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**ENVIRONMENTAL PROTECTION
NATURAL AND HISTORIC RESOURCES
HISTORIC PRESERVATION OFFICE
Notice of Readoption**

The New Jersey Register of Historic Places Rules

Readoption with Technical Changes: N.J.A.C. 7:4

Authority: N.J.S.A. 13:1B-15.108 et seq. and 13:1B-15.128 et seq.

Authorized By: Bob Martin, Commissioner,
Department of Environmental Protection

Effective Date: July 2, 2015.

New Expiration Date: July 2, 2022.

Take notice that, pursuant to N.J.S.A. 52:14B-5.1, the New Jersey Register of Historic Rules at N.J.A.C. 7:4 are readopted and shall continue in effect for a seven-year period. The rules had been scheduled to expire on August 5, 2015. The Department of Environmental Protection has reviewed these rules and determined that the rules should be readopted because they are necessary, reasonable and proper for the purpose for which they were originally promulgated. In accordance with N.J.S.A. 52:14B-5.1.c(1), timely filing of this notice extended the expiration date of the chapter seven years from the date of filing.

The New Jersey Register of Historic Places Act rules establish procedures to 1) nominate historic sites to the New Jersey Register of Historic Places, 2) evaluate the impact of public undertakings on historic properties listed on the New Jersey Register of Historic Places, and 3)

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consult with other Department programs or non-Federal government agencies regarding the identification of historic properties, the assessment of effects to historic properties, and the recommendation of alternatives or mitigation for those effects.

The rules are readopted with technical changes to update addresses throughout the rules, and to correct references to sections within the rules, Federal cites, and website addresses. Incorrect cites to other sections of the chapter are being corrected in N.J.A.C. 7:4-3.1(b) and in the definition of “encroachment” in N.J.A.C. 7:4-1.3. References to the National Historic Preservation Act of 1966 are also being corrected in the definitions of “National Park Service” and “National Register” as the Federal government has transferred the National Historic Preservation Act to a new title within the United States Code (U.S.C.).

At N.J.A.C. 7:4-8.5(a)8, the Department is correcting the title of the soil color resource incorporated by reference into the rules to eliminate a typographical error that resulted in the word “color” appearing twice in the name of the document and updating the name of the Munsell publication to reflect the bound version of the charts that is now available at the listed website. The Department is also updating this paragraph to reflect the latest edition of the publication, which is incorporated into the rules as amended or supplemented.

Existing N.J.A.C. 7:4-8.5(a)25 references the website for the National Register Bulletin 36, Guidelines for Evaluating and Registering Archeological Properties, which has been moved to a different page within the National Park Services website. The new page is at <http://www.nps.gov/nr/publications/bulletins/arch/index.htm>. In N.J.A.C. 7:4-8.5(a)28, the website to obtain the Society of American Archeology’s (SAA) Journal Style Guide has been

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changed to http://www.saa.org/portals/0/saa/publications/styleguide/styleguide_final_813.pdf.

The regulation is changed to reflect the updated webpages.

In addition to updating websites, the address for the Historic Preservation Office and the address for the SAA office are being updated. In N.J.A.C. 7:4-8.5(a)28, the SAA address is being updated to reflect the new address within Washington, D.C. The Historic Preservation Office address is being updated with a new post office box and corresponding zip code in the following provisions: N.J.A.C. 7:4-1.3 in the definition of “encroachment,” 2.2(a), 2.3(b), 7.2(c)1, 7.2(e)6, 7.2(e)9ii, 7.4(b)2, and 8.3(b)1 and 2.

Full text of the technical changes follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

7:4-1.3 Definitions

The following words and phrases, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise. However, if a term is also defined at N.J.A.C. 7:4-8.1, then that definition shall supersede the definition in this section for purposes of N.J.A.C.

7:4-8.

...

“Encroachment” means the adverse effect upon any district, site, building, structure or object included in the New Jersey Register resulting from the undertaking of a project by the State, a county, municipality or an agency or instrumentality thereof, as determined by application of the

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Criteria for Determining Whether an Undertaking Constitutes an Encroachment set forth in N.J.A.C. 7:4-[7.2(e)4]**7.4** and the Secretary of the Interior's Standards for the Treatment of Historic Properties (36 C.F.R. 68) and "Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings" (guidelines issued by the National Park Service, incorporated herein by reference) and available from the Historic Preservation Office, PO Box [404] **420**, Trenton, New Jersey 08625-[0404]**0420**) or from the Historic Preservation Office website (www.state.nj.us/dep/hpo) or from the National Park Service website (www.nps.gov) or subsequent amendments thereto adopted by the Secretary of the United States Department of the Interior and the National Park Service.

...

"Historic Preservation Office" means that office of the [Division of Parks and Forestry,] Department of Environmental Protection, and any successors in right, with the responsibility for maintaining the New Jersey Register of Historic Places and administering the State Historic Preservation Program.

...

"National Park Service" means that agency of the United States Department of the Interior to which the Secretary of the Interior has delegated the authority and responsibility for administering the National Register of Historic Places program, under the National Historic Preservation Act of 1966, as amended, [16 U.S.C. 470 et seq.] **54 U.S.C. §§ 300101 et seq.**

"National Register" means the National Register of Historic Places, which consists of districts, sites, buildings, structures and objects significant in American history, architecture, archaeology,

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engineering and culture, and which the Secretary of the United States Department of the Interior is authorized to expand and maintain pursuant to [The] **the** National Historic Preservation Act of 1966, [16 U.S.C. 470 et seq.] **54 U.S.C. §§ 300101 et seq.**

...

7:4-2.2 Procedure for the nomination of properties for inclusion in the New Jersey and National Registers

(a) All applications for nomination to the New Jersey and National Registers shall be made under the supervision of the Department, on standard National Register Nomination Forms. Guidance in the completion of the forms is provided in the National Park Service publication "Guidelines for Completing National Register of Historic Places Forms" (National Register Bulletin Number 16) or subsequent amendments thereto and other guidelines issued by the Historic Preservation Office or the National Park Service for nominations to the National Register. The forms, publication, and guidelines are available from the Department at the Historic Preservation Office, PO Box [404] **420**, Trenton, New Jersey 08625-[0404]**0420**.

(b) – (c) (No change.)

7:4-2.3 Criteria for evaluation of a property nominated for listing in the New Jersey Register

(a) (No change.)

(b) The criteria for evaluation set forth in (a) above shall be applied in accordance with the guidelines issued by the National Park Service from time to time in the following or similar documents: "How to Apply the National Register Criteria for Evaluation" (National Register

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Bulletin No. 15), and "Guidelines for Completing National Register of Historic Places Forms" (National Register Bulletin Number 16) or subsequent amendments thereto, incorporated herein by reference and available from the Historic Preservation Office, PO Box [404] **420**, Trenton, New Jersey 08625-[0404]**0420** or from the website (www.state.nj.us/dep/hpo) or the National Park Service website (www.nps.gov).

7:4-3.1 Redelineation of the boundary of property listed in the New Jersey Register

(a) (No change.)

(b) Except for redelineations under (a)5 above, the redelineation of the boundary of property listed in the New Jersey Register shall be considered a new nomination of a property to the New Jersey Register. A new National Register Nomination Form shall be prepared and submitted to the Department and processed by the Department in accordance with the procedure for the nomination of properties for inclusion in the New Jersey and National Registers set forth in N.J.A.C. 7:4-2.2. Any proposal to alter a boundary shall be documented in detail, including photographs of the historic resources located between the existing boundary and the proposed boundary. In the case of a proposed enlargement of the boundary of a registered property, only those property owners in the new area proposed to be included as part of a registered property shall be notified and counted in determining whether a majority of private property owners object to National Register listing as provided in N.J.A.C. 7:4-2.2(c)[13]**12**. In the case of a proposed diminution of a boundary of a registered property, all owners of the registered property shall be notified and counted in determining whether a majority of private property owners object to the removal of part of a registered property from the National Register as provided in

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N.J.A.C. 7:4-2.2(c)[13]**12.** If the State Historic Preservation Officer signs the National Register Nomination Form in accordance with N.J.A.C. 7:4-2.2(c)[15]**14,** the revised boundaries of the registered property shall thereby be listed in the New Jersey Register and simultaneously recommended to the Keeper of the National Register. If the National Register Nomination Form is not signed by the State Historic Preservation Officer, the boundaries of the registered property shall not be changed.

(c) (No change.)

7:4-7.2 Review of an application for project authorization

(a) - (b) (No change.)

(c) Upon determination by the Department that an application for project authorization is technically and professionally complete and sufficient, the Department shall:

1. Conduct a review to determine if the undertaking for which the application is submitted constitutes an encroachment or will damage or destroy the historic property under the criteria set forth in N.J.A.C. 7:4-7.4 and the Secretary of the Interior's Standards for the Treatment of Historic Properties (36 C.F.R. 68) and "Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings" (guidelines issued by the National Park Service, incorporated herein by reference) and available from the Historic Preservation Office, PO Box [404] **420,** Trenton, New Jersey 08625-[0404]**0420** or from website (www.state.nj.us/dep/hpo) or from the National Park Service website (www.nps.gov) or subsequent amendments thereto, adopted by the Secretary of the United States Department of the Interior and the National Park Service; and
2. (No change.)

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(d) (No change.)

(e) If the applicant is notified by the Department that an undertaking constitutes an encroachment or will damage or destroy the historic property, the following shall occur:

1. - 5. (No change.)

6. The Historic Sites Council shall meet to review the application for project authorization and evaluate the encroachment using the criteria set forth in N.J.A.C. 7:4-7.4 and the Secretary of the Interior's Standards for the Treatment of Historic Properties (36 C.F.R. 68) and "Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings" (guidelines issued by the National Park Service, incorporated herein by reference) and available from the Historic Preservation Office, PO Box [404] **420**, Trenton, New Jersey 08625-[0404]**0420** or from website (www.state.nj.us/dep/hpo) or from the National Park Service website (www.nps.gov) or subsequent amendments thereto, adopted by the Secretary of the United States Department of the Interior and the National Park Service. The Council shall also consider the following:

i. – iv. (No change.)

7. - 8. (No change.)

9. Within the 120-day review period under (b) above, the Commissioner shall transmit to the applicant a written decision with specific reasons therefor which shall either:

i. (No change.)

ii. Authorize or consent to the encroachment with conditions. The conditions may include, but are not limited to, placement of a preservation covenant in the deed for the property in the event of the conveyance of any interest in the property; marketing of the historic property over a reasonable period of time; recordation of the historic property to the standards and approval of

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the Historic American Buildings Survey or Historic American Engineering Record (HABS/HAER) through photographs, drawings and written narrative; archaeological survey or data recovery; salvage of significant architectural features; and revisions to the architectural plans or other conditions that would enable the project to meet the Secretary of the Interior's Standards for the Treatment of Historic Properties (36 C.F.R. 68) and "Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings" (guidelines issued by the National Park Service, incorporated herein by reference) and available from the Historic Preservation Office, PO Box [404] **420**, Trenton, New Jersey 08625-[0404]**0420** or from website (www.state.nj.us/dep/hpo) or from the National Park Service website (www.nps.gov) or subsequent amendments thereto, adopted by the Secretary of the United States Department of the Interior and the National Park Service, or otherwise avoid, reduce or mitigate the encroachment.

(1) (No change.)

iii. – iv. (No change.)

10. (No change.)

7:4-7.4 Criteria for determining whether an undertaking constitutes an encroachment or will damage or destroy the historic property

(a) (No change.).

(b) An undertaking that would otherwise be found to constitute an encroachment pursuant to (a) above may be considered by the Department as not being an encroachment when:

1. (No change).

2. The undertaking is limited to the preservation, rehabilitation, restoration, or reconstruction of

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buildings and structures and is conducted in a manner that preserves the historical and architectural value of affected historic property through conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties (36 C.F.R. 68) and "Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings" (guidelines issued by the National Park Service, incorporated herein by reference) and available from the Historic Preservation Office, PO Box [404] **420**, Trenton, New Jersey 08625-[0404]**0420** or from website (www.state.nj.us/dep/hpo) or from the National Park Service website (www.nps.gov) or subsequent amendments thereto, adopted by the Secretary of the United States Department of the Interior and the National Park Service; or

3. (No change.)

7:4-8.3 Standards used for consultation

(a) (No change.).

(b) The criteria for evaluating the potential for effects and impacts, assessing alternatives and making recommendations in accord with N.J.A.C. 7:4-8.2 is set forth in:

1. The Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation. Copies are available from the Historic Preservation Office, PO Box [404] **420**, Trenton, New Jersey 08625-[0404]**0420**, or from the Department's website

(www.state.nj.us/dep/hpo) or from the National Park Service website (www.nps.gov); and

2. The Secretary of the Interior's Standards for Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings, 36 C.F.R. 68 et seq. as amended. Copies are available from the Historic Preservation Office, PO Box [404] **420**,

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Trenton, New Jersey 08625-[0404]**0420**, or from the website (www.state.nj.us/dep/hpo) or from the National Park Service website (www.nps.gov).

7:4-8.5 Requirements for archaeological survey reports-standards for report sufficiency

(a) All archaeological survey reports submitted to the Department shall be sufficient to enable the identification, evaluation, and treatment of historic properties in the area of the undertaking's potential impact. The standard for report sufficiency will be met when the report addresses all of the items listed below.

1. – 7. (No change.)

8. Cross section and profile drawings shall include scale, elevation, orientation, soil descriptions, and soil colors classified in accordance with The Munsell [Color] Soil Color [Charts] **Book**, [2000] **2009 Revised** Edition, incorporated by reference, as amended and supplemented (available from the Munsell Company at www.forestry-suppliers.com, the New Jersey State Library, Rutgers University Library, and Princeton University Library). Detailed plan view drawings shall be keyed to the site map.

9. – 24. (No change.)

25. Recommendations that a site is not National Register eligible shall be fully documented in accordance with the National Register Bulletin 36, Guidelines for Evaluating and Registering Archeological Properties, incorporated by reference and as amended by the National Park Service, available from the U.S. Department of the Interior, National Park Service at [\[http://www.nps.gov/nr/publications/bulletins/arch/nrb36.pdf\]](http://www.nps.gov/nr/publications/bulletins/arch/nrb36.pdf)

<http://www.nps.gov/nr/publications/bulletins/arch/index.htm>. The eligibility of each site

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shall be assessed for listing in the New Jersey and National Registers of Historic Places, using all appropriate National Register Criteria and Criteria Considerations at 36 CFR 60.4. The factors considered in making the assessment shall be fully described in accordance with National Register Bulletin 36, Guidelines for Evaluating and Registering Archeological Properties, incorporated by reference and as amended by the National Park Service, available from the U.S. Department of the Interior, National Park Service at

[<http://www.nps.gov/nr/publications/bulletins/arch/nrb36.pdf>]

<http://www.nps.gov/nr//publications/bulletins/arch/index.htm>.

26. – 27. (No change.)

28. Archaeological survey reports shall contain a sources/references cited section in American Antiquity format, as published in the SAA Journal Style Guide, incorporated by reference, as amended and supplemented, published by the Society for American Archaeology, available from the Society for American Archeology at [900 Second Street NE #12, Washington, D.C. 20002-3560] **1111 14th Street NW, Suite 800, Washington, DC 20005-5622** or on their website at <http://www.saa.org/publications/Styleguide/styframe.html>. The sources/references section shall include:

i. – v. (No change.)

29. (No change.)