

Summary of changes to the New Jersey Register of Historic Places Act rules

Introduction

The New Jersey Register of Historic Places Rules (the rules) constitute the rules of the Department concerning the preservation of the State's historic, architectural, archaeological, engineering, and cultural heritage in accordance with the New Jersey Register of Historic Places Act, N.J.S.A. 13:1B-15.128 et seq. The rules establish the procedures for the listing of historic properties in the New Jersey Register of Historic Places and the protection of those historic properties from encroachment by undertakings of State, county and municipal governments or any agency or instrumentality thereof. The rules also address the types of technical assistance routinely requested of the Historic Preservation Office. Subchapter 8 identifies the standard Federal documents and criteria that the Historic Preservation Office uses to identify and evaluate historic resources and to assess any project's impact upon those resources and make recommendations. A description of the significant amendments to the rule follows.

Subchapter 1 – General Provisions

N.J.A.C. 7:4-1.3 contains definitions of terms used in the rules. All of the definitions of all terms defined in this section, except the terms “noncontributing property”, and “state review board”, were readopted without amendment. The definition of “noncontributing property” was amended to provide that a property is considered noncontributing not only if it was not present during the period of significance for the property nominated, but also if the building, structure, or object does not relate to the criteria of significance for the nominated property upon which the nomination is based.

This change reflects National Park Service guidelines for nominating a property to the National Register of Historic Places and is consistent with the *National Register Bulletin 16A, Guidelines for Completing National Register of Historic Places Forms*, National Park Service Guidelines for nominating a property to the National Register of Historic Places. The definition of “State Review Board” was amended to reflect the accurate name of the review body.

A new definition for the term “location map” was added. A location map is a new preliminary application requirement under N.J.A.C. 7:4-2.2 and 5.3. The definition specifies that the map must depict the subject resource and enough of its surroundings at a scale that allows the resource to be located on other map sources. The information provided by the location map will streamline the review of the preliminary application.

Subchapter 2 – Registration Procedures and Criteria

N.J.A.C. 7:4-2.2(c)2 has been amended to require the submission of a location map depicting the location of the property for which an eligibility determination is requested. Receipt of a location map will enable the Historic Preservation Office to place the subject property within its appropriate spatial context thereby facilitating comparison with existing historic property information and enable more efficient review of a preliminary application.

N.J.A.C. 7:4-2.2 (c)3ii(2) has been amended to remove a requirement that an applicant notify the Department of its intention to proceed with a National Register of Historic Places nomination following receipt of a preliminary determination from the Department that the property does not meet the New Jersey and National Register criteria

for evaluation. This section of the rules previously required this notification to be received by the Department within 90 days of the Department's determination that the property is not eligible. The amendment reflects the Department's belief that it is appropriate to allow an applicant to submit new or different information regarding the property at any time regardless of whether or not notification of ineligibility is made.

N.J.A.C. 7:4-2.2(c)4 has been amended to add the requirement to include a map of the nominated property that meets the mapping standards at N.J.A.C. 7:4-8.9(a)1. These standards assure consistency in mapping information submitted to the Historic Preservation Office. Greater precision in the mapping of historic property boundaries and the acquisition of that location data in electronic format will facilitate predictability in the regulatory process as governmental agencies subject to the provisions of N.J.A.C. 7:4-7 will have improved access to data and will be better able to identify regulatory obligations earlier in project planning.

In addition to the above, N.J.A.C. 7:4-2.2(c)9i has been re-numbered to N.J.A.C. 7:4-2.2(c)8i and amended to clarify the language in this provision. Previously, the rule required that both the property owner and preparer of the nomination be notified via certified mail that a nomination is being considered by the State Review Board. However, in reviewing and processing the nomination, the Department is in constant communication with the preparer regarding the administrative and technical aspects of the nomination, including meeting dates and times. Therefore, it is unnecessary to notify the applicant via certified mail. As a result, the rule was amended to delete the requirement that the preparer be notified via certified mail that a nomination is being considered by the State Review Board.

In addition to the above, N.J.A.C. 7:4-2.2(c)12 has been amended to clarify the property owner notification process for historic districts with 50 or more property owners. This provision of the rule requires the Department to hold a public meeting in cases where a nomination including 50 or more property owners will be considered by the State Review Board. Previously, the rule required the Department to send written notification of the public meeting to all property owners within a proposed historic district. Currently, the rule requires that the public notice published for the required public meeting and the State Review Board meeting regarding the subject historic district meets the property owner notification requirement contemplated by this part of the rule.

Subchapter 3 - Boundary Redelineation and Relocation of Properties Listed in the New Jersey Register

Readopted without amendment.

Subchapter 4 – Removal of a Property from the New Jersey Register

Readopted without amendment.

Subchapter 5 – Certification of Eligibility for Listing in the New Jersey Register

N.J.A.C. 7:4-5.3(a)2iii has been deleted and replaced with a requirement to submit a location map. The mapping requirements reflect the need for a location map depicting the location of a property for a request for eligibility determination. Receipt of a location map will enable the Historic Preservation Office to place the subject property

within its appropriate spatial context thereby facilitating comparison with existing historic property information to enable more efficient review of a preliminary application.

Subchapter 6 – State Funds

Readopted without amendment.

Subchapter 7 – Review Procedures for Projects Encroaching upon New Jersey

Register Properties

Minor changes including re-organization of some sections and minor changes to wording were made to Subchapter 7 to clarify the meaning, intent, and understandability of this subchapter.

The Department has amended N.J.A.C. 7:4-7.1 to add a new N.J.A.C. 7:4-7.1(e), which would give the Historic Sites Council the authority to review projects that have only been developed to a conceptual level. The concept review could consist of two stages, and would assist applicants in meeting the Secretary of Interior's Standards for the Treatment of Historic Properties without unnecessary expenditure of funds for project development. The goal of a staged application is to encourage applicants to submit projects holistically to avoid segmentation for the purposes of review. It would also provide applicants with the opportunity to get early input from the Historic Sites Council on proposed projects affecting listed properties. This would prevent expenditures of large amounts of time and money on developing project plans that would be unlikely to be approved. The concept review provision was added in recognition of the need to integrate the New Jersey Register of Historic Places encroachment review with

established Federal regulatory processes, other regulatory processes, and other State agency funding programs.

The amendments to this section include the addition of a requirement at N.J.A.C. 7:4-7.2(e)1 for the applicant to submit 12 original copies of the application for project authorization to the Department to be transmitted to the Historic Sites Council. This amendment is intended to ensure that the Historic Sites Council is receiving original copies of project documentation, such as photographs, construction plans, and architectural renderings, for their review.

The Department is has amended N.J.A.C. 7:4-7.2(e) to add a new subparagraph N.J.A.C. 7:4-7.2 (e)10 that provides that project authorizations have an expiration date. Under the changes, project authorization by the Commissioner expires five years from the date of project authorization or conditional authorization if the project has not been undertaken within the five year period.

Subchapter 8 – Consultation with Other Department Programs and Other Non-Federal Governmental Agencies

The most significant changes made to the New Jersey Register of Historic Places Act rules during the most recent rule readoption with amendments was the codification of both existing survey and reporting guidelines and guidelines for preparing alternatives analyses. The additions also establish electronic submission standards, mapping standards, and photographic standards.

The addition of N.J.A.C. 7:4-8.4 provides specific direction for conducting Phase I archaeological surveys including explicit requirements for background research, field

survey, and laboratory analysis necessary for the completion of an adequate Phase I archaeological survey.

The addition of archaeological survey report requirements at N.J.A.C. 7:4-8.5 outlines specific formatting, structure and general content requirements for archaeological survey reports submitted to the Historic Preservation Office. Specifically, this section provides an outline for the organization of reports submitted to the Historic Preservation Office, and specifies sixteen sections that are required to be part of all archaeological survey reports submitted to the Historic Preservation Office. These sixteen sections are: a title page; a management summary; a table of contents; lists of figures, plates, and tables; an introduction, a background research section; a research design section; a field and laboratory methods section; a field results section; an artifact analysis section; an interpretations section; an evaluation of National Register eligibility section; an assessment of the impacts of the undertaking on historic properties section; a recommendations section; a references cited section; and appendices. The section also specifies the particular kinds of information that are required in each of these sections in order to adequately report the findings of archaeological survey performed pursuant to the Freshwater Wetlands Protection Act Rules, N.J.A.C. 7:7A, the Coastal Zone Management Rules, N.J.A.C. 7:7E, or the Highlands Water Protection and Planning Act Rules, N.J.A.C. 7:38.

The requirements for architectural survey reports submitted to the Historic Preservation Office were added at N.J.A.C. 7:4-8.6. This rule outlines specific formatting, structure and general content requirements for architectural survey reports submitted to the Historic Preservation Office. As with the archaeological survey report

requirements, this section provides an outline for the organization of reports submitted to the Historic Preservation Office, and specifies thirteen sections that are required to be part of all architectural survey reports submitted to the Historic Preservation Office. These sections are: a title page; a management summary; a table of contents; lists of figures, plates, and tables; an introduction section; a research design section; a setting section; a historical overview section; a field results section; an assessment of the impacts of the undertaking on historic properties section; a data summary section; a bibliography; and appendices. The rule also specifies the particular kinds of information that are required in each of these sections.

The Department has added the requirements for combined archaeological and architectural survey reports submitted to the Historic Preservation Office at N.J.A.C. 7:4-8.7. This section provides an outline for the organization of reports that include information on both archaeological and architectural resources.

The Department has added requirements specifying the content and structure of alternatives analyses at N.J.A.C. 7:4-8.8. Alternatives analyses are currently routinely requested to meet the requirements of various State regulatory processes such as The New Jersey Register of Historic Places Rules, N.J.A.C. 7:4, the Coastal Zone Management Rules, N.J.A.C. 7:7E, and the Freshwater Wetlands Protection Act Rules, N.J.A.C. 7:7A. This new section prescribes a methodology for identifying and evaluating all alternatives to a proposed undertaking that would avoid or minimize the encroachment to the subject building. The identification and evaluation of alternatives outlined in this new section are performed within the context of project need(s) and objective(s), local master plan and zoning requirements, potential redevelopment scenarios and their

feasibility, environmental constraints, code constraints, opportunities for heritage tourism, and costs.

The Department has added standards for electronic submissions at N.J.A.C. 7:4-8.9. These standards outline the requirements for submission of digital map data, digital photography, electronic reports, and scanned maps and documents.