in which a large number of prominent or influential merchants, professionals, civic leaders, politicians, etc., lived will be eligible under Criterion B if the significance of one or more specific individual residents is explicitly justified.
- A building that served as the seat of an important family is eligible under Criterion B if the significant accomplishments of one or more individual family members is explicitly justified.

Not Eligible

- A residential district in which a large number of influential persons lived is not eligible under Criterion B if the accomplishments of a specific individual(s) cannot be documented. If the significance of the district rests in the cumulative importance of prominent residents, however, then the district might still be eligible under Criterion

A. Eligibility, in this case, would be based on the broad pattern of community development, through which the neighborhood evolved into the primary residential area for this class of citizens.

- A building that served as the seat of an important family will not be eligible under Criterion B if the significant accomplishments of individual family members cannot be documented. In cases where a succession of family members have lived in a house and collectively have had a demonstrably significant impact on the community, as a family, the house is more likely to be significant under Criterion A for association with a pattern of events.

Association with Living Persons

Properties associated with living persons are usually not eligible for inclusion in the National Register. Sufficient time must have elapsed to assess both the person's field of endeavor and his/her contribution to that field. Generally, the person's active participation in the endeavor must be finished for this historic perspective to emerge. (See Criteria Considerations C and G in Part VII: How to Apply the Criteria Considerations.)

Association with Architects/Artisans

Architects, artisans, artists, and engineers are often represented by their works, which are eligible under Criterion C. Their homes and studios, however, can be eligible for consideration under Criterion B, because these usually are the properties with which they are most personally associated.

Native American Sites

The known major villages of individual Native Americans who were important during the contact period or later can qualify under Criterion B. As with all Criterion B properties, the individual associated with the property must have made some specific important contribution to history. Examples include sites significantly associated with Chief Joseph and Geronimo. (*For more information, refer to National Register Bulletin: Guidelines for Evaluating and Documenting Traditional Cultural Properties.*)

CRITERION C: DESIGN/CONSTRUCTION

Properties may be eligible for the National Register if they embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction.

Understanding Criterion C: Design/Construction

This criterion applies to properties significant for their physical design or construction, including such elements as architecture, landscape architecture, engineering, and artwork. To be eligible under Criterion C, a property must meet at least one of the following requirements:

- Embody distinctive characteristics of a type, period, or method of construction.
- Represent the work of a master.
- Possess high artistic value.

- Represent a significant and distinguishable entity whose components may lack individual distinction.

The first requirement, that properties "embody the distinctive characteristics of a type, period, or method of construction," refers to the way in which a property was conceived, designed, or fabricated by a people or culture in past periods of history. "The work of a master" refers to the technical or aesthetic achievements of an architect or craftsman. "High artistic values" concerns the expression of aesthetic ideals or preferences and applies to aesthetic achievement.

EXAMPLES OF PROPERTIES ASSOCIATED WITH DESIGN/CONSTRUCTION

Properties associated with design and construction:

- *A house or commercial building representing a significant style of architecture.*
- *A designed park or garden associated with a particular landscape design philosophy.*
- *A movie theater embodying high artistic value in its decorative features.*
- *A bridge or dam representing technological advances.*

Resources "that represent a significant and distinguishable entity whose components may lack individual distinction" are called "districts." In the Criteria for Evaluation (as published in the Code of Federal Regulations and reprinted in Part II), districts are defined within the context of Criterion C. *Districts, however, can be considered for eligibility under all the Criteria*, individually or in any combination, as is appropriate. For this reason, the full discussion of districts is contained in Part IV: How to Define Categories of Historic Properties. Throughout the bulletin, however, districts are mentioned within the context of a specific subject, such as an individual Criterion.

Applying Criterion C: Design/Construction

Distinctive Characteristics of Type, Period, and Method of Construction

This is the portion of Criterion C under which most properties are eligible, for it encompasses all architectural styles and construction practices. To be eligible under this portion of the Criterion, a property must clearly illustrate, through "distinctive characteristics," the following:

- The pattern of features common to a particular class of resources,
- The individuality or variation of features that occurs within the class,
- The evolution of that class, or
- The transition between classes of resources.

Distinctive Characteristics: "Distinctive characteristics" are the physical features or traits that commonly recur in individual types, periods, or methods of construction. To be eligible, a property must clearly contain enough of those characteristics to be considered a true representative of a particular type, period, or method of construction.

Characteristics can be expressed in terms such as form, proportion, structure, plan, style, or materials. They can be general, referring to ideas of design and construction such as basic plan or form, or they can be specific, referring to precise ways of combining particular kinds of materials.

Eligible

- A building eligible under the theme of Gothic Revival architecture must have the distinctive characteristics that make up the vertical and picturesque qualities of the style, such as pointed gables, steep roof pitch, board and batten siding, and ornamental bargeboard and veranda trim.
- A late Mississippian village that illustrates the important concepts in prehistoric community design and planning will qualify.
- A designed historic landscape will qualify if it reflects a historic trend or school of theory and practice, such as the City Beautiful Movement, evidencing distinguished design, layout, and the work of skilled craftsmanship.

Not Eligible

- A commercial building with some Art Deco detailing is not eligible under Criterion C if the detailing was added merely as an afterthought, rather than fully integrated with overall lines and massing typical of the Art Deco style or the transition between that and another style.
- A designed landscape that has had major changes to its historic design, vegetation, original boundary, topography/grading, architectural features, and circulation system will not qualify.

Type, Period, and Method of Construction:

"Type, period, or method of construction" refers to the way certain properties are related to one another by cultural tradition or function, by dates of construction or style, or by choice or availability of materials and technology.

A structure is eligible as a specimen of its type or period of construction if it is an important example (within its context) of building practices of a particular time in history. For properties that represent the variation, evolution, or transition of construction types, it must be demonstrated that the variation, etc., was an important phase of the architectural development of the area or community in that it had an impact as evidenced by later buildings. A property is not eligible, however, simply because it has been identified as the only such property ever fabricated; it must be demonstrated to be significant as well.

Eligible

- A building that has some characteristics of the Romanesque Revival style and some characteristics of the Commercial style can qualify if it illustrates the transition of architectural design and the transition itself is considered an important architectural development.
- A Hopewellian mound, if it is an important example of mound building construction techniques, would qualify as a method or type of construction.
- A building which illustrates the early or the developing technology of particular structural systems, such as skeletal steel framing, is eligible as an example of a particular method of construction.

Historic Adaptation of the Original Property

A property can be significant not only for the way it was originally constructed or crafted, but also for the way it was adapted at a later period, or for the way it illustrates changing tastes, attitudes, and uses over a period of time.

A district is eligible under this guideline if it illustrates the evolution of historic character of a place over a particular span of time.

Eligible

- A Native American irrigation system modified for use by Europeans could be eligible if it illustrates the technology of either or both periods of construction.
- An early 19th century farmhouse modified in the 1880s with Queen Anne style ornamentation could be significant for the modification itself, if it represented a local variation or significant trend in building construction or remodeling, was the work of a local master (see Works of a Master below), or reflected the tastes of an important person associated with the property at the time of its alteration.
- A district encompassing the commercial development of a town between 1820 and 1910, characterized by buildings of various styles and eras, can be eligible.

Works of a Master

A master is a figure of generally recognized greatness in a field, a known craftsman of consummate skill, or an anonymous craftsman whose work is distinguishable from others by its characteristic style and quality. The property must express a particular phase in the development of the master's career, an aspect of his or her work, or a particular idea or theme in his or her craft.

A property is not eligible as the work of a master, however, simply because it was designed by a prominent architect. For example, not every building designed by Frank Lloyd Wright is eligible under this portion of Criterion C, although it might meet other portions of the Criterion, for instance as a representative of the Prairie style.

The work of an unidentified craftsman is eligible if it rises above the level of workmanship of the other properties encompassed by the historic context.

Properties Possessing High Artistic Values

High artistic values may be expressed in many ways, including areas as diverse as community design or planning, engineering, and sculpture. A property is eligible for its high artistic values if it so fully articulates a particular concept of design that it expresses an aesthetic ideal. A property is not eligible, however, if it does not express aesthetic ideals or design concepts more fully than other properties of its type.

Eligible

- A sculpture in a town square that epitomizes the design principles of the Art Deco style is eligible.
- A building that is a classic expression of the design theories of the Craftsman Style, such as carefully detailed handwork, is eligible.
- A landscaped park that synthesizes early 20th century principles of landscape architecture and expresses an aesthetic ideal of environment can be eligible.
- Properties that are important representatives of the aesthetic values of a cultural group, such as petroglyphs and ground drawings by Native Americans, are eligible.

Not Eligible

- A sculpture in a town square that is a typical example of sculpture design during its period would not qualify for high artistic value, although it might be eligible if it were significant for other reasons.
- A building that is a modest example (within its historic context) of the Craftsman Style of architecture, or a landscaped park that is characteristic of turn of the century landscape design would not qualify for high artistic value.

A Significant and Distinguishable Entity Whose Components May Lack Individual Distinction: This portion of Criterion C refers to districts. For detailed information on districts, refer to Part IV of this bulletin.

CRITERION D: INFORMATION POTENTIAL

Properties may be eligible for the National Register if they have yielded, or may be likely to yield, information important in prehistory or history.

Understanding Criterion D: Information Potential

Certain important research questions about human history can only be answered by the actual physical material of cultural resources. Criterion D encompasses the properties that have the potential to answer, in whole or in part, those types of research questions. The most common type of property nominated under this Criterion is the archeological site (or a district comprised of archeological sites). Buildings, objects, and structures (or districts comprised of these property types), however, can also be eligible for their information potential.

Criterion D has two requirements, which must *both* be met for a property to qualify:

- The property must have, or have had, information to contribute to our understanding of human history or prehistory, and
- The information must be considered important.

Under the first of these requirements, a property is eligible if it has been used as a source of data and contains more, as yet unretrieved data. A property is also eligible if it has not yet yielded information but, through testing or research, is determined a likely source of data.

Under the second requirement, the information must be carefully evaluated within an appropriate context to determine its importance. Information is considered "important" when it is shown to have a significant bearing on a research design that addresses such areas as: 1) current data gaps or alternative theories that challenge existing ones or 2) priority areas identified under a State or Federal agency management plan.

Applying Criterion D: Information Potential

Archeological Sites

Criterion D most commonly applies to properties that contain or are *likely* to contain information bearing on an important archeological research question. The property must have characteristics suggesting the likelihood that it possesses configurations of artifacts, soil strata, structural remains, or other natural or cultural features that make it possible to do the following:

- Test a hypothesis or hypotheses about events, groups, or processes in the past that

bear on important research questions in the social or natural sciences or the humanities; or

- Corroborate or amplify currently available information suggesting that a hypothesis is either true or false; or
- Reconstruct the sequence of archeological cultures for the purpose of identifying and explaining continuities and discontinuities in the archeological record for a particular area.

Buildings, Structures, and Objects

While most often applied to archeological districts and sites, Criterion D can also apply to buildings, structures, and objects that contain important information. In order for these types of properties to be eligible under Criterion D, they themselves must be, or must have been, the principal source of the important information.

Eligible

- A building exhibiting a local variation on a standard design or construction technique can be eligible if study could yield important information, such as how local availability of materials or construction expertise affected the evolution of local building development.

Not Eligible

- The ruins of a hacienda once contained murals that have since been destroyed. Historical documentation, however, indicates that the murals were significant for their highly unusual design. The ruins can not be eligible under Criterion D for the importance of the destroyed murals if the information is contained only in the documentation.

Association with Human Activity

A property must be associated with human activity and be critical for understanding a site's historic environment in order to be eligible under Criterion D. A property can be linked to human activity through events, processes, institutions, design, construction, settlement, migration, ideals, beliefs, lifeways, and other facets of the development or maintenance of cultural systems.

The natural environment associated with the properties was often very different from that of the present and strongly influenced cultural development. Aspects of the environment that are pertinent to human activities should be considered when evaluating properties under Criterion D.

Natural features and paleontological (floral and faunal) sites are not usually eligible under Criterion D in and of themselves. They can be eligible, however, if they are either directly related to human activity or critical to understanding a site's historic environment. In a few cases, a natural feature or site unmarked by cultural materials, that is primarily eligible under Criterion A, may also be eligible under Criterion D, if study of the feature, or its location, setting, etc. (usually in the context of data gained from other sources), will yield important information about the event or period with which it is associated.

Establishing a Historic Context

The information that a property yields, or will yield, must be evaluated within an appropriate historic context. This will entail consulting the body of information already collected from similar properties or other pertinent sources, including modern and historic written records.

The researcher must be able to anticipate if and how the potential information will affect the definition of the context. The information likely to be obtained from a particular property must confirm, refute, or supplement in an important way existing information.

A property is *not* eligible if it cannot be related to a particular time period or cultural group and, as a result, lacks any historic context within which to evaluate the importance of the information to be gained.

Developing Research Questions

Having established the importance of the information that may be recovered, it is necessary to be explicit in demonstrating the connection between the important information and a specific property. One approach is to determine if specific important research questions can be answered by the data contained in the property. Research questions can be related to property-specific issues, to broader questions about a large geographic area, or to theoretical issues independent of any particular geographic location. These questions may be derived from the academic community or from preservation programs at the local, regional, State, or national level. Research questions are usually developed as part of a "research design," which specifies not only the questions to be asked, but also the types of data needed to supply the answers, and often the techniques needed to recover the data.

Eligible

- When a site consisting of a village occupation with midden deposits, hearths, ceramics, and stratified evidence of several occupations is being evaluated, three possible research topics could be: 1) the question of whether the site occupants were indigenous to the area prior to the time of occupation or recent arrivals, 2) the investigation of the settlement-subsistence pattern of the occupants, 3) the question of whether the region was a center for the domestication of plants. Specific questions could include: A) Do the deposits show a sequential development or sudden introduction of Ceramic Type X? B) Do the dates of the occupations fit our expectations based on the current model for the reoccupation behavior of slash-and-burn agriculturalists? C) Can any genetic changes in the food plant remains be detected?

Not Eligible

- A property is not eligible if so little can be understood about it that it is not possible to determine if specific important research questions can be answered by data contained in the property.

Establishing the Presence of Adequate Data

To support the assertion that a property has the data necessary to provide the important information, the property should be investigated with techniques sufficient to establish the presence of relevant data categories. What constitutes appropriate investigation techniques would depend upon specific circumstances including the property's location, condition, and the research questions being addressed, and could range from surface survey (or photographic survey for buildings), to the application of remote sensing techniques or intensive subsurface testing. Justification of the research potential of a property may be based on analogy to another better known property if sufficient similarities exist to establish the appropriateness of the analogy.

Eligible

- Data requirements depend on the specific research topics and questions to be addressed. To continue the example in "Developing Research Questions" above, we

might want to ascertain the following with reference to questions A, B, and C: A) The site contains Ceramic Type X in one or more occupation levels and we expect to be able to document the local evaluation of the type or its intrusive nature. B) The hearths contain datable carbon deposits and are associated with more than one occupation. C) The midden deposits show good floral/faunal preservation, and we know enough about the physical evolution of food plants to interpret signs that suggest domestication.

Not Eligible

- Generally, if the applicable research design requires clearly stratified deposits, then subsurface investigation techniques must be applied. A site composed only of surface materials can not be eligible for its potential to yield information that could only be found in stratified deposits.

Integrity

The assessment of integrity for properties considered for information potential depends on the data requirements of the applicable research design. A property possessing information potential does not need to recall *visually* an event, person, process, or construction technique. It is important that the significant data contained in the property remain sufficiently intact to yield the expected important information, if the appropriate study techniques are employed.

Eligible

- An irrigation system significant for the information it will yield on early engineering practices can still be eligible even though it is now filled in and no longer retains the appearance of an open canal.

Not Eligible

- A plowed archeological site contains several superimposed components that have been mixed to the extent that artifact assemblages cannot be reconstructed. The site cannot be eligible if the data requirements of the research design call for the study of artifacts specific to one component.

Partly Excavated or Disturbed Properties

The current existence of appropriate physical remains must be ascertained in considering a property's ability to yield important information. Properties that have been partly excavated or otherwise disturbed and that are being considered for their potential to yield additional important information must be shown to retain that potential in their remaining portions.

Eligible

- A site that has been partially excavated but still retains substantial intact deposits (or a site in which the remaining deposits are small but contain critical information on a topic that is not well known) is eligible.

Not Eligible

- A totally collected surface site or a completely excavated buried site is not eligible since the physical remains capable of yielding important information no longer exist at the site. (See Completely Excavated Sites, below, for exception.) Likewise, a site that has been looted or otherwise disturbed to the extent that the remaining cultural materials have lost their important depositional context (horizontal or vertical location of deposits) is not eligible.

- A reconstructed mound or other reconstructed site will generally not be considered eligible, because original cultural materials or context or both have been lost.

Completely Excavated Sites

Properties that have yielded important information in the past and that no longer retain additional research potential (such as completely excavated archeological sites) must be assessed essentially as historic sites under Criterion A. Such sites must be significant for associative values related to: 1) the importance of the data gained or 2) the impact of the property's role in the history of the development of anthropology/archeology or other relevant disciplines. Like other historic properties, the site must retain the ability to convey its association as the former repository of important information, the location of historic events, or the representative of important trends.

Eligible

- A property that has been excavated is eligible if the data recovered was of such importance that it influenced the direction of research in the discipline, as in a site that clearly established the antiquity of the human occupation of the New World.

Not Eligible

- A totally excavated site that at one time yielded important information but that no longer can convey either its historic/prehistoric utilization or significant modern investigation is not eligible.

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U.S. Department of the Interior, National Park Service National Register, History and Education

VIII. HOW TO EVALUATE THE INTEGRITY OF A PROPERTY

Integrity is the ability of a property to convey its significance. To be listed in the National Register of Historic Places, a property must not only be shown to be significant under the National Register criteria, but it also must have integrity. The evaluation of integrity is sometimes a subjective judgment, but it must always be grounded in an understanding of a property's physical features and how they relate to its significance.

Historic properties either retain integrity (this is, convey their significance) or they do not. Within the concept of integrity, the National Register criteria recognizes seven aspects or qualities that, in various combinations, define integrity.

To retain historic integrity a property will always possess several, and usually most, of the aspects. The retention of specific aspects of integrity is paramount for a property to convey its significance. Determining which of these aspects are most important to a particular property requires knowing why, where, and when the property is significant. The following sections define the seven aspects and explain how they combine to produce integrity.

1. [Seven Aspects of Integrity](#)
2. [Assessing Integrity in Properties](#)
 - [Defining the Essential Physical Features](#)
 - [Visibility of the Physical Features](#)
 - [Comparing Similar Properties](#)
 - [Determining the Relevant Aspects of Integrity](#)

SEVEN ASPECTS OF INTEGRITY

- Location
- Design
- Setting

- Materials
- Workmanship
- Feeling
- Association

Understanding the Aspects of Integrity

Location

Location is the place where the historic property was constructed or the place where the historic event occurred. The relationship between the property and its location is often important to understanding why the property was created or why something happened. The actual location of a historic property, complemented by its setting, is particularly important in recapturing the sense of historic events and persons. Except in rare cases, the relationship between a property and its historic associations is destroyed if the property is moved. (See Criteria Consideration B in Part VII: How to Apply the Criteria Considerations, for the conditions under which a moved property can be eligible.)

Design

Design is the combination of elements that create the form, plan, space, structure, and style of a property. It results from conscious decisions made during the original conception and planning of a property (or its significant alteration) and applies to activities as diverse as community planning, engineering, architecture, and landscape architecture. Design includes such elements as organization of space, proportion, scale, technology, ornamentation, and materials.

A property's design reflects historic functions and technologies as well as aesthetics. It includes such considerations as the structural system; massing; arrangement of spaces; pattern of fenestration; textures and colors of surface materials; type, amount, and style of ornamental detailing; and arrangement and type of plantings in a designed landscape.

Design can also apply to districts, whether they are important primarily for historic association, architectural value, information potential, or a combination thereof. For districts significant primarily for historic association or architectural value, design concerns more than just the individual buildings or structures located within the boundaries. It also applies to the way in which buildings, sites, or structures are related: for example, spatial relationships between major features; visual rhythms in a streetscape or landscape plantings; the layout and materials of walkways and roads; and the relationship of other features, such as statues, water fountains, and archeological sites.

Setting

Setting is the physical environment of a historic property. Whereas location refers to the specific place where a property was built or an event occurred, setting refers to the *character* of the place in which the property played its historical role. It involves *how*, not just *where*, the property is situated and its relationship to surrounding features and open space.

Setting often reflects the basic physical conditions under which a property was built and the functions it was intended to serve. In addition, the way in which a property is positioned in its environment can reflect the designer's concept of nature and aesthetic preferences.

The physical features that constitute the setting of a historic property can be either natural or manmade, including such elements as:

- Topographic features (a gorge or the crest of a hill);
- Vegetation;
- Simple manmade features (paths or fences); and
- Relationships between buildings and other features or open space.

These features and their relationships should be examined not only within the exact boundaries of the property, but also between the property and its *surroundings*. This is particularly important for districts.

Materials

Materials are the physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a historic property. The choice and combination of materials reveal the preferences of those who created the property and indicate the availability of particular types of materials and technologies. Indigenous materials are often the focus of regional building traditions and thereby help define an area's sense of time and place.

A property must retain the key exterior materials dating from the period of its historic significance. If the property has been rehabilitated, the historic materials and significant features must have been preserved. The property must also be an actual historic resource, not a recreation; a recent structure fabricated to look historic is not eligible. Likewise, a property whose historic features and materials have been lost and then reconstructed is usually not eligible. (See Criteria Consideration E in *Part VII: How to Apply the Criteria Considerations* for the conditions under which a reconstructed property can be eligible.)

Workmanship

Workmanship is the physical evidence of the crafts of a particular culture or people during any given period in history or prehistory. It is the evidence of artisans' labor and skill in constructing or altering a building, structure, object, or site. Workmanship can apply to the property as a whole or to its individual components. It can be expressed in vernacular methods of construction and plain finishes or in highly sophisticated configurations and ornamental detailing. It can be based on common traditions or innovative period techniques.

Workmanship is important because it can furnish evidence of the technology of a craft, illustrate the aesthetic principles of a historic or prehistoric period, and reveal individual, local, regional, or national applications of both technological practices and aesthetic principles. Examples of workmanship in historic buildings include tooling, carving, painting, graining, turning, and joinery. Examples of workmanship in prehistoric contexts include Paleo-Indian clovis projectile points; Archaic period beveled adzes; Hopewellian birdstone pipes; copper earspools and worked bone pendants; and Iroquoian effigy pipes.

Feeling

Feeling is a property's expression of the aesthetic or historic sense of a particular period of time. It results from the presence of physical features that, taken together, convey the property's historic character. For example, a rural historic district retaining original design, materials, workmanship, and setting will relate the feeling of agricultural life in the 19th century. A grouping of prehistoric petroglyphs, unmarred by graffiti and intrusions and located on its original isolated bluff, can evoke a sense of tribal spiritual life.

Association

Association is the direct link between an important historic event or person and a historic property. A property retains association if it is the place where the event or activity occurred and is sufficiently intact to convey that relationship to an observer. Like feeling, association requires the presence of physical features that convey a property's historic character. For example, a Revolutionary War battlefield whose natural and manmade elements have remained intact since the 18th century will retain its quality of association with the battle.

Because feeling and association depend on individual perceptions, their retention *alone* is never sufficient to support eligibility of a property for the National Register.

ASSESSING INTEGRITY IN PROPERTIES

Integrity is based on significance: why, where, and when a property is important. Only after significance is fully established can you proceed to the issue of integrity.

The steps in assessing integrity are:

- Define the **essential physical features** that must be present for a property to represent its significance.
- Determine whether the **essential physical features are visible** enough to convey their significance.
- Determine whether the property needs to be **compared with similar properties**. And,
- Determine, based on the significance and essential physical features, **which aspects of integrity** are particularly vital to the property being nominated and if they are present.

Ultimately, the question of integrity is answered by whether or not the property retains the **identity** for which it is significant.

DEFINING THE ESSENTIAL PHYSICAL FEATURES

All properties change over time. It is not necessary for a property to retain all its historic physical features or characteristics. The property must retain, however, the essential physical features that enable it to convey its historic identity. The essential physical features are those features that define both *why* a property is significant (Applicable Criteria and Areas of Significance) and *when* it was significant (Periods of Significance). They are the features without which a property can no longer be identified as, for instance, a late 19th century dairy barn or an early 20th century commercial district.

Criteria A and B

A property that is significant for its historic association is eligible if it retains the essential physical features that made up its character or appearance during the period of its association with the important event, historical pattern, or person(s). If the property is a site (such as a treaty site) where there are no material cultural remains, the setting must be intact.

Archeological sites eligible under Criteria A and B must be in overall good condition with excellent preservation of features, artifacts, and spatial relationships to the extent that these

remains are able to convey important associations with events or persons.

Criterion C

A property important for illustrating a particular architectural style or construction technique must retain most of the physical features that constitute that style or technique. A property that has lost some historic materials or details can be eligible *if* it retains the majority of the features that illustrate its style in terms of the massing, spatial relationships, proportion, pattern of windows and doors, texture of materials, and ornamentation. The property is not eligible, however, if it retains some basic features conveying massing but has lost the majority of the features that once characterized its style.

Archeological sites eligible under Criterion C must be in overall good condition with excellent preservation of features, artifacts, and spatial relationships to the extent that these remains are able to illustrate a site type, time period, method of construction, or work of a master.

Criterion D

For properties eligible under Criterion D, including archeological sites and standing structures studied for their information potential, less attention is given to their overall condition, than it they were being considered under Criteria A, B, or C. Archeological sites, in particular, do not exist today exactly as they were formed. There are always cultural and natural processes that alter the deposited materials and their spatial relationships.

For properties eligible under Criterion D, integrity is based upon the property's potential to yield specific data that addresses important research questions, such as those identified in the historic context documentation in the Statewide Comprehensive Preservation Plan or in the research design for projects meeting the *Secretary of the Interior's Standards for Archeological Documentation*.

Interiors

Some historic buildings are virtually defined by their exteriors, and their contribution to the built environment can be appreciated even if their interiors are not accessible. Examples of this would include early examples of steel-framed skyscraper construction. The great advance in American technology and engineering made by these buildings can be read from the outside. The change in American popular taste during the 19th century, from the symmetry and simplicity of architectural styles based on classical precedents, to the expressions of High Victorian styles, with their combination of textures, colors, and asymmetrical forms, is readily apparent from the exteriors of these buildings.

Other buildings "are" interiors. The Cleveland Arcade, that soaring 19th century glass-covered shopping area, can only be appreciated from the inside. Other buildings in this category would be the great covered train sheds of the 19th century.

In some cases the loss of an interior will disqualify properties from listing in the National Register--a historic concert hall noted for the beauty of its auditorium and its fine acoustic qualities would be the type of property that if it were to lose its interior, it would lose its value as a historic resource. In other cases, the overarching significance of a property's exterior can overcome the adverse effect of the loss of an interior.

In borderline cases particular attention is paid to the significance of the property and the remaining historic features.

Historic Districts

For a district to retain integrity as a whole, the majority of the components that make up the

district's historic character must possess integrity even if they are individually undistinguished. In addition, the relationships among the district's components must be substantially unchanged since the period of significance.

When evaluating the impact of intrusions upon the district's integrity, take into consideration the relative number, size, scale, design, and location of the components that do not contribute to the significance. A district is not eligible if it contains so many alterations or new intrusions that it no longer conveys the sense of a historic environment.

A component of a district cannot contribute to the significance if:

- it has been substantially altered since the period of the district's significance or
- it does not share the historic associations of the district.

VISIBILITY OF PHYSICAL FEATURES

Properties eligible under Criteria A, B, and C must not only retain their essential physical features, but the features must be visible enough to convey their significance. This means that even if a property is physically intact, its integrity is questionable if its significant features are concealed under modern construction. Archeological properties are often the exception to this; by nature they usually do not require visible features to convey their significance.

Non-Historic Exteriors

If the historic *exterior* building material is covered by non-historic material (such as modern siding), the property can still be eligible if the significant form, features, and detailing are not obscured. If a property's exterior is covered by a non-historic false-front or curtain wall, the property will not qualify under Criteria A, B, or C, because it does not retain the visual quality necessary to convey historic or architectural significance. Such a property also cannot be considered a contributing element in a historic district, because it does not add to the district's sense of time and place. If the false front, curtain wall, or non-historic siding is removed and the original building materials are intact, then the property's integrity can be re-evaluated.

Property Contained within Another Property

Some properties contain an earlier structure that formed the nucleus for later construction. The exterior property, if not eligible in its own right, can qualify on the basis of the interior property *only if* the interior property can yield significant information about a specific construction technique or material, such as rammed earth or tabby. The interior property *cannot* be used as the basis for eligibility if it has been so altered that it no longer contains the features that could provide important information, or if the presence of important information cannot be demonstrated.

Sunken Vessels

A sunken vessel can be eligible under Criterion C as embodying the distinctive characteristics of a method of construction if it is structurally intact. A *deteriorated* sunken vessel, no longer structurally intact, can be eligible under Criterion D if the remains of either the vessel or its contents is capable of yielding significant information. For further information, refer to National Register Bulletin: *Nominating Historic Vessels and Shipwrecks to the National Register of Historic Places.*

Natural Features

A natural feature that is associated with a historic event or trend, such as a rock formation that served as a trail marker during westward expansion, must retain its historic appearance, unobscured by modern construction or landfill. Otherwise it is not eligible, even though it remains intact.

COMPARING SIMILAR PROPERTIES

For some properties, comparison with similar properties should be considered during the evaluation of integrity. Such comparison may be important in deciding what physical features are essential to properties of that type. In instances where it has not been determined what physical features a property must possess in order for it to reflect the significance of a historic context, comparison with similar properties should be undertaken during the evaluation of integrity. This situation arises when scholarly work has not been done on a particular property type or when surviving examples of a property type are extremely rare. (See *Comparing Related Properties in Part V: How to Evaluate a Property within its Historic Context.*)

Rare Examples of a Property Type

Comparative information is particularly important to consider when evaluating the integrity of a property that is a rare surviving example of its type. The property must have the essential physical features that enable it to convey its historic character or information. The rarity and poor condition, however, of other extant examples of the type may justify accepting a greater degree of alteration or fewer features, provided that enough of the property survives for it to be a significant resource.

Eligible

- A one-room schoolhouse that has had all original exterior siding replaced and a replacement roof that does not exactly replicate the original roof profile can be eligible if the other extant rare examples have received an even greater degree of alteration, such as the subdivision of the original one-room plan.

Not Eligible

- A mill site contains information on how site patterning reflects historic functional requirements, but parts of the site have been destroyed. The site is not eligible for its information potential if a comparison of other mill sites reveals more intact properties with complete information.
-

DETERMINING THE RELEVANT ASPECTS OF INTEGRITY

Each type of property depends on certain aspects of integrity, more than others, to express its historic significance. Determining which of the aspects is most important to a particular property requires an understanding of the property's significance and its essential physical features.

Criteria A and B

A property important for association with an event, historical pattern, or person(s) ideally might retain *some* features of all seven aspects of integrity: location, design, setting, materials, workmanship, feeling, and association. Integrity of design and workmanship, however, might not be as important to the significance, and would not be relevant if the property were a site. A basic integrity test for a property associated with an important event or person is whether a historical contemporary would recognize the property as it exists today.

For archeological sites that are eligible under Criteria A and B, the seven aspects of integrity can be applied in much the same way as they are to buildings, structures, or objects. It is important to note, however, that the site must have *demonstrated* its ability to convey its significance, as opposed to sites eligible under Criterion D where only the potential to yield information is required.

Eligible

A mid-19th century waterpowered mill important for its association with an area's industrial development is eligible if:

- it is still on its original site (**Location**), and
- the important features of its setting are intact (**Setting**), and
- it retains most of its historic materials (**Materials**), and
- it has the basic features expressive of its design and function, such as configuration, proportions, and window pattern (**Design**).

Not Eligible

A mid-19th century waterpowered mill important for its association with an area's industrial development is not eligible if:

- it has been moved (**Location, Setting, Feeling, and Association**), or
- substantial amounts of new materials have been incorporated (**Materials, Workmanship, and Feeling**), or
- it no longer retains basic design features that convey its historic appearance or function (**Design, Workmanship, and Feeling**).

Criterion C

A property significant under Criterion C must retain those physical features that characterize the type, period, or method of construction that the property represents. Retention of design, workmanship, and materials will usually be more important than location, setting, feeling, and association. Location and setting will be important, however, for those properties whose design is a reflection of their immediate environment (such as designed landscapes and bridges).

For archeological sites that are eligible under Criterion C, the seven aspects of integrity can be applied in much the same way as they are to buildings, structures, or objects. It is important to note, however, that the site must have *demonstrated* its ability to convey its significance, as opposed to sites eligible under Criterion D where only the *potential* to yield information is required.

Eligible

A 19th century wooden covered bridge, important for illustrating a construction type, is eligible if:

- the essential features of its design are intact, such as abutments, piers, roof configuration, and trusses (**Design, Workmanship, and Feeling**), and
- most of the historic materials are present (**Materials, Workmanship, and Feeling**), and
- evidence of the craft of wooden bridge technology remains, such as the form and assembly technique of the trusses (**Workmanship**).
- Since the design of a bridge relates directly to its function as a transportation crossing, it is also important that the bridge still be situated over a waterway (**Setting, Location, Feeling, and Association**).

Not Eligible

For a 19th century wooden covered bridge, important for its construction type, replacement of some materials of the flooring, siding, and roofing would not necessarily damage its integrity. Integrity would be lost, however, if:

- the abutments, piers, or trusses were substantially altered (**Design, Workmanship, and Feeling**) or
- considerable amounts of new materials were incorporated (**Materials, Workmanship, and Feeling**).
- Because environment is a strong factor in the design of this property type, the bridge would also be ineligible if it no longer stood in a place that conveyed its function as a crossing (**Setting, Location, Feeling, and Association**).

Criterion D

For properties eligible under Criterion D, setting and feeling may not have direct bearing on the property's ability to yield important information. Evaluation of integrity probably will focus primarily on the location, design, materials, and perhaps workmanship.

Eligible

A multicomponent prehistoric site important for yielding data on changing subsistence patterns can be eligible if:

- floral or faunal remains are found in clear association with cultural material (**Materials and Association**) and
- the site exhibits stratigraphic separation of cultural components (**Location**).

Not Eligible

A multicomponent prehistoric site important for yielding data on changing subsistence patterns would not be eligible if:

- floral or faunal remains were so badly decomposed as to make identification impossible (**Materials**), or
- floral or faunal remains were disturbed in such a manner as to make their association with cultural remains ambiguous (**Association**), or

- the site has lost its stratigraphic context due to subsequent land alterations (**Location**).

Eligible

A lithic scatter site important for yielding data on lithic technology during the Late Archaic period can be eligible if:

- the site contains lithic debitage, finished stone tools, hammerstones, or antler flakers (**Material and Design**), and
- the site contains datable material (**Association**).

Not Eligible

A lithic scatter site important for yielding data on lithic technology during the Late Archaic period would not be eligible if:

- the site contains natural deposits of lithic materials that are impossible to distinguish from culturally modified lithic material (**Design**) or
- the site does not contain any temporal diagnostic evidence that could link the site to the Late Archaic period (**Association**).

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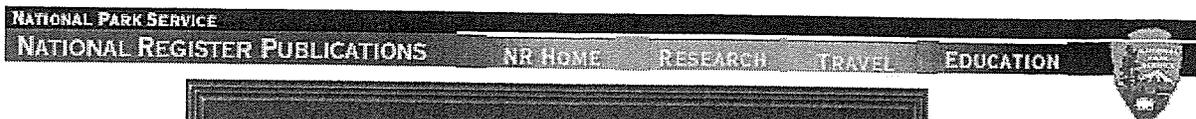
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NATIONAL REGISTER BULLETIN
HOW TO APPLY THE NATIONAL REGISTER
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U.S. Department of the Interior, National Park Service
National Register, History and Education

X. GLOSSARY

Associative Qualities - An aspect of a property's history that links it with historic events, activities, or persons.

Code of Federal Regulations - Commonly referred to as "CFR." The part containing the National Register Criteria is usually referred to as 36 CFR 60, and is available from the National Park Service.

CLG - Certified Local Government.

Culture- A group of people linked together by shared values, beliefs, and historical associations, together with the group's social institutions and physical objects necessary to the operation of the institution.

Cultural Resource - See Historic Resource.

Evaluation - Process by which the significance and integrity of a historic property are judged and eligibility for National Register listing is determined.

Historic Context - An organizing structure for interpreting history that groups information about historic properties that share a common theme, common geographical area, and a common time period. The development of historic contexts is a foundation for decisions about the planning, identification, evaluation, registration, and treatment of historic properties, based upon comparative historic significance.

Historic Integrity - The unimpaired ability of a property to convey its historical significance.

Historic Property - See Historic Resource.

Historic Resource - Building, site, district, object, or structure evaluated as historically significant.

Identification - Process through which information is gathered about historic properties.

Listing - The formal entry of a property in the National Register of Historic Places. See also, Registration.

Nomination - Official recommendation for listing a property in the National Register of Historic Places.

Property Type - A grouping of properties defined by common physical and associative attributes.

Registration - Process by which a historic property is documented and nominated or determined eligible for listing in the National Register.

Research Design - A statement of proposed identification, documentation, investigation, or other treatment of a historic property that identifies the project's goals, methods and techniques, expected results, and the relationship of the expected results to other proposed activities or treatments.

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**APPENDIX 3:
NATIONAL HISTORIC PRESERVATION ACT**

**National Historic Preservation Act of 1966,
As amended through 2000
[With annotations]**

[This Act became law on October 15, 1966 (Public Law 89-665; 16 U.S.C. 470 et seq.). Subsequent amendments to the Act include Public Law 91-243, Public Law 93-54, Public Law 94-422, Public Law 94-458, Public Law 96-199, Public Law 96-244, Public Law 96-515, Public Law 98-483, Public Law 99-514, Public Law 100-127, Public Law 102-575, Public Law 103-437, Public Law 104-333, Public Law 106-113, Public Law 106-176, Public Law 106-208, and Public Law 106-355. This description of the Act, as amended, tracts the language of the United States Code except that (in following common usage) we refer to the "Act" (meaning the Act, as amended) rather than to the "subchapter" or the "title" of the Code. This description also excludes some of the notes found in the Code as well as those sections of the amendments dealing with completed reports. Until the Code is updated through the end of the 106th Congress, the Code citations for Sections 308 and 309 are speculative.]

AN ACT to Establish a Program for the Preservation of Additional Historic Properties throughout the Nation, and for Other Purposes.

Section 1

[16 U.S.C. 470 — Short title of the Act]

- (a) This Act may be cited as the "National Historic Preservation Act".

[Purpose of the Act]

- (b) The Congress finds and declares that —

- (1) the spirit and direction of the Nation are founded upon and reflected in its historic heritage;
- (2) the historical and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people;
- (3) historic properties significant to the Nation's heritage are being lost or substantially altered, often inadvertently, with increasing frequency;
- (4) the preservation of this irreplaceable heritage is in the public interest so that its vital legacy of cultural, educational, aesthetic, inspirational, economic, and energy benefits will be maintained and enriched for future generations of Americans;
- (5) in the face of ever-increasing extensions of urban centers, highways, and residential, commercial, and industrial developments, the present governmental and nongovernmental historic preservation programs and activities are inadequate to insure future generations a genuine opportunity to appreciate and enjoy the rich heritage of our Nation;
- (6) the increased knowledge of our historic resources, the establishment of better means of identifying and administering them, and the encouragement of their preservation will improve the planning and execution of Federal and federally assisted projects and will assist economic growth and development; and

- (7) although the major burdens of historic preservation have been borne and major efforts initiated by private agencies and individuals, and both should continue to play a vital role, it is nevertheless necessary and appropriate for the Federal Government to accelerate its historic preservation programs and activities, to give maximum encouragement to agencies and individuals undertaking preservation by private means, and to assist State and local governments and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities.

Section 2

[16 U.S.C. 470-1 — Declaration of policy of the Federal Government]

It shall be the policy of the Federal Government, in cooperation with other nations and in partnership with the States, local governments, Indian tribes, and private organizations and individuals to —

- (1) use measures, including financial and technical assistance, to foster conditions under which our modern society and our prehistoric and historic resources can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations;
- (2) provide leadership in the preservation of the prehistoric and historic resources of the United States and of the international community of nations and in the administration of the national preservation program in partnership with States, Indian tribes, Native Hawaiians, and local governments;
- (3) administer federally owned, administered, or controlled prehistoric and historic resources in a spirit of stewardship for the inspiration and benefit of present and future generations;
- (4) contribute to the preservation of nonfederally owned prehistoric and historic resources and give maximum encouragement to organizations and individuals undertaking preservation by private means;
- (5) encourage the public and private preservation and utilization of all usable elements of the Nation's historic built environment; and
- (6) assist State and local governments, Indian tribes and Native Hawaiian organizations and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities.

TITLE I

Section 101

[16 U.S.C. 470a(a) — National Register of Historic Places, expansion and maintenance]

- (a) (1) (A) The Secretary of the Interior is authorized to expand and maintain a National Register of Historic Places composed of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, engineering, and culture. Notwithstanding section 1125(c) of Title 15 [of the U.S. Code], buildings and structures on or eligible for inclusion on the National Register of Historic Places (either individually or as part of a historic district), or designated as an individual landmark or as a contributing building in a historic district by a unit of State or local government, may retain the name historically associated with the building or

structure.

[National Historic Landmarks, designation]

- (B) Properties meeting the criteria for National Historic Landmarks established pursuant to paragraph (2) shall be designated as "National Historic Landmarks" and included on the National Register, subject to the requirements of paragraph (6). All historic properties included on the National Register on December 12, 1980 [the date of enactment of the National Historic Preservation Act Amendments of 1980], shall be deemed to be included on the National Register as of their initial listing for purposes of this Act. All historic properties listed in the Federal Register of February 6, 1979, as "National Historic Landmarks" or thereafter prior to the effective date of this Act are declared by Congress to be National historic Landmarks of national historic significance as of their initial listing as such in the Federal Register for purposes of this Act and the Act of August 21, 1935 (49 Stat.666) [16 U.S.C. 461 to 467]; except that in cases of National Historic Landmark districts for which no boundaries have been established, boundaries must first be published in the Federal Register.

[Criteria for National Register and National Historic Landmarks and regulations]

- (2) The Secretary in consultation with national historic and archaeological associations, shall establish or revise criteria for properties to be included on the National Register and criteria for National Historic Landmarks, and shall also promulgate or revise regulations as may be necessary for —
 - (A) nominating properties for inclusion in, and removal from, the National Register and the recommendation of properties by certified local governments;
 - (B) designating properties as National Historic Landmarks and removing such designation;
 - (C) considering appeals from such recommendations, nomination, removals, and designations (or any failure or refusal by a nominating authority to nominate or designate);
 - (D) nominating historic properties for inclusion in the World Heritage List in accordance with the terms of the Convention concerning the Protection of the World Cultural and Natural Heritage;
 - (E) making determinations of eligibility of properties for inclusion on the National Register; and
 - (F) notifying the owner of a property, any appropriate local governments, and the general public, when the property is being considered for inclusion on the National Register, for designation as a National Historic Landmark or for nomination to the World Heritage List.

[Nominations to the National Register]

- (3) Subject to the requirements of paragraph (6), any State which is carrying out a program

approved under subsection (b) of this section, shall nominate to the Secretary properties which meet the criteria promulgated under subsection (a) of this section for inclusion on the National Register. Subject to paragraph (6), any property nominated under this paragraph or under section 110 (a)(2) of this Act shall be included on the National Register on the date forty-five days after receipt by the Secretary of the nomination and the necessary documentation, unless the Secretary disapproves such nomination within such forty-five day period or unless an appeal is filed under paragraph (5).

[Nominations from individuals and local governments]

- (4) Subject to the requirements of paragraph (6) the Secretary may accept a nomination directly from any person or local government for inclusion of a property on the National Register only if such property is located in a State where there is no program approved under subsection (b) of this section. The Secretary may include on the National Register any property for which such a nomination is made if he determines that such property is eligible in accordance with the regulations promulgated under paragraph (2). Such determinations shall be made within ninety days from the date of nomination unless the nomination is appealed under paragraph (5).

[Appeals of nominations]

- (5) Any person or local government may appeal to the Secretary a nomination of any historic property for inclusion on the National Register and may appeal to the Secretary the failure or refusal of a nominating authority to nominate a property in accordance with this subsection.

[Owner participation in nomination process]

- (6) The Secretary shall promulgate regulations requiring that before any property or district may be included on the National Register or designated as a National Historic Landmark, the owner or owners of such property, or a majority of the owners of the properties within the district in the case of an historic district, shall be given the opportunity (including a reasonable period of time) to concur in, or object to, the nomination of the property or district for such inclusion or designation. If the owner or owners of any privately owned property, or a majority of the owners of such properties within the district in the case of an historic district, object to such inclusion or designation, such property shall not be included on the National Register or designated as a National Historic Landmark until such objection is withdrawn. The Secretary shall review the nomination of the property or district where any such objection has been made and shall determine whether or not the property or district is eligible for such inclusion or designation, and if the Secretary determines that such property or district is eligible for such inclusion or designation, he shall inform the Advisory Council on Historic Preservation, the appropriate State Historic Preservation Officer, the appropriate chief elected local official and the owner or owners of such property, of his determination. The regulations under this paragraph shall include provisions to carry out the purposes of this paragraph in the case of multiple ownership of a single property.

[Regulations for curation, documentation, and local government certification]

- (7) The Secretary shall promulgate, or revise, regulations —
 - (A) ensuring that significant prehistoric and historic artifacts, and associated records, subject to section 110 of this Act [16 U.S.C. 470h-2], the Act of June 27, 1960 (16

U.S.C. 469c), and the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa and following) are deposited in an institution with adequate long-term curatorial capabilities;

- (B) establishing a uniform process and standards for documenting historic properties by public agencies and private parties for purposes of incorporation into, or complementing, the national historic architectural and engineering records within the Library of Congress; and
- (C) certifying local governments, in accordance with subsection (c)(1) of this section and for the allocation of funds pursuant to section 103 (c) of this Act [16 U.S.C. 470c(c)].

[Review threats to eligible and listed properties and recommend action]

- (8) The Secretary shall, at least once every 4 years, in consultation with the Council and with State Historic Preservation Officers, review significant threats to properties included in, or eligible for inclusion on, the National Register, in order to —
 - (A) determine the kinds of properties that may be threatened;
 - (B) ascertain the causes of the threats; and
 - (C) develop and submit to the President and Congress recommendations for appropriate action.

[16 U.S.C. 470a(b) — State Historic Preservation Programs]

- (b) (1) The Secretary, in consultation with the National Conference of State Historic Preservation Officers and the National Trust for Historic Preservation, shall promulgate or revise regulations for State Historic Preservation Programs. Such regulations shall provide that a State program submitted to the Secretary under this section shall be approved by the Secretary if he determines that the program —

[Designation of the State Historic Preservation Officer (SHPO)]

- (A) provides for the designation and appointment by the Governor of a "State Historic Preservation Officer" to administer such program in accordance with paragraph (3) and for the employment or appointment by such officer of such professionally qualified staff as may be necessary for such purposes;

[Designation of the State Review Board]

- (B) provides for an adequate and qualified State historic preservation review board designated by the State Historic Preservation Officer unless otherwise provided for by State law; and
- (C) provides for adequate public participation in the State Historic Preservation Program, including the process of recommending properties for nomination to the National Register.

[Review of State programs]

- (2) (A) Periodically, but not less than every 4 years after the approval of any State program under this subsection, the Secretary, in consultation with the Council on the appropriate provisions of this Act, and in cooperation with the State Historic Preservation Officer, shall evaluate the program to determine whether it is consistent with this Act.
- (B) If, at any time, the Secretary determines that a major aspect of a State program is not consistent with this Act, the Secretary shall disapprove the program and suspend in whole or in part any contracts or cooperative agreements with the State and the State Historic Preservation Officer under this Act, until the program is consistent with this Act, unless the Secretary determines that the program will be made consistent with this Act within a reasonable period of time.
- (C) The Secretary, in consultation with State Historic Preservation Officers, shall establish oversight methods to ensure State program consistency and quality without imposing undue review burdens on State Historic Preservation Officers.
- (D) At the discretion of the Secretary, a State system of fiscal audit and management may be substituted for comparable Federal systems so long as the State system —
 - (i) establishes and maintains substantially similar accountability standards; and
 - (ii) provides for independent professional peer review.

The Secretary may also conduct periodic fiscal audits of State programs approved under this section as needed and shall ensure that such programs meet applicable accountability standards.

[SHPO responsibilities]

- (3) It shall be the responsibility of the State Historic Preservation Officer to administer the State Historic Preservation Program and to —
 - (A) in cooperation with Federal and State agencies, local governments, and private organizations and individuals, direct and conduct a comprehensive statewide survey of historic properties and maintain inventories of such properties;
 - (B) identify and nominate eligible properties to the National Register and otherwise administer applications for listing historic properties on the National Register;
 - (C) prepare and implement a comprehensive statewide historic preservation plan;
 - (D) administer the State program of Federal assistance for historic preservation within the State;
 - (E) advise and assist, as appropriate, Federal and State agencies and local governments in carrying out their historic preservation responsibilities;
 - (F) cooperate with the Secretary, the Advisory Council on Historic Preservation, and other Federal and State agencies, local governments, and organizations and individuals to ensure that historic properties are taken into consideration at all levels

of planning and development;

- (G) provide public information, education, and training, and technical assistance in historic preservation;
- (H) cooperate with local governments in the development of local historic preservation programs and assist local governments in becoming certified pursuant to subsection (c) of this section;
- (I) consult with the appropriate Federal agencies in accordance with this Act on —
 - (i) Federal undertakings that may affect historic properties; and
 - (ii) the content and sufficiency of any plans developed to protect, manage, or to reduce or mitigate harm to such properties; and
- (J) advise and assist in the evaluation of proposals for rehabilitation projects that may qualify for Federal assistance.

[Arrangements with nonprofit organizations]

- (4) Any State may carry out all or any part of its responsibilities under this subsection by contract or cooperative agreement with any qualified nonprofit organization or educational institution.

[Approval of existing programs]

- (5) Any State historic preservation program in effect under prior authority of law may be treated as an approved program for purposes of this subsection until the earlier of —
 - (A) the date on which the Secretary approves a program submitted by the State under this subsection, or
 - B) three years after October 30, 1992 [the date of the enactment of the National Historic Preservation Act Amendments of 1992].

[Contracts or cooperative agreements with State Historic Preservation Officers]

- (6) (A) Subject to subparagraphs (C) and (D), the Secretary may enter into contracts or cooperative agreements with a State Historic Preservation Officer for any State authorizing such Officer to assist the Secretary in carrying out one or more of the following responsibilities within that State —
 - (i) Identification and preservation of historic properties.
 - (ii) Determination of the eligibility of properties for listing on the National Register.
 - (iii) Preparation of nominations for inclusion on the National Register.
 - (iv) Maintenance of historical and archaeological data bases.

- (v) Evaluation of eligibility for Federal preservation incentives.

Nothing in this paragraph shall be construed to provide that any State Historic Preservation Officer or any other person other than the Secretary shall have the authority to maintain the National Register for properties in any State.

- (B) The Secretary may enter into a contract or cooperative agreement under subparagraph (A) only if —
 - (i) the State Historic Preservation Officer has requested the additional responsibility;
 - (ii) the Secretary has approved the State historic preservation program pursuant to subsection (b)(1) and (2) of this section;
 - (iii) the State Historic Preservation Officer agrees to carry out the additional responsibility in a timely and efficient manner acceptable to the Secretary and the Secretary determines that such Officer is fully capable of carrying out such responsibility in such manner;
 - (iv) the State Historic Preservation Officer agrees to permit the Secretary to review and revise, as appropriate in the discretion of the Secretary, decisions made by the Officer pursuant to such contract or cooperative agreement; and
 - (v) the Secretary and the State Historic Preservation Officer agree on the terms of additional financial assistance to the State, if there is to be any, for the costs of carrying out such responsibility.
- (C) For each significant program area under the Secretary's authority, the Secretary shall establish specific conditions and criteria essential for the assumption by State Historic Preservation Officers of the Secretary's duties in each such program.
- (D) Nothing in this subsection shall have the effect of diminishing the preservation programs and activities of the National Park Service.

[16 U.S.C. 470a(c) — Certification of local governments]

- (c) (1) Any State program approved under this section shall provide a mechanism for the certification by the State Historic Preservation Officer of local governments to carry out the purposes of this Act and provide for the transfer, in accordance with section 103(c) of this Act [16 U.S.C. 470c(c)], of a portion of the grants received by the States under this Act, to such local governments. Any local government shall be certified to participate under the provisions of this section if the applicable State Historic Preservation Officer, and the Secretary, certifies that the local government —
 - (A) enforces appropriate State or local legislation for the designation and protection of historic properties;
 - (B) has established an adequate and qualified historic preservation review commission by State or local legislation;

- (C) maintains a system for the survey and inventory of historic properties that furthers the purposes of subsection (b) of this section;
- (D) provides for adequate public participation in the local historic preservation program, including the process of recommending properties for nomination to the National Register; and
- (E) satisfactorily performs the responsibilities delegated to it under this Act.

Where there is no approved State program, a local government may be certified by the Secretary if he determines that such local government meets the requirements of subparagraphs (A) through (E); and in any such case the Secretary may make grants-in-aid to the local government for purposes of this section.

[Participation of certified local governments in National Register nominations]

- (2) (A) Before a property within the jurisdiction of the certified local government may be considered by the State to be nominated to the Secretary for inclusion on the National Register, the State Historic Preservation Officer shall notify the owner, the applicable chief local elected official, and the local historic preservation commission. The commission, after reasonable opportunity for public comment, shall prepare a report as to whether or not such property, in its opinion, meets the criteria of the National Register. Within sixty days of notice from the State Historic Preservation Officer, the chief local elected official shall transmit the report of the commission and his recommendation to the state Historic Preservation Officer. Except as provided in subparagraph (B), after receipt of such report and recommendation, or if no such report and recommendation are received within sixty days, the State shall make the nomination pursuant to subsection (a) of this subsection. The State may expedite such process with the concurrence of the certified local government.
- (B) If both the commission and the chief local elected official recommend that a property not be nominated to the National Register, the State Historic Preservation Officer shall take no further action, unless within thirty days of the receipt of such recommendation by the State Historic Preservation Officer an appeal is filed with the State. If such an appeal is filed, the State shall follow the procedures for making a nomination pursuant to subsection (a) of this section. Any report and recommendations made under this section shall be included with any nomination submitted by the State to the Secretary.
- (3) Any local government certified under this section or which is making efforts to become so certified shall be eligible for funds under the provision of section 103 (c) of this Act [16 U.S.C. 470c(c)], and shall carry out any responsibilities delegated to it in accordance with such terms and conditions as the Secretary deems necessary or advisable.

[Definitions]

- (4) For the purposes of this section the term —
 - (A) **"designation"** means the identification and registration of properties for protection

that meet criteria established by the State or the locality for significant historic and prehistoric resources within the jurisdiction of a local government; and

- (B) **"protection"** means a local review process under State or local law for proposed demolition of, changes to, or other action that may affect historic properties designated pursuant to this subsection.

[16 U.S.C. 470a(d) — Establish program and regulations to assist Indian tribes]

- (d) (1) (A) The Secretary shall establish a program and promulgate regulations to assist Indian tribes in preserving their particular historic properties. The Secretary shall foster communication and cooperation between Indian tribes and State Historic Preservation Officers in the administration of the national historic preservation program to ensure that all types of historic properties and all public interests in such properties are given due consideration, and to encourage coordination among Indian tribes, State Historic Preservation Officers, and Federal agencies in historic preservation planning and in the identification, evaluation, protection, and interpretation of historic properties.
- (B) The program under subparagraph (A) shall be developed in such a manner as to ensure that tribal values are taken into account to the extent feasible. The Secretary may waive or modify requirements of this section to conform to the cultural setting of tribal heritage preservation goals and objectives. The tribal programs implemented by specific tribal organizations may vary in scope, as determined by each tribe's chief governing authority.
- (C) The Secretary shall consult with Indian tribes, other Federal agencies, State Historic Preservation Officers, and other interested parties and initiate the program under subparagraph (A) by not later than October 1, 1994.

[Indian Tribes may assume State Historic Preservation Officer functions]

- (2) A tribe may assume all or any part of the functions of a State Historic Preservation Officer in accordance with subsections (b)(2) and (b)(3) of this section, with respect to tribal lands, as such responsibilities may be modified for tribal programs through regulations issued by the Secretary if —
- (A) the tribe's chief governing authority so requests;
- (B) the tribe designates a tribal preservation official to administer the tribal historic preservation program, through appointment by the tribe's chief governing authority or as a tribal ordinance may otherwise provide;
- (C) the tribal preservation official provides the Secretary with a plan describing how the functions the tribal preservation official proposes to assume will be carried out;
- (D) the Secretary determines, after consultation with the tribe, the appropriate State Historic Preservation Officer, the Council (if the tribe proposes to assume the functions of the State Historic Preservation Officer with respect to review of undertakings under section 106 of this Act), and other tribes, if any, whose tribal or aboriginal lands may be affected by conduct of the tribal preservation program —

- (i) that the tribal preservation program is fully capable of carrying out the functions specified in the plan provided under subparagraph (C);
 - (ii) that the plan defines the remaining responsibilities of the Secretary and the State Historic Preservation Officer; and
 - (iii) that the plan provides, with respect to properties neither owned by a member of the tribe nor held in trust by the Secretary for the benefit of the tribe, at the request of the owner thereof, the State Historic Preservation Officer, in addition to the tribal preservation official, may exercise the historic preservation responsibilities in accordance with subsections (b)(2) and (b)(3) of this section; and
 - (E) based on satisfaction of the conditions stated in subparagraphs (A), (B), (C), and (D), the Secretary approves the plan.
- (3) In consultation with interested Indian tribes, other Native American organizations and affected State Historic Preservation Officers, the Secretary shall establish and implement procedures for carrying out section 103(a) of this Act with respect to tribal programs that assume responsibilities under paragraph (2).
- (4) At the request of a tribe whose preservation program has been approved to assume functions and responsibilities pursuant to paragraph (2), the Secretary shall enter into contracts or cooperative agreements with such tribe permitting the assumption by the tribe of any part of the responsibilities referred to in subsection (b)(6) of this section on tribal land, if —
- (A) the Secretary and the tribe agree on additional financial assistance, if any, to the tribe for the costs of carrying out such authorities;
 - (B) the Secretary finds that the tribal historic preservation program has been demonstrated to be sufficient to carry out the contract or cooperative agreement and this Act; and
 - (C) the contract or cooperative agreement specifies the continuing responsibilities of the Secretary or of the appropriate State Historic Preservation Officers and provides for appropriate participation by —
 - (i) the tribe's traditional cultural authorities;
 - (ii) representatives of other tribes whose traditional lands are under the jurisdiction of the tribe assuming responsibilities; and
 - (iii) the interested public.
- (5) The Council may enter into an agreement with an Indian tribe to permit undertakings on tribal land to be reviewed under tribal historic preservation regulations in place of review under regulations promulgated by the Council to govern compliance with section 106 of this Act, if the Council, after consultation with the tribe and appropriate State Historic Preservation Officers, determines that the tribal preservation regulations will afford historic properties consideration equivalent to those afforded by the Council's regulations.

[Traditional religious and cultural properties may be eligible for listing in the National Register]

- (6) (A) Properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization may be determined to be eligible for inclusion on the National Register.
- (B) In carrying out its responsibilities under section 106 of this Act, a Federal agency shall consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to properties described in subparagraph (A).
- (C) In carrying out his or her responsibilities under subsection (b)(3) of this section, the State Historic Preservation Officer for the State of Hawaii shall —
 - (i) consult with Native Hawaiian organizations in assessing the cultural significance of any property in determining whether to nominate such property to the National Register;
 - (ii) consult with Native Hawaiian organizations in developing the cultural component of a preservation program or plan for such property; and
 - (iii) enter into a memorandum of understanding or agreement with Native Hawaiian organizations for the assessment of the cultural significance of a property in determining whether to nominate such property to the National Register and to carry out the cultural component of such preservation program or plan.

[16 U.S.C. 470a(e) — Grants to States]

- (e) (1) The Secretary shall administer a program of matching grants to the States for the purposes of carrying out this Act.

[Grants to the National Trust]
- (2) The Secretary may administer grants to the National Trust for Historic Preservation in the United States, chartered by Act of Congress approved October 26, 1949 (63 Stat. 927) [16 U.S.C. 468], consistent with the purposes of its charter and this Act.

[Direct grants for threatened National Historic Landmarks, demonstration projects, training, and displacement prevention]

- (3) (A) In addition to the programs under paragraphs (1) and (2), the Secretary shall administer a program of direct grants for the preservation of properties included on the National Register. Funds to support such program annually shall not exceed 10 per centum of the amount appropriated annually for the fund established under section 108 of this Act. These grants may be made by the Secretary, in consultation with the appropriate State Historic Preservation Officer —
 - (i) for the preservation of National Historic Landmarks which are threatened with demolition or impairment and for the preservation of historic properties of World Heritage significance,

- (ii) for demonstration projects which will provide information concerning professional methods and techniques having application to historic properties,
- (iii) for the training and development of skilled labor in trades and crafts, and in analysis and curation, relating to historic preservation, and
- (iv) to assist persons or small businesses within any historic district included in the National Register to remain within the district.

[Grants or loans to Indian tribes and non-profit ethnic or minority organizations for preserving cultural heritage]

- (B) The Secretary may also, in consultation with the appropriate State Historic Preservation Officer, make grants or loans or both under this section to Indian tribes and to nonprofit organizations representing ethnic or minority groups for the preservation of their cultural heritage.
- (C) Grants may be made under subparagraph (A)(i) and (iv) only to the extent that the project cannot be carried out in as effective a manner through the use of an insured loan under section 104 of this Act.

[Grants for religious properties]

- (4) Grants may be made under this subsection for the preservation, stabilization, restoration, or rehabilitation of religious properties listed in the National Register of Historic Places, provided that the purpose of the grant is secular, does not promote religion, and seeks to protect those qualities that are historically significant. Nothing in this paragraph shall be construed to authorize the use of any funds made available under this section for the acquisition of any property referred to in the preceding sentence.

[Direct grants to Indian tribes and Native Hawaiian organizations]

- (5) The Secretary shall administer a program of direct grants to Indian tribes and Native Hawaiian organizations for the purpose of carrying out this Act as it pertains to Indian tribes and Native Hawaiian organizations. Matching fund requirements may be modified. Federal funds available to a tribe or Native Hawaiian organization may be used as matching funds for the purposes of the tribe's or organization's conducting its responsibilities pursuant to this section.

[Direct grants to Micronesia, Marshall Islands, and Palau]

- (6) (A) As a part of the program of matching grant assistance from the Historic Preservation Fund to States, the Secretary shall administer a program of direct grants to the Federated States of Micronesia, the Republic of the Marshall Islands, the Trust Territory of the Pacific Islands, and upon termination of the Trusteeship Agreement for the Trust Territory of the Pacific Islands, the Republic of Palau (referred to as the Micronesian States) in furtherance of the Compact of Free Association between the United States and the Federated States of Micronesia and the Marshall Islands, approved by the Compact of Free Association Act of 1985 (48 U.S.C. 1681 note), the Trusteeship Agreement for the Trust Territory of the Pacific Islands, and the

Compact of Free Association between the United States and Palau, approved by the Joint Resolution entitled "Joint Resolution to approve the 'Compact of Free Association' between the United States and Government of Palau, and for other purposes" (48 U.S.C. 1681 note). The goal of the program shall be to establish historic and cultural preservation programs that meet the unique needs of each Micronesian State so that at the termination of the compacts the programs shall be firmly established. The Secretary may waive or modify the requirements of this section to conform to the cultural setting of those nations.

- (B) The amounts to be made available to the Micronesian States shall be allocated by the Secretary on the basis of needs as determined by the Secretary. Matching funds may be waived or modified.

[16 U.S.C. 470a(f) — Prohibition on compensating intervenors]

- (f) No part of any grant made under this section may be used to compensate any person intervening in any proceeding under this Act.

[16 U.S.C. 470a(g) — Guidelines for Federal agency responsibilities]

- (g) In consultation with the Advisory Council on Historic Preservation, the Secretary shall promulgate guidelines for Federal agency responsibilities under section 110 of this Act.

[16 U.S.C. 470a(h) — Preservation standards for federally owned properties]

- (h) Within one year after December 12, 1980 [the date of enactment of the National Historic Preservation Act Amendments of 1980], the Secretary shall establish, in consultation with the Secretaries of Agriculture and Defense, the Smithsonian Institution, and the Administrator of the General Services Administration, professional standards for the preservation of historic properties in Federal ownership or control.

[16 U.S.C. 470a(i) — Technical advice]

- (i) The Secretary shall develop and make available to Federal agencies, State and local governments, private organizations and individuals, and other nations and international organizations pursuant to the World Heritage Convention, training in, and information concerning, professional methods and techniques for the preservation of historic properties and for the administration of the historic preservation program at the Federal, State, and local level. The Secretary shall also develop mechanisms to provide information concerning historic preservation to the general public including students.

[16 U.S.C. 470a(j) — Develop and implement a comprehensive preservation education and training program]

- (j) (1) The Secretary shall, in consultation with the Council and other appropriate Federal, tribal, Native Hawaiian, and non-Federal organizations, develop and implement a comprehensive preservation education and training program.

- (2) The education and training program described in paragraph (1) shall include —

- (A) new standards and increased preservation training opportunities for Federal workers

involved in preservation-related functions;

- (B) increased preservation training opportunities for other Federal, State, tribal and local government workers, and students;
- (C) technical or financial assistance, or both, to historically black colleges and universities, to tribal colleges, and to colleges with a high enrollment of Native Americans or Native Hawaiians, to establish preservation training and degree programs; and
- (D) coordination of the following activities, where appropriate, with the National Center for Preservation Technology and Training —
 - (i) distribution of information on preservation technologies;
 - (ii) provision of training and skill development in trades, crafts, and disciplines related to historic preservation in Federal training and development programs; and
 - (iii) support for research, analysis, conservation, curation, interpretation, and display related to preservation.

Section 102

[16 U.S.C. 470b(a) — Grant requirements]

- (a) No grant may be made under this Act —
 - (1) unless application therefore is submitted to the Secretary in accordance with regulations and procedures prescribed by him;
 - (2) unless the application is in accordance with the comprehensive statewide historic preservation plan which has been approved by the Secretary after considering its relationship to the comprehensive statewide outdoor recreation plan prepared pursuant to the Land and Water Conservation Fund Act of 1965 (78 Stat. 897) [16 U.S.C. 4601-4];
 - (3) for more than 60 percent of the aggregate costs of carrying out projects and programs under the administrative control of the State Historic Preservation Officer as specified in section 101(b)(3) of this Act in any one fiscal year;
 - (4) unless the grantee has agreed to make such reports, in such form and containing such information as the Secretary may from time to time require;
 - (5) unless the grantee has agreed to assume, after completion of the project, the total cost of the continued maintenance, repair, and administration of the property in a manner satisfactory to the Secretary; and
 - (6) until the grantee has complied with such further terms and conditions as the Secretary may deem necessary or advisable.

Except as permitted by other law, the State share of the costs referred to in paragraph (3) shall be contributed by non-Federal sources. Notwithstanding any other provision of law, no grant made

pursuant to this Act shall be treated as taxable income for purposes of the Internal Revenue Code of 1986 [Title 26 of the U.S. Code].

[16 U.S.C. 470b(b) — Waiver for the National Trust]

- (b) The Secretary may in his discretion waive the requirements of subsection (a), paragraphs (2) and (5) of this section for any grant under this Act to the National Trust for Historic Preservation in the United States.

[16 U.S.C. 470b(c) — State limitation on matching]*

*[*Technically, subsection (c) was repealed and replaced by two subsection "d"s]*

- (c*) No State shall be permitted to utilize the value of real property obtained before October 15, 1966 [the date of approval of this Act], in meeting the remaining cost of a project for which a grant is made under this Act.

[16 U.S.C. 470b(d) — Availability of funds]

- (d) The Secretary shall make funding available to individual States and the National Trust for Historic Preservation as soon as practicable after execution of a grant agreement. For purposes of administration, grants to individual States and the National Trust each shall be considered to be one grant and shall be administered by the National Park Service as such.

[16 U.S.C. 470b(e) — Administrative Costs]

- (e) The total administrative costs, direct and indirect, charged for carrying out State projects and programs may not exceed 25 percent of the aggregate costs except in the case of grants under section 101(e)(6) of this Act.

Section 103

[16 U.S.C. 470c(a) — Basis for apportionment of grants]

- (a) The amounts appropriated and made available for grants to the States for the purposes of this Act shall be apportioned among the States by the Secretary on the basis of needs as determined by him.

[16 U.S.C. 470c(b) — Apportionment basis, notice, reapportionment, etc.]

- (b) The amounts appropriated and made available for grants to the States for projects and programs under this Act for each fiscal year shall be apportioned among the States as the Secretary determines to be appropriate.

The Secretary shall notify each State of its apportionment under this subsection within thirty days following the date of enactment of legislation appropriating funds under this Act. Any amount of any apportionment that has not been paid or obligated by the Secretary during the fiscal year in which such notification is given and for two fiscal years thereafter, shall be reapportioned by the Secretary in accordance with this subsection. The Secretary shall analyze and revise as necessary the method of apportionment. Such method and any revision thereof shall be published by the Secretary in the Federal Register.

[16 U.S.C. 470c(c) — Requirements for certified local government pass-through subgrants]

- (c) A minimum of 10 per centum of the annual apportionment distributed by the Secretary to each State for the purposes of carrying out this Act shall be transferred by the State, pursuant to the requirements of this Act, to local governments which are certified under section 101(c) of this Act for historic preservation projects or programs of such local governments. In any year in which the total annual apportionment to the States exceeds \$65,000,000, one half of the excess shall also be transferred by the States to local governments certified pursuant to section 101(c) of this Act.

[16 U.S.C. 470c(d) — Guidelines for State distribution to certified local governments]

- (d) The Secretary shall establish guidelines for the use and distribution of funds under subsection (c) of this section to insure that no local government receives a disproportionate share of the funds available, and may include a maximum or minimum limitation on the amount of funds distributed to any single local government. The guidelines shall not limit the ability of any State to distribute more than 10 per centum of its annual apportionment under subsection (c) of this section, nor shall the Secretary require any State to exceed the 10 per centum minimum distribution to local governments.

Section 104

[16 U.S.C. 470d(a) — Insured loans for National Register]

- (a) The Secretary shall establish and maintain a program by which he may, upon application of a private lender, insure loans (including loans made in accordance with a mortgage) made by such lender to finance any project for the preservation of a property included on the National Register.

[16 U.S.C. 470d(b) — Requirements]

- (b) A loan may be insured under this section only if —
- (1) the loan is made by a private lender approved by the Secretary as financially sound and able to service the loan properly;
 - (2) the amount of the loan, and interest rate charged with respect to the loan, do not exceed such amount, and such a rate, as is established by the Secretary, by rule;
 - (3) the Secretary has consulted the appropriate State Historic Preservation Officer concerning the preservation of the historic property;
 - (4) the Secretary has determined that the loan is adequately secured and there is reasonable assurance of repayment;
 - (5) the repayment period of the loan does not exceed the lesser of forty years or the expected life of the asset financed;
 - (6) the amount insured with respect to such loan does not exceed 90 per centum of the loss sustained by the lender with respect to the loan; and
 - (7) the loan, the borrower, and the historic property to be preserved meet other terms and conditions as may be prescribed by the Secretary, by rule, especially terms and conditions relating to the nature and quality of the preservation work.

[Interest rates]

The Secretary shall consult with the Secretary of the Treasury regarding the interest rate of loans insured under this section.

[16 U.S.C. 470d(c) — Limitation on loan authority]

- (c) The aggregate unpaid principal balance of loans insured under this section and outstanding at any one time may not exceed the amount which has been covered into the Historic Preservation Fund pursuant to section 108 of this Act and subsections (g) and (i) of this section, as in effect on December 12, 1980 [the date of the enactment of the Act], but which has not been appropriated for any purpose.

[16 U.S.C. 470d(d) — Assignability and effect]

- (d) Any contract of insurance executed by the Secretary under this section may be assignable, shall be an obligation supported by the full faith and credit of the United States, and shall be incontestable except for fraud or misrepresentation of which the holder had actual knowledge at the time it became a holder.

[16 U.S.C. 470d(e) — Method of payment for losses]

- (e) The Secretary shall specify, by rule and in each contract entered into under this section, the conditions and method of payment to a private lender as a result of losses incurred by the lender on any loan insured under this section.

[16 U.S.C. 470d(f) — Protection of Government's financial interests; foreclosure]

- (f) In entering into any contract to insure a loan under this section, the Secretary shall take steps to assure adequate protection of the financial interests of the Federal Government. The Secretary may —
 - (1) in connection with any foreclosure proceeding, obtain, on behalf of the Federal Government, the property securing a loan insured under this title; and
 - (2) operate or lease such property for such period as may be necessary to protect the interest of the Federal Government and to carry out subsection (g) of this section.

[16 U.S.C. 470d(g) — Conveyance of foreclosed property]

- (g)
 - (1) In any case in which a historic property is obtained pursuant to subsection (f) of this section, the Secretary shall attempt to convey such property to any governmental or nongovernmental entity under such conditions as will ensure the property's continued preservation and use; except that if, after a reasonable time, the Secretary, in consultation with the Advisory Council on Historic Preservation, determines that there is no feasible and prudent means to convey such property and to ensure its continued preservation and use, then the Secretary may convey the property at the fair market value of its interest in such property to any entity without restriction.
 - (2) Any funds obtained by the Secretary in connection with the conveyance of any property pursuant to paragraph (1) shall be covered into the historic preservation fund, in addition to the amounts covered into such fund pursuant to section 108 of this Act and subsection (i) of this section, and shall remain available in such fund until appropriated by the Congress to carry out the purposes of this Act.

[16 U.S.C. 470d(h) — Fees]

- (h) The Secretary may assess appropriate and reasonable fees in connection with insuring loans under this section. Any such fees shall be covered into the Historic Preservation Fund, in addition to the amounts covered into such fund pursuant to section 108 of this Act and subsection (g) of this section, and shall remain available in such fund until appropriated by the Congress to carry out the purposes of this Act.

[16 U.S.C. 470d(i) — Loans to be considered non-Federal funds]

- (i) Notwithstanding any other provision of law, any loan insured under this section shall be treated as non-Federal funds for the purposes of satisfying any requirement of any other provision of law under which Federal funds to be used for any project or activity are conditioned upon the use of non-Federal funds by the recipient for payment of any portion of the costs of such project or activity.

[16 U.S.C. 470d(j) — Appropriation authorization]

- (j) Effective after the fiscal year 1981 there are authorized to be appropriated, such sums as may be necessary to cover payments incurred pursuant to subsection (e) of this section.

[16 U.S.C. 470d(k) — Prohibition against acquisition by Federal Financing Bank]

- (k) No debt obligation which is made or committed to be made, or which is insured or committed to be insured, by the Secretary under this section shall be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank.

Section 105

[16 U.S.C. 470e — Recordkeeping]

The beneficiary of assistance under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose the disposition by the beneficiary of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

Section 106

[16 U.S.C. 470f — Advisory Council on Historic Preservation, comment on Federal undertakings]

The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in any State and the head of any Federal department or independent agency having authority to license any undertaking shall, prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, as the case may be, take into account the effect of the undertaking on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register. The head of any such Federal agency shall afford the Advisory Council on Historic Preservation established under Title II of this Act a reasonable opportunity to comment with regard to such undertaking.

Section 107

[16 U.S.C. 470g — Exemption of White House, Supreme Court, and Capitol]

Nothing in this Act shall be construed to be applicable to the White House and its grounds, the Supreme Court building and its grounds, or the United States Capitol and its related buildings and grounds.

Section 108

[16 U.S.C. 470h — Establishment of Historic Preservation Fund; authorization for appropriations]

To carry out the provisions of this Act, there is hereby established the Historic Preservation Fund (hereafter referred to as the "fund") in the Treasury of the United States.

There shall be covered into such fund \$24,400,000 for fiscal year 1977, \$100,000,000 for fiscal year 1978, \$100,000,000 for fiscal year 1979, \$150,000,000 for fiscal year 1980 and \$150,000,000 for fiscal year 1981 and \$150,000,000 for each of fiscal years 1982 through 2005, from revenues due and payable to the United States under the Outer Continental Shelf Lands Act (67 Stat. 462, 469) as amended (43 U.S.C. 1338), and/or under section 7433(b) of Title 10, notwithstanding any provision of law that such proceeds shall be credited to miscellaneous receipts of the Treasury. Such moneys shall be used only to carry out the purposes of this Act and shall be available for expenditure only when appropriated by the Congress. Any moneys not appropriated shall remain available in the fund until appropriated for said purposes: *Provided*, That appropriations made pursuant to this paragraph may be made without fiscal year limitation.

Section 109

[16 U.S.C. 470h-1(a) — Donations to the Secretary]

- (a) In furtherance of the purposes of this Act, the Secretary may accept the donation of funds which may be expended by him for projects to acquire, restore, preserve, or recover data from any district, building, structure, site, or object which is listed on the National Register of Historic Places established pursuant to section 101 of this Act, so long as the project is owned by a State, any unit of local government, or any nonprofit entity.

[16 U.S.C. 470h-1(b) — Expenditure of donated funds]

- (b) In expending said funds, the Secretary shall give due consideration to the following factors: the national significance of the project; its historical value to the community; the imminence of its destruction or loss; and the expressed intentions of the donor. Funds expended under this subsection shall be made available without regard to the matching requirements established by section 102 of this Act, but the recipient of such funds shall be permitted to utilize them to match any grants from the Historic Preservation Fund established by section 108 of this Act.

[16 U.S.C. 470h-1(c) — Transfer of funds donated for the National Park Service]

- (c) The Secretary is hereby authorized to transfer unobligated funds previously donated to the Secretary for purposes of the National Park Service, with the consent of the donor, and any funds so transferred shall be used or expended in accordance with the provisions of this Act.

Section 110

[16 U.S.C. 470h-2(a) — Federal agencies' responsibility to preserve and use historic properties]

- (a) (1) The heads of all Federal agencies shall assume responsibility for the preservation of historic

properties which are owned or controlled by such agency. Prior to acquiring, constructing, or leasing buildings for purposes of carrying out agency responsibilities, each Federal agency shall use, to the maximum extent feasible, historic properties available to the agency in accordance with Executive Order No. 13006, issued May 21, 1996 (61 Fed. Reg. 26071). Each agency shall undertake, consistent with the preservation of such properties and the mission of the agency and the professional standards established pursuant to section 101(g) of this Act, any preservation, as may be necessary to carry out this section.

[Each Federal agency to establish a preservation program to protect and preserve historic properties in consultation with others]

- (2) Each Federal agency shall establish (unless exempted pursuant to Section 214) of this Act, in consultation with the Secretary, a preservation program for the identification, evaluation, and nomination to the National Register of Historic Places, and protection of historic properties. Such program shall ensure —
 - (A) that historic properties under the jurisdiction or control of the agency, are identified, evaluated, and nominated to the National Register;
 - (B) that such properties under the jurisdiction or control of the agency as are listed in or may be eligible for the National Register are managed and maintained in a way that considers the preservation of their historic, archaeological, architectural, and cultural values in compliance with section 106 of this Act and gives special consideration to the preservation of such values in the case of properties designated as having National significance;
 - (C) that the preservation of properties not under the jurisdiction or control of the agency, but subject to be potentially affected by agency actions are given full consideration in planning;
 - (D) that the agency's preservation-related activities are carried out in consultation with other Federal, State, and local agencies, Indian tribes, Native Hawaiian organizations carrying out historic preservation planning activities, and with the private sector; and
 - (E) that the agency's procedures for compliance with section 106 of this Act —
 - (i) are consistent with regulations issued by the Council pursuant to section 211 of this Act;
 - (ii) provide a process for the identification and evaluation of historic properties for listing in the National Register and the development and implementation of agreements, in consultation with State Historic Preservation Officers, local governments, Indian tribes, Native Hawaiian organizations, and the interested public, as appropriate, regarding the means by which adverse effects on such properties will be considered; and
 - (iii) provide for the disposition of Native American cultural items from Federal or tribal land in a manner consistent with section 3(c) of the Native American Grave Protection and Repatriation Act (25 U.S.C. 3002(c)).

[16 U.S.C. 470h-2(b) — Recordation of historic properties prior to demolition]

- (b) Each Federal agency shall initiate measures to assure that where, as a result of Federal action or assistance carried out by such agency, an historic property is to be substantially altered or demolished, timely steps are taken to make or have made appropriate records, and that such records then be deposited, in accordance with section 101(a) of this Act, in the Library of Congress or with such other appropriate agency as may be designated by the Secretary, for future use and reference.

[16 U.S.C. 470h-2(c) — Designation of Federal agency preservation officers]

- (c) The head of each Federal agency shall, unless exempted under section 214 of this Act, designate a qualified official to be known as the agency's "preservation officer" who shall be responsible for coordinating that agency's activities under this Act. Each Preservation Officer may, in order to be considered qualified, satisfactorily complete an appropriate training program established by the Secretary under section 101(h) of this Act.

[16 U.S.C. 470h-2(d) — Conduct of agency programs consistent with Act]

- (d) Consistent with the agency's mission and mandates, all Federal agencies shall carry out agency programs and projects (including those under which any Federal assistance is provided or any Federal license, permit, or other approval is required) in accordance with the purposes of this Act and, give consideration to programs and projects which will further the purposes of this Act.

[16 U.S.C. 470h-2(e) — Transfer of surplus Federal historic properties]

- (e) The Secretary shall review and approve the plans of transferees of surplus federally owned historic properties not later than ninety days after his receipt of such plans to ensure that the prehistorical, historical, architectural, or culturally significant values will be preserved or enhanced.

[16 U.S.C. 470h-2(f) — Federal undertakings affecting National Historic Landmarks]

- (f) Prior to the approval of any Federal undertaking which may directly and adversely affect any National Historic Landmark, the head of the responsible Federal agency shall, to the maximum extent possible, undertake such planning and actions as may be necessary to minimize harm to such landmark, and shall afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on the undertaking.

[16 U.S.C. 470h-2(g) — Preservation activities as an eligible project cost]

- (g) Each Federal agency may include the costs of preservation activities of such agency under this Act as eligible project costs in all undertakings of such agency or assisted by such agency. The eligible project costs may also include amounts paid by a Federal agency to any State to be used in carrying out such preservation responsibilities of the Federal agency under this Act, and reasonable costs may be charged to Federal licensees and permittees as a condition to the issuance of such license or permit.

[16 U.S.C. 470h-2(h) — Preservation awards program]

- (h) The Secretary shall establish an annual preservation awards program under which he may make monetary awards in amounts not to exceed \$1,000 and provide citations for special achievements to officers and employees of Federal, State, and certified local governments in recognition of their

outstanding contributions to the preservation of historic resources. Such program may include the issuance of annual awards by the President of the United States to any citizen of the United States recommended for such award by the Secretary.

[16 U.S.C. 470h-2(i) — Applicability of National Environmental Policy Act]

- (i) Nothing in this Act shall be construed to require the preparation of an environmental impact statement where such a statement would not otherwise be required under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.], and nothing in this Act shall be construed to provide any exemption from any requirement respecting the preparation of such a statement under such Act.

[16 U.S.C. 470h-2(j) — Disaster waivers]

- (j) The Secretary shall promulgate regulations under which the requirements of this section may be waived in whole or in part in the event of a major natural disaster or an imminent threat to the national security.

[16 U.S.C. 470h-2(k) — Anticipatory demolition]

- (k) Each Federal agency shall ensure that the agency will not grant a loan, loan guarantee, permit, license, or other assistance to an applicant who, with intent to avoid the requirements of section 106 of this Act, has intentionally significantly adversely affected a historic property to which the grant would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the agency, after consultation with the Council, determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant.

[16 U.S.C. 470h-2(l) — Documentation of Federal agency Section 106 decisions]

- (l) With respect to any undertaking subject to section 106 of this Act which adversely affects any property included in or eligible for inclusion in the National Register, and for which a Federal agency has not entered into an agreement pursuant to regulations issued by the Council, the head of such agency shall document any decision made pursuant to section 106 of this Act. The head of such agency may not delegate his or her responsibilities pursuant to such section. Where a section 106 of this Act memorandum of agreement has been executed with respect to an undertaking, such memorandum shall govern the undertaking and all of its parts.

Section 111

[16 U.S.C. 470h-3(a) — Lease or exchange of Federal historic property]

- (a) Notwithstanding any other provision of law, any Federal agency after consultation with the Council, shall, to the extent practicable, establish and implement alternatives for historic properties, including adaptive use, that are not needed for current or projected agency purposes, and may lease an historic property owned by the agency to any person or organization, or exchange any property owned by the agency with comparable historic property, if the agency head determines that the lease or exchange will adequately insure the preservation of the historic property.

[16 U.S.C. 470h-3(b) — Use of proceeds]

- (b) The proceeds of any lease under subsection (a) of this section may, notwithstanding any other provision of law, be retained by the agency entering into such lease and used to defray the costs of administration, maintenance, repair, and related expenses incurred by the agency with respect to such

property or other properties which are on the National Register which are owned by, or are under the jurisdiction or control of, such agency. Any surplus proceeds from such leases shall be deposited into the Treasury of the United States at the end of the second fiscal year following the fiscal year in which such proceeds were received.

[16 U.S.C. 470h-3(c) — Management contracts]

- (c) The head of any Federal agency having responsibility for the management of any historic property may, after consultation with the Advisory Council on Historic Preservation, enter into contracts for the management of such property. Any such contract shall contain such terms and conditions as the head of such agency deems necessary or appropriate to protect the interests of the United States and insure adequate preservation of historic property.

Section 112

[16 U.S.C. 470h-4(a) — Each Federal agency is to protect historic resources through professionalism of employees and contractors]

- (a) Each Federal agency that is responsible for the protection of historic resources, including archaeological resources pursuant to this Act or any other law shall ensure each of the following —
 - (1) (A) All actions taken by employees or contractors of such agency shall meet professional standards under regulations developed by the Secretary in consultation with the Council, other affected agencies, and the appropriate professional societies of the disciplines involved, specifically archaeology, architecture, conservation, history, landscape architecture, and planning.
 - (B) Agency personnel or contractors responsible for historic resources shall meet qualification standards established by the Office of Personnel Management in consultation with the Secretary and appropriate professional societies of the disciplines involved. The Office of Personnel Management shall revise qualification standards within 2 years after October 30, 1992, [the date of enactment of the 1992 Amendments to this Act] for the disciplines involved, specifically archaeology, architecture, conservation, curation, history, landscape architecture, and planning. Such standards shall consider the particular skills and expertise needed for the preservation of historic resources and shall be equivalent requirements for the disciplines involved.

[Maintaining permanent databases]

- (2) Records and other data, including data produced by historical research and archaeological surveys and excavations are permanently maintained in appropriate data bases and made available to potential users pursuant to such regulations as the Secretary shall promulgate.

[16 U.S.C. 470h-4(b) — Secretary to promulgate guidelines to owners about protecting and preserving historic resources]

- (b) In order to promote the preservation of historic resources on properties eligible for listing in the National Register, the Secretary shall, in consultation with the Council, promulgate guidelines to ensure that Federal, State, and tribal historic preservation programs subject to this Act include plans

to —

- (1) provide information to the owners of properties containing historic (including architectural, curatorial, and archaeological) resources with demonstrated or likely research significance, about the need for protection of such resources, and the available means of protection;
- (2) encourage owners to preserve such resources intact and in place and offer the owners of such resources information on the tax and grant assistance available for the donation of the resources or of a preservation easement of the resources;

[Encourage protection of Native American cultural items and properties]

- (3) encourage the protection of Native American cultural items (within the meaning of section 2 (3) and (9) of the Native American Grave Protection and Repatriation Act (25 U.S.C. 3001 (3) and (9))) and of properties of religious or cultural importance to Indian tribes, Native Hawaiians, or other Native American groups; and

[Conduct archeological excavations to meet Federal standards, allow access to artifacts for research, consult with Indian tribe or Native Hawaiian organization if related items likely]

- (4) encourage owners who are undertaking archaeological excavations to —
 - (A) conduct excavations and analyses that meet standards for federally-sponsored excavations established by the Secretary;
 - (B) donate or lend artifacts of research significance to an appropriate research institution;
 - (C) allow access to artifacts for research purposes; and
 - (D) prior to excavating or disposing of a Native American cultural item in which an Indian tribe or Native Hawaiian organization may have an interest under section 3(a)(2) (B) or (C) of the Native American Grave Protection and Repatriation Act (25 U.S.C. 3002(a)(2) (B) and (C)), given notice to and consult with such Indian tribe or Native Hawaiian organization.

Section 113

[16 U.S.C. 470h-5(a) — Study to report ways to control illegal trafficking in]

- (a) In order to help control illegal interstate and international traffic in antiquities, including archaeological, curatorial, and architectural objects, and historical documents of all kinds, the Secretary shall study and report on the suitability and feasibility of alternatives for controlling illegal interstate and international traffic in antiquities.

[16 U.S.C. 470h-5(b) — Consultation]

- (b) In conducting the study described in subsection (a) of this section the Secretary shall consult with the Council and other Federal agencies that conduct, cause to be conducted, or permit archaeological surveys or excavations or that have responsibilities for other kinds of antiquities and with State Historic Preservation Officers, archaeological, architectural, historical, conservation, and curatorial organizations, Indian tribes, Native Hawaiian organizations, and other Native American organizations,

international organizations and other interested persons.

[16 U.S.C. 470h-5(c) — Report]

- (c) Not later than 18 months after October 30, 1992 [the date of enactment of this section], the Secretary shall submit to Congress a report detailing the Secretary's findings and recommendations from the study described in subsection (a) of this section.

[16 U.S.C. 470h-5(d) — Funding authorization]

- (d) There are authorized to be appropriated not more than \$500,000 for the study described in subsection (a) of this section, such sums to remain available until expended.

TITLE II

Section 201

[16 U.S.C. 470i(a) — Advisory Council on Historic Preservation; membership]

- (a) There is established as an independent agency of the United States Government an Advisory Council on Historic Preservation which shall be composed of the following members:
- (1) a Chairman appointed by the President selected from the general public;
 - (2) the Secretary of the Interior;
 - (3) the Architect of the Capitol;
 - (4) the Secretary of Agriculture and the heads of four other agencies of the United States (other than the Department of the Interior), the activities of which affect historic preservation, designated by the President;
 - (5) one Governor appointed by the President;
 - (6) one mayor appointed by the President;
 - (7) the President of the National Conference of State Historic Preservation Officers;
 - (8) the Chairman of the National Trust for Historic Preservation;
 - (9) four experts in the field of historic preservation appointed by the President from the disciplines of architecture, history, archaeology, and other appropriate disciplines;
 - (10) three at-large members from the general public, appointed by the President; and
 - (11) one member of an Indian tribe or Native Hawaiian organization who represents the interests of the tribe or organization of which he or she is a member, appointed by the President.

[16 U.S.C. 470i(b) — Designees]

- (b) Each member of the Council specified in paragraphs (2) through (8) other than (5) and (6) of subsection (a) of this section may designate another officer of his department, agency, or organization

to serve on the Council in his stead, except that, in the case of paragraphs (2) and (4), no such officer other than an Assistant Secretary or an officer having major department-wide or agency-wide responsibilities may be so designated.

[16 U.S.C. 470i(c) — Term of office]

- (c) Each member of the Council appointed under paragraph (1), and under paragraphs (9) through (11) of subsection (a) of this section shall serve for a term of four years from the expiration of his predecessor's term; except that the members first appointed under that paragraph shall serve for terms of one to four years, as designated by the President at the time of appointment, in such manner as to insure that the terms of not more than two of them will expire in any one year. The members appointed under paragraphs (5) and (6) shall serve for the term of their elected office but not in excess of four years. An appointed member may not serve more than two terms. An appointed member whose term has expired shall serve until that member's successor has been appointed.

[16 U.S.C. 470i(d) — Vacancies]

- (d) A vacancy in the Council shall not affect its powers, but shall be filled not later than sixty days after such vacancy commences, in the same manner as the original appointment (and for the balance of any unexpired terms). The members of the Advisory Council on Historic Preservation appointed by the President under this Act as in effect on the day before December 12, 1980 [the enactment of the National Historic Preservation Act Amendments of 1980], shall remain in office until all members of the Council, as specified in this section, have been appointed. The members first appointed under this section shall be appointed not later than one hundred and eighty days after December 12, 1980 [the enactment of the National Historic Preservation Act Amendments of 1980].

[16 U.S.C. 470i(e) — Vice Chairman]

- (e) The President shall designate a Vice Chairman, from the members appointed under paragraphs (5), (6), (9), or (10). The Vice Chairman may act in place of the Chairman during the absence or disability of the Chairman or when the office is vacant.

[16 U.S.C. 470i(f) — Quorum]

- (f) Nine members of the Council shall constitute a quorum.

Section 202

[16 U.S.C. 470j(a) — Duties of Council]

- (a) The Council shall —
 - (1) advise the President and the Congress on matters relating to historic preservation; recommend measures to coordinate activities of Federal, State, and local agencies and private institutions and individuals relating to historic preservation; and advise on the dissemination of information pertaining to such activities;
 - (2) encourage, in cooperation with the National Trust for Historic Preservation and appropriate private agencies, public interest and participation in historic preservation;
 - (3) recommend the conduct of studies in such areas as the adequacy of legislative and

administrative statutes and regulations pertaining to historic preservation activities of State and local governments and the effects of tax policies at all levels of government on historic preservation;

- (4) advise as to guidelines for the assistance of State and local governments in drafting legislation relating to historic preservation;
- (5) encourage, in cooperation with appropriate public and private agencies and institutions, training and education in the field of historic preservation;
- (6) review the policies and programs of Federal agencies and recommend to such agencies methods to improve the effectiveness, coordination, and consistency of those policies and programs with the policies and programs carried out under this Act; and
- (7) inform and educate Federal agencies, State and local governments, Indian tribes, other nations and international organizations and private groups and individuals as to the Council's authorized activities.

[16 U.S.C. 470j(b) — Annual and special reports]

- (b) The Council shall submit annually a comprehensive report of its activities and the results of its studies to the President and the Congress and shall from time to time submit such additional and special reports as it deems advisable. Each report shall propose such legislative enactments and other actions as, in the judgment of the Council, are necessary and appropriate to carry out its recommendations and shall provide the Council's assessment of current and emerging problems in the field of historic preservation and an evaluation of the effectiveness of the programs of Federal agencies, State and local governments, and the private sector in carrying out the purposes of this Act.

Section 203

[16 U.S.C. 470k — Information from agencies]

The Council is authorized to secure directly from any department, bureau, agency, board, commission, office, independent establishment or instrumentality of the executive branch of the Federal Government information, suggestions, estimates, and statistics for the purpose of this title of the Act; and each such department, bureau, agency, board, commission, office, independent establishment or instrumentality is authorized to furnish such information, suggestions, estimates, and statistics to the extent permitted by law and within available funds.

Section 204

[16 U.S.C. 470l — Compensation of members]

The members of the Council specified in paragraphs (2), (3), and (4) of section 201(a) shall serve without additional compensation. The other members of the Council shall receive \$100 per diem when engaged in the performance of the duties of the Council. All members of the Council shall receive reimbursement for necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Council.

Section 205

[16 U.S.C. 470m(a) — Executive Director]

- (a) There shall be an Executive Director of the Council who shall be appointed in the competitive service by the Chairman with the concurrence of the Council. The Executive Director shall report directly to

the Council and perform such functions and duties as the Council may prescribe.

[16 U.S.C. 470m(b) — General Counsel and other attorneys]

- (b) The Council shall have a General Counsel, who shall be appointed by the Executive Director. The General Counsel shall report directly to the Executive Director and serve as the Council's legal advisor. The Executive Director shall appoint such other attorneys as may be necessary to assist the General Counsel, represent the Council in courts of law whenever appropriate, including enforcement of agreements with Federal agencies to which the Council is a party, assist the Department of Justice in handling litigation concerning the Council in courts of law, and perform such other legal duties and functions as the Executive Director and the Council may direct.

[16 U.S.C. 470m(c) — Appointment and compensation of staff]

- (c) The Executive Director of the Council may appoint and fix the compensation of such officers and employees in the competitive service as are necessary to perform the functions of the Council at rates not to exceed that now or hereafter prescribed for the highest rate for grade 15 of the General Schedule under section 5332 of title 5 [United States Code]: *Provided, however,* That the Executive Director, with the concurrence of the Chairman, may appoint and fix the compensation of not to exceed five employees in the competitive service at rates not to exceed that now or hereafter prescribed for the highest rate of grade 17 of the General Schedule under section 5332 of Title 5 [United States Code].

[16 U.S.C. 470m(d) — Appointment and compensation of additional personnel]

- (d) The Executive Director shall have power to appoint and fix the compensation of such additional personnel as may be necessary to carry out its duties, without regard to the provisions of the civil service laws and the Classification Act of 1949 [chapter 51 and subchapter III of chapter 53 of Title 5, U.S. Code].

[16 U.S.C. 470m(e) — Expert and consultant services]

- (e) The Executive Director of the Council is authorized to procure expert and consultant services in accordance with the provisions of section 3109 of title 5 [United States Code].

[16 U.S.C. 470m(f) — Financial and administrative services]

- (f) Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel and procurement) shall be provided the Council by the Department of the Interior, for which payments shall be made in advance, or by reimbursement, from funds of the Council in such amounts as may be agreed upon by the Chairman of the Council and the Secretary of the Interior: *Provided,* That the regulations of the Department of the Interior for the collection of indebtedness of personnel resulting from erroneous payments (5 U.S.C. 5514(b)) shall apply to the collection of erroneous payments made to or on behalf of a Council employee, and regulations of said Secretary for the administrative control of funds (31 U.S.C. 1513(d), 1514) shall apply to appropriations of the Council: *And provided further,* That the Council shall not be required to prescribe such regulations.

[16 U.S.C. 470m(g) — Use of funds, personnel, facilities, and services]

- (g) Any Federal agency may provide the Council, with or without reimbursement as may be agreed upon by the Chairman and the agency, with such funds, personnel, facilities, and services under their jurisdiction and control as may be needed by the Council to carry out its duties, to the extent that such

funds, personnel, facilities, and services are requested by the Council and are otherwise available for that purpose. Any funds provided to the Council pursuant to this subsection must be expended by the end of the fiscal year following the fiscal year in which the funds are received by the Council. To the extent of available appropriations, the Council may obtain, by purchase, rental, donation, or otherwise, such additional property, facilities, and services as may be needed to carry out its duties and may also receive donations of moneys for such purpose, and the Executive Director is authorized, in his discretion, to accept, hold, use, expend, and administer the same for the purposes of this Act.

Section 206

[16 U.S.C. 470n(a) — International Centre for the Study of the Preservation and Restoration of Cultural Property; authorization]

- (a) The participation of the United States as a member of the International Centre for the Study of the Preservation and Restoration of Cultural Property is hereby authorized.

[16 U.S.C. 470n(b) — Members of official delegation]

- (b) The Council shall recommend to the Secretary of State, after consultation with the Smithsonian Institution and other public and private organizations concerned with the technical problems of preservation, the members of the official delegation which will participate in the activities of the Centre on behalf of the United States. The Secretary of State shall appoint the members of the official delegation from the persons recommended to him by the Council.

[16 U.S.C. 470n(c) — Authorization for membership payment]

- (c) For the purposes of this section there is authorized to be appropriated an amount equal to the assessment for United States membership in the Centre for fiscal years 1979, 1980, 1981, and 1982: *Provided*, That no appropriation is authorized and no payment shall be made to the Centre in excess of 25 per centum of the total annual assessment of such organization. Authorization for payment of such assessment shall begin in fiscal year 1981, but shall include earlier costs.

Section 207

[16 U.S.C. 470o — Transfer of personnel, funds, etc. to the Council]

So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, used, programmed, or available or to be made available by the Department of the Interior in connection with the functions of the Council, as the Director of the Office of Management and Budget shall determine, shall be transferred from the Department to the Council within 60 days of the effective date of this Act [Pub. L. 94-422, September 28, 1976].

Section 208

[16 U.S.C. 470p — Rights of Council employees]

Any employee in the competitive service of the United States transferred to the Council under the provisions of this section shall retain all rights, benefits, and privileges pertaining thereto held prior to such transfer.

Section 209

[16 U.S.C. 470q — Exemption from Federal Advisory Committee Act]

The Council is exempt from the provisions of the Federal Advisory Committee Act (86 Stat. 770), and the provisions of subchapter II of chapter 5 and chapter 7, of Title 5 [U.S. Code] [the Administrative Procedure Act (80 Stat. 381)] shall govern the operations of the Council.

Section 210

[16 U.S.C. 470r — Direct Submission to the Congress]

No officer or agency of the United States shall have any authority to require the Council to submit its legislative recommendations, or testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress. In instances in which the Council voluntarily seeks to obtain the comments or review of any officer or agency of the United States, the Council shall include a description of such actions in its legislative recommendations, testimony, or comments on legislation which it transmits to the Congress.

Section 211

[16 U.S.C. 470s — Regulations for Section 106; local government participation]

The Council is authorized to promulgate such rules and regulations as it deems necessary to govern the implementation of section 106 of this Act in its entirety. The Council shall, by regulation, establish such procedures as may be necessary to provide for participation by local governments in proceedings and other actions taken by the Council with respect to undertakings referred to in section 106 of this Act which affect such local governments.

Section 212

[16 U.S.C. 470t(a) — Council appropriation authorization]

- (a) The Council shall submit its budget annually as a related agency of the Department of the Interior. There are authorized to be appropriated for purposes of this title not to exceed \$4,000,000 for each fiscal year 1997 through 2005.

[16 U.S.C. 470t(b) — Concurrent submission of budget to Congress]

- (b) Whenever the Council submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit copies of that estimate or request to the House and Senate Appropriations Committees and the House Committee on Natural Resources and the Senate Committee on Energy and Natural Resources.

Section 213

[16 U.S.C. 470u — Reports from Secretary at request of Council]

To assist the Council in discharging its responsibilities under this Act, the Secretary at the request of the Chairman, shall provide a report to the Council detailing the significance of any historic property, describing the effects of any proposed undertaking on the affected property, and recommending measures to avoid, minimize, or mitigate adverse effects.

Section 214

[16 U.S.C. 470v — Exemptions for Federal activities from provisions of the Act]

The Council, with the concurrence of the Secretary, shall promulgate regulations or guidelines, as appropriate, under which Federal programs or undertakings may be exempted from any or all of the requirements of this

Act when such exemption is determined to be consistent with the purposes of this Act, taking into consideration the magnitude of the exempted undertaking or program and the likelihood of impairment of historic properties.

Section 215

[16 U.S.C. 470v-1 — Reimbursement from State and local agencies, etc.]

Subject to applicable conflict of interest laws, the Council may receive reimbursements from State and local agencies and others pursuant to agreements executed in furtherance of the purposes of this Act.

TITLE III

Section 301

[16 U.S.C. 470w — Definitions]

As used in this Act, the term —

- (1) **"Agency"** means agency as such term is defined in section 551 of title 5 [United States Code].
- (2) **"State"** means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and, upon termination of the Trusteeship Agreement for the Trust Territory of the Pacific Islands, the Republic of Palau.
- (3) **"Local government"** means a city, county, parish, township, municipality, or borough, or any other general purpose political subdivision of any State.
- (4) **"Indian tribe"** or **"tribe"** means an Indian tribe, band, nation, or other organized group or community, including a Native village, Regional Corporation or Village Corporation, as those terms are defined in section 3 of the Alaska Native Claims Settlement Act [43 U.S.C. 1602], which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.
- (5) **"Historic property"** or **"historic resource"** means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion on the National Register, including artifacts, records, and material remains related to such a property or resource.
- (6) **"National Register"** or **"Register"** means the National Register of Historic Places established under section 101 of this Act.
- (7) **"Undertaking"** means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including —
 - (A) those carried out by or on behalf of the agency;
 - (B) those carried out with Federal financial assistance;
 - (C) those requiring a Federal permit license, or approval; and

- (D) those subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency.
- (8) **"Preservation"** or **"historic preservation"** includes identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, research, interpretation, conservation, and education and training regarding the foregoing activities, or any combination of the foregoing activities.
- (9) **"Cultural park"** means a definable area which is distinguished by historic resources and land related to such resources and which constitutes an interpretive, educational, and recreational resource for the public at large.
- (10) **"Historic conservation district"** means an area which contains
- (A) historic properties,
 - (B) buildings having similar or related architectural characteristics,
 - (C) cultural cohesiveness, or
 - (D) any combination of the foregoing.
- (11) **"Secretary"** means the Secretary of the Interior acting through the Director of the National Park Service except where otherwise specified.
- (12) **"State Historic Preservation Review Board"** means a board, council, commission, or other similar collegial body established as provided in section 101(b)(1)(B) of this Act —
- (A) the members of which are appointed by the State Historic Preservation Officer (unless otherwise provided for by State law),
 - (B) a majority of the members of which are professionals qualified in the following and related disciplines: history, prehistoric and historic archaeology, architectural history, architecture, folklore, cultural anthropology, curation, conservation, and landscape architecture, and
 - (C) which has the authority to —
 - (i) review National Register nominations and appeals from nominations;
 - (ii) review appropriate documentation submitted in conjunction with the Historic Preservation Fund;
 - (iii) provide general advice and guidance to the State Historic Preservation Officer; and
 - (iv) perform such other duties as may be appropriate.
- (13) **"Historic preservation review commission"** means a board, council, commission, or other similar collegial body which is established by State or local legislation as provided in section 101(c)(1)(B) of this Act, and the members of which are appointed, unless otherwise provided

by State or local legislation, by the chief elected official of the jurisdiction concerned from among —

- (A) professionals in the disciplines of architecture, history, architectural history, planning, prehistoric and historic archaeology, folklore, cultural anthropology, curation, conservation, and landscape architecture, or related disciplines, to the extent such professionals are available in the community concerned, and
 - (B) such other persons as have demonstrated special interest, experience, or knowledge in history, architecture, or related disciplines and as will provide for an adequate and qualified commission.
- (14) **"Tribal lands"** means —
- (A) all lands within the exterior boundaries of any Indian reservation; and
 - (B) all dependent Indian communities.
- (15) **"Certified local government"** means a local government whose local historic preservation program has been certified pursuant to section 101(c) of this Act.
- (16) **"Council"** means the Advisory Council on Historic Preservation established by section 201 of this Act.
- (17) **"Native Hawaiian"** means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.
- (18) **"Native Hawaiian organization"** means any organization which —
- (A) serves and represents the interests of Native Hawaiians;
 - (B) has as a primary and stated purpose the provision of services to Native Hawaiians; and
 - (C) has demonstrated expertise in aspects of historic preservation that are culturally significant to Native Hawaiians.

The term includes, but is not limited to, the Office of Hawaiian Affairs of the State of Hawaii and Hui Malama I Na Kupuna O Hawai'i Nei, an organization incorporated under the laws of the State of Hawaii.

Section 302

[16 U.S.C. 470w-1 — Authority to expend funds for purposes of this Act]

Where appropriate, each Federal agency is authorized to expend funds appropriated for its authorized programs for the purposes of activities carried out pursuant to this Act, except to the extent appropriations legislation expressly provides otherwise.

Section 303

[16 U.S.C. 470w-2(a) — Donations to Secretary; money and personal property]

- (a) The Secretary is authorized to accept donations and bequests of money and personal property for the purposes of this Act and shall hold, use, expend, and administer the same for such purposes.

[16 U.S.C. 470w-2(b) — Donations of less than fee interests in real property]

- (b) The Secretary is authorized to accept gifts or donations of less than fee interests in any historic property where the acceptance of such interests will facilitate the conservation or preservation of such properties. Nothing in this section or in any provision of this Act shall be construed to affect or impair any other authority of the Secretary under other provision of law to accept or acquire any property for conservation or preservation or for any other purpose.

Section 304

[16 U.S.C. 470w-3(a) — Confidentiality of the location of sensitive historic resources]

- (a) The head of a Federal agency or other public official receiving grant assistance pursuant to this Act, after consultation with the Secretary, shall withhold from disclosure to the public, information about the location, character, or ownership of a historic resource if the Secretary and the agency determine that disclosure may —
 - (1) cause a significant invasion of privacy;
 - (2) risk harm to the historic resources; or
 - (3) impede the use of a traditional religious site by practitioners.

[16 U.S.C. 470w-3(b) — Access Determination]

- (b) When the head of a Federal agency or other public official has determined that information should be withheld from the public pursuant to subsection (a) of this section, the Secretary, in consultation with such Federal agency head or official, shall determine who may have access to the information for the purpose of carrying out this Act.

[16 U.S.C. 470w-3(c) — Consultation with the Advisory Council]

- (c) When the information in question has been developed in the course of an agency's compliance with section 106 or 110(f) of this Act, the Secretary shall consult with the Council in reaching determinations under subsections (a) and (b) of this section.

Section 305

[16 U.S.C. 470w-4 — Attorneys' fees]

In any civil action brought in any United States district court by any interested person to enforce the provisions of this Act, if such person substantially prevails in such action, the court may award attorneys' fees, expert witness fees, and other costs of participating in such action, as the court deems reasonable.

Section 306

[16 U.S.C. 470w-5(a) — National Center for the Building Arts]