

**CHAPTER 4**

**THE NEW JERSEY REGISTER OF HISTORIC PLACES RULES**

**Authority**

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

**Source and Effective Date**

R.2008 d.261, effective August 5, 2008.  
See: 40 N.J.R. 1428(a), 40 N.J.R. 4945(b).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 4, The New Jersey Register of Historic Places Rules, expires on August 5, 2015. See: 43 N.J.R. 1203(a).

**Chapter Historical Note**

Chapter 4, New Jersey Register of Historic Places, was adopted as R.1979 d.328, effective August 16, 1979. See: 11 N.J.R. 224(c). Section 2.2 was amended by R.1980 d.241, effective June 4, 1980. See: 12 N.J.R. 108(a), 12 N.J.R. 391(b).

Pursuant to Executive Order No. 66(1978), Chapter 4, New Jersey Register of Historic Places, expired on August 16, 1992.

Chapter 4, Procedures Concerning the New Jersey Register of Historic Places, was adopted as R.1992 d.318, effective August 17, 1992. See: 23 N.J.R. 2103(b), 24 N.J.R. 2926(a).

Pursuant to Executive Order No. 66(1978), Chapter 4, Procedures Concerning the New Jersey Register of Historic Places, was readopted as R.1997 d.373, effective August 14, 1997. See: 29 N.J.R. 2503(a), 29 N.J.R. 4103(b).

Chapter 4, Procedures Concerning the New Jersey Register of Historic Places, was readopted as R.2003 d.110, effective February 7, 2003. As a part of R.2003 d.110, Chapter 4, Procedures Concerning the New Jersey Register of Historic Places, was renamed The New Jersey Register of Historic Places Rules; and Subchapter 8, Consultation with Other Department Programs and Other Non-Federal Governmental Agencies, was adopted as new rules, effective March 17, 2003. See: 34 N.J.R. 3161(a), 35 N.J.R. 1410(a).

Chapter 4, The New Jersey Register of Historic Places Rules, was readopted as R.2008 d.261, effective August 5, 2008. See: Source and Effective Date. See, also, section annotations.

**Cross References**

Historic Preservation Grants, see N.J.A.C. 7:4D.

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## SUBCHAPTER 1. GENERAL PROVISIONS

**7:4-1.1 Purpose**

(a) This chapter shall constitute the rules of the Department of Environmental Protection 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. This chapter contains rules on three distinct procedures administered by the Department through the Historic Preservation Office:

1. The nomination of historic sites to the New Jersey Register and the submission of historic sites to the National Register of Historic Places in a complementary process to 36 C.F.R. 60 which sets forth the Federal procedures for the National Register;

2. The procedures and criteria for evaluating the impact of public undertakings on historic properties listed in the New Jersey Register; and

3. A consultation process that may be used by other Department programs or non-Federal governmental agencies, in regard to identifying historic sites, assessing the potential effects of projects on such sites and recommending possible alternatives or mitigation for those effects.

Amended by R.1997 d.373, effective September 15, 1997.

See: 29 N.J.R. 2503(a), 29 N.J.R. 4103(b).

Amended by R.2003 d.110, effective March 17, 2003.

See: 34 N.J.R. 3161(a), 35 N.J.R. 1410(a).

Rewrote the section.

**Law Review and Journal Commentaries**

Remediating and redeveloping historic properties. 165 N.J.L.J. 102 (2001).

**7:4-1.2 Severability**

If any section, subsection, provision, clause or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

**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.

“Acquisition” means the act or process of acquiring fee title or interest other than fee title of real property (including the acquisition of development rights or remainder interest).

“Act” means the “New Jersey Register of Historic Places Act”, P.L. 1970, c.268, N.J.S.A. 13:1B-15.128 et seq., or subsequent amendments thereto.

“Area” means a district as defined in this section.

“Area of undertaking’s potential impact” means that geographical area within which direct and indirect effects generated by the undertaking as defined in this section, could reasonably be expected to occur.

“Building(s)” means a structure created to shelter any form of human activity. Examples include a single construction such as a house, barn, courthouse, city hall, social hall, commercial building, library, factory, mill, train depot, fort, residence, hotel, theater, school, store, or church, or a small group of buildings consisting of a main building and subsidiary buildings that are functionally and historically related such as a courthouse and jail, house and barn, mansion and carriage house, church and rectory, or farm house and related out buildings, created to shelter any form of human activity.

“Certified Local Government” means a local government certified by the Department and the National Park Service to participate in Federal and State historic preservation programs pursuant to the National Historic Preservation Act of 1966 as amended.

“Chief elected local official” means the mayor, county executive or other titled chief elected administrative official who is the elected head of the local political jurisdiction in which the property is located.

“Commissioner” means the Commissioner of the Department of Environmental Protection.

“Contributing property” means a building, site, structure, or object that adds to the historic architectural qualities, historic associations, or archaeological values for which a property is significant because:

1. It was present during the period of significance, and possesses historic integrity reflecting its character at that time or is capable of yielding important information about the period; or

2. It independently meets the New Jersey Register criteria set forth in N.J.A.C. 7:4-2.3.

“Cyclic maintenance” means that type of maintenance that is performed less frequently than annually and involves replacement or major mending of the fabric of a historic property, an example of which would be a complete re-roofing of a building.

“Damage” means partial physical harm or demolition of a historic property.

“Department” means the Department of Environmental Protection, Division of Parks and Forestry, Historic Preservation Office.

“District” means a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.

A district may also comprise individual elements that although linked by association or function were separated geographically during the period of significance, as a district of discontinuous archaeological sites or a canal system where man-made segments are interconnected by natural bodies of water. The concept of a discontinuous district applies only where visual continuity is not necessary to convey the historic interrelationship of a group of related resources. Examples include, but are not limited to, college campuses; central business districts; residential areas; commercial areas; industrial complexes; civic centers; rural villages; canal systems; collections of habitation and limited activity sites; irrigation systems; large estates, farms, ranches, or plantations; transportation networks; and large landscaped parks.

“Emergency” means a situation in which the condition of a property is so damaged by an event such as, but not limited to, a natural disaster, major fire, serious accident or structural collapse, that it constitutes an immediate, direct, demonstrable, and severe hazard to the public safety. The poor condition of a property caused by long term deterioration shall not be considered an emergency.

“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 Criteria for Determining Whether an Undertaking Constitutes an Encroachment set forth in N.J.A.C. 7:4-7.2(e)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, Trenton, New Jersey 08625-0404) or from the Historic Preservation Office website ([www.state.nj.us/dep/hpo](http://www.state.nj.us/dep/hpo)) or from the National Park Service website ([www.nps.gov](http://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 Commission” means the commission created by an ordinance adopted by the local governing body pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-107 through 112.

“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.

“Historic property” means any district, site, building, structure or object significant in American history, architecture, archaeology, engineering and culture.

“Historic Sites Council” means the body within the Division of Parks and Forestry, Department of Environmental

Protection established by P.L. 1967, c.124, N.J.S.A. 13:1B-15.108 et seq., and amended by P.L. 1984, c.562, N.J.S.A. 13:1B-15.111 et seq., for the purpose of recommending policies to the Commissioner for the following actions: the acquisition, development, use, improvement and extension of historic sites (including archaeological sites); the development of a broad historic sites preservation program on a Statewide and local basis; the identification, authentication, protection, preservation, conservation, restoration, and management of all historic sites within the State; and the provision of advice on encroachments by the undertakings of State, county or municipal governments or any agency or instrumentality thereof on properties listed in the New Jersey Register.

“Housekeeping” means light cleaning performed at short term intervals.

“Local government” means a city, borough, town, municipality, township, village, county or other general purpose political subdivision of the State.

“Location map” means a map depicting the location of the resource referenced in the application delineated in relation to named local streets, at a scale that depicts the resource in its entirety and enough surrounding area to locate the resource on other map sources.

“Maintenance” means treatment that includes housekeeping, routine, and cyclic work scheduled to mitigate wear and deterioration of a historic property.

“Major revisions” means alteration of the boundaries of a property or important substantive changes to the nomination which could be expected to change the ultimate determination as to whether or not the property is listed in the New Jersey or National Registers.

“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.

“National Register” means the National Register of Historic Places, which consists of districts, sites, buildings, structures and objects significant in American history, architecture, archaeology, engineering and culture, and which the Secretary of the United States Department of the Interior is authorized to expand and maintain pursuant to The National Historic Preservation Act of 1966, 16 U.S.C. 470 et seq.

“National Register Nomination Form” means the legal document and reference for historical, architectural and archaeological data upon which the registration of properties is founded. Said document is the National Park Service’s Form NPS 10-900, with accompanying continuation sheets (where necessary) or Form NPS 10-306 with continuation sheets

(where necessary) now in use by the National Park Service and as may be subsequently modified, changed or amended.

“New Jersey Register” means the New Jersey Register of Historic Places, consisting of areas, sites, buildings, structures and objects within the State determined to have significant historical, archaeological, architectural, or cultural value, which the Commissioner is authorized to expand and maintain pursuant to the Act.

“Nominate” means to propose that a district, site, building, structure or object be listed in the New Jersey and National Registers by preparing a nomination application with accompanying maps and photographs, which clearly documents the significance of the property and is technically and professionally correct and sufficient in accordance with the procedure set forth in N.J.A.C. 7:4-2.2.

“Noncontributing property” means a building, site, structure, or object that does not add to the historic architectural qualities, historic associations, or archaeological values for which a property is significant because:

1. It was not present during the period of significance or does not relate to the documented significance of the property;
2. Due to alterations, disturbances, additions, or other changes, it no longer possesses historic integrity reflecting its character at that time or is incapable of yielding important information about the period; or
3. It does not independently meet the New Jersey Register criteria set forth in N.J.A.C. 7:4-2.3.

“Object(s)” means a construction that is primarily artistic in nature or is relatively small in scale and simply constructed, as distinguished from a building or a structure. Although it may be movable, by nature or design, an object is associated with a specific setting or environment, such as statuary in a designed landscape. Objects should be located in a setting appropriate to their significant historic use, roles, or character. Examples include, but are not limited to, sculpture, monuments, mileposts, boundary markers, statuary, and fountains. (Objects relocated in a museum setting are generally considered inappropriate for listing in the New Jersey Register.)

“Preservation” means the act or process of applying measures to sustain the existing form, integrity and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project.

“Project” means a planned undertaking.

“Reconstruction” means the act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

“Rehabilitation” means the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.

“Restoration” means the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.

“Routine maintenance” means minor repairs such as in-kind replacement of a broken window pane or in-kind patching of a few roof shingles.

“Site(s)” means the location of a significant event, a pre-historic or historic occupation or activity, or a building or structure, whether standing, ruined or vanished, where the location itself maintains historic or archaeological value regardless of the value of any existing structure. Examples include, but are not limited to, habitation sites, funerary sites, rock shelters, village sites, hunting and fishing sites, ceremonial sites, petroglyphs, rock carvings, battlefields, ruins of historic buildings and structures, campsites, ruins of industrial works, sites of treaty signings, trails, shipwrecks, cemeteries, designed landscapes, and natural features, and such as springs, rock formations, and landscapes which have cultural significance.

“State Historic Preservation Officer” means the Commissioner of the Department of Environmental Protection, who is designated by the Governor to administer the State Historic Preservation Program, including the identification and nomination of eligible properties to the National Register. The Commissioner is also authorized by the Act to establish criteria for receiving and processing nominations and approval of areas, sites, buildings, structures and objects, both publicly and privately owned, for inclusion in the New Jersey Register.

“State Historic Preservation Plan” means the National Park Service required document that sets forth long-range goals of the State Historic Preservation Program and describes specific ways for the community to achieve those goals.

“State Historic Preservation Program” means the program established by the Department and approved by the Secretary of the United States Department of the Interior for the purposes of carrying out the provisions of the National Historic

Preservation of 1966, as amended, and related laws and regulations.

“State Review Board” means the State Review Board for Historic Sites, a body whose members represent the professional fields of American history, architectural history, pre-historic and historic archaeology, and other professional disciplines appointed by the State Historic Preservation Officer as part of the State Historic Preservation Program for the purpose of reviewing and recommending to the State Historic Preservation Officer whether to approve New Jersey and National Register nominations based on whether or not they meet the criteria for evaluation in N.J.A.C. 7:4-2.3.

“Structure(s)” is a term used to distinguish from buildings those functional constructions made usually for purposes other than creating shelter. Examples include, but are not limited to, bridges, tunnels, gold dredges, firetowers, canals, turbines, dams, power plants, cornercribs, silos, roadways, shot towers, windmills, grain elevators, kilns, mounds, cairns, palisade fortifications, earthworks, railroad grades, systems of roadways and paths, boats and ships, railroad locomotives and cars, telescopes, carousels, and aircraft.

“Undertaking” means an action by the State, a county, municipality, or an agency or instrumentality thereof, which has the potential to result in direct or indirect effects on any district, site, building, structure or object listed in the New Jersey Register. An action shall be considered to have an effect whenever any condition of the action causes or may cause any change, beneficial or adverse, in the quality of the historical, architectural, archaeological, or cultural characteristics that qualified a historic property to meet the criteria for evaluation (N.J.A.C. 7:4-2.3) for the New Jersey Register. For the purpose of determining effect, alteration of features of the property’s location, setting or use may be considered relevant depending on a property’s significant characteristics. An effect may be direct or indirect. Direct effects are caused by the undertaking and occur at the same place and time. Indirect effects include those caused by the undertaking that are farther removed in distance or later in time, but are still reasonably foreseeable. Such indirect effects may include changes in the pattern of land use, population density or growth rate that may affect the quality of the historical, architectural, archaeological, or cultural characteristics that qualified a historic property to be listed in the New Jersey Register. Consistent with the above language, the following are examples of what shall be considered undertakings: acquisitions, sales, leases, transfers of deed, easements, an agreement or other form of permission allowing use of a registered property, cyclic maintenance, and alterations or relocation of a registered property. The following are examples of actions that shall not be considered as undertakings:

1. Changes in local zoning ordinances;
2. Issuance of building or demolition permits to private individuals or corporations;

3. Granting of zoning variances to private individuals or corporations; and

4. Housekeeping and routine maintenance.

Amended by R.1997 d.373, effective September 15, 1997.

See: 29 N.J.R. 2503(a), 29 N.J.R. 4103(b).

Added “Historic Preservation Office”; deleted “New Jersey and National Register Manual”, “Office of New Jersey Heritage”, “Protection”, and “Stabilization”; and amended “Department”, “District”, “Encroachment”, “Historic Sites Council”, “New Jersey Register”, “Noncontributing property”, “Preservation”, “Reconstruction”, “Rehabilitation”, “Restoration”, “State Historic Preservation Officer”, “State Historic Preservation Plan”, “Structure(s)”.

Amended by R.2003 d.110, effective March 17, 2003.

See: 34 N.J.R. 3161(a), 35 N.J.R. 1410(a).

Added a second sentence in the introductory paragraph; in “Encroachment”, amended the N.J.A.C. reference and inserted a reference to the website address; rewrote “State Historic Preservation Plan”.

Amended by R.2008 d.261, effective September 2, 2008.

See: 40 N.J.R. 1428(a), 40 N.J.R. 4945(b).

Added definition “Location map”; in paragraph 1 of definition “Noncontributing property”, inserted “or does not relate to the documented significance of the property”; and in definition “State Review Board”, inserted “the State Review Board for Historic Sites,”.

## SUBCHAPTER 2. REGISTRATION PROCEDURES AND CRITERIA

### 7:4-2.1 Integration of New Jersey and National Register of Historic Places Program

(a) The procedures for registration in New Jersey Register are integrated with the National Register of Historic Places Program administered by the Department and the National Park Service. The New Jersey and National Registers both use the same nomination criteria, nomination forms, State administrative agency (Historic Preservation Office), and State Review Board. Both require that the Commissioner sign the nomination; in the case of the National Register, as the State Historic Preservation Officer. This integrated process is designed to avoid duplication of steps since the two programs parallel and complement each other. The dual process ends after the Commissioner signs a historic property’s nomination form, which action lists the historic property in the New Jersey Register. The property is then registered and protected by the Act. Once signed by the State Historic Preservation Officer, the historic property’s nomination form is then forwarded to the National Park Service in care of the Keeper of the National Register for consideration for inclusion in the National Register.

(b) The State Historic Preservation Officer is responsible for identifying and nominating eligible properties to the New Jersey and National Registers and establishing Statewide priorities for preparation and submittal of nominations to the New Jersey and National Registers in accordance with the State Historic Preservation Plan.

(c) The New Jersey Register is administered and maintained by the Department.

(d) The Commissioner, as the State Historic Preservation Officer, or the Commissioner's designee, shall make the final determination for New Jersey registration. If favorable, the Commissioner shall sign the nomination, thereby placing the historic property on the New Jersey Register and simultaneously recommending the historic property for National Register designation by the National Park Service.

Amended by R.1997 d.373, effective September 15, 1997.  
See: 29 N.J.R. 2503(a), 29 N.J.R. 4103(b).

#### **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, Trenton, New Jersey 08625-0404.

(b) Applications for nomination to the New Jersey Register may be initiated by private individuals, any organization, or government agency.

(c) The procedure for the nomination of property for inclusion in the New Jersey and National Registers is as follows:

1. The applicant obtains a preliminary application and an individual building or district survey form from the Department.

2. The applicant submits the following to the Department for a preliminary determination by the Department whether the property is potentially eligible for listing in the New Jersey and National Registers under the criteria for evaluation set forth in N.J.A.C. 7:4-2.3:

i. The completed preliminary application and the individual or district survey form obtained under (c)1 above;

ii. Clear photographs that show the property in complete exterior and interior views. In the case of a district, the photographs shall show representative views of the district; and

iii. A location map;

3. Within 45 days of receiving a complete submittal for preliminary determination under (c)2 above, the Department shall:

i. Make a preliminary determination of the property's potential eligibility for the New Jersey and National Registers; and

ii. Notify the applicant in writing whether or not the Department determines that the property is potentially eligible for the New Jersey and National Registers.

(1) If the Department determines that the property potentially is eligible for the New Jersey and National Registers, the Department shall send a National Register Nomination Form to the applicant.

(2) If the Department determines that the property does not appear to be potentially eligible for the New Jersey and National Registers, the Department shall give the applicant a written explanation of the Department's preliminary determination that the property does not appear to meet the criteria for evaluation in N.J.A.C. 7:4-2.3. If the applicant resubmits a request for a preliminary determination, it shall be treated as a new preliminary submittal.

4. The applicant shall, as part of an adequately documented and technically and professionally correct and sufficient National Register Nomination Form, submit the following to the Department:

i. A complete list of all owners of the nominated property as of the date of the National Register Nomination Form's submission. The list of property owners shall be the list of private and public property owners (including right-of-way owners) named in official municipal tax records and maps and shall be notarized by the appropriate municipal official. If the property is not scheduled for consideration by the State Review Board under this subchapter within 90 days after the Department receives an adequately documented and technically and professionally correct and sufficient National Register Nomination Form, the Department may require that the applicant submit an updated list of property owners (notarized by the appropriate municipal official) which the applicant shall provide to the Department within 30 days of the issuance of the Department's written request; and

ii. A map that meets the standards specified in N.J.A.C. 7:4-8.9(a)1.

5. Within 60 days of receiving a completed National Register Nomination Form, the Department shall notify the applicant in writing as to:

i. Whether or not the National Register Nomination Form is adequately documented and technically and professionally correct and sufficient;

ii. Whether or not the property appears to meet the criteria for evaluation in N.J.A.C. 7:4-2.3; and

iii. If the Department determines that the National Register Nomination Form is adequately documented

and technically and professionally correct and sufficient and that the property appears to meet the criteria for evaluation in N.J.A.C. 7:4-2.3, the Department shall schedule the nomination for consideration at the earliest possible State Review Board meeting, consistent with the Department's established priorities for processing nominations. These priorities shall be consistent with implementation of the State Historic Preservation Plan and shall be established by the Department in consultation with the State Review Board. The Department shall notify the applicant in writing of the property's position in accordance with the Department's priorities for processing nominations under the State Historic Preservation Plan and of the date the applicant can expect the nomination of the property to be considered by the State Review Board under this subchapter; or

iv. If the Department determines that the National Register Nomination Form is not adequately documented and technically and professionally correct and sufficient or that the property does not appear to meet the criteria for evaluation in N.J.A.C. 7:4-2.3, the Department shall provide the applicant with a written explanation of the reasons for that determination.

6. If the Department determines that the National Register Nomination Form is adequately documented and technically and professionally correct and sufficient, but that the property does not appear to meet the criteria for evaluation in N.J.A.C. 7:4-2.3, the Department need not process the nomination further unless the Department receives a written request to do so from the Keeper of the National Register under 36 CFR Part 60, Section 60.12 referenced in N.J.A.C. 7:4-2.2(c)21 below, in which case the Department shall proceed with processing the nomination for the National Register but shall not be required to process the nomination for the New Jersey Register.

7. When a National Register Nomination Form for a property within the jurisdiction of a Certified Local Government is received by the Department, the Department shall:

i. Forward a copy of the nomination to the Certified Local Government's historic preservation commission for the commission's review and comment;

ii. Within 30 days of its receipt of the nomination, forward to the Certified Local Government's historic preservation commission a written determination on whether or not the nomination is adequately documented and technically and professionally correct and sufficient and whether the nominated property appears to meet the criteria for evaluation under N.J.A.C. 7:4-2.3;

iii. Allow the Certified Local Government 60 days from the date of issuance of the notice of adequate documentation and eligibility for the Chief Elected Local Official of the Certified Local Government to transmit to the Department a report by the historic

preservation commission as to whether or not in its opinion the nominated property meets the criteria for evaluation in N.J.A.C. 7:4-2.3 and the recommendation of the chief elected local official;

iv. If the report by the Certified Local Government's historic preservation commission and the recommendations of its chief elected local official are not received by the Department within 60 days as provided in (c)8ii above, the Department shall proceed with processing the nomination pursuant to this chapter; and

v. If both the Certified Local Government's historic preservation commission and its chief elected local official recommend under (c)8ii above that a property not be listed in the National Register, the Department shall not proceed with processing the nomination for the National Register pursuant to this chapter unless, within 30 days of the receipt of the recommendation by the Department, the State Historic Preservation Officer receives a written request from any citizen or organization to proceed with the nomination. The report by the Certified Local Government's historic preservation commission and the recommendations of its chief elected local official shall be included by the Department with any nomination processed by the Department under this chapter and submitted by the State Historic Preservation Officer to the Keeper of the National Register.

8. As part of the nomination process, the Department shall notify the preparer and the owner(s) of the nominated property or the owner(s) of property within a nominated historic district in writing of the Department's intent to bring the nomination before the State Review Board on a specific date, time and place. The Department shall be responsible for notifying only those property owners names in the National Register Nomination Form in accordance with (c)4 above. Where more than one owner is named, each separate owner shall be notified.

i. The Department shall send the written notification at least 60 but not more than 75 days before the State Review Board meeting during which the nomination is scheduled to be considered. The property owner(s) shall be notified via certified mail. In addition to informing the applicant and owner(s) that the property is being considered for nomination to the New Jersey Register, the notice shall solicit written comments on the significance of the property and whether or not it meets the criteria for evaluation set forth in N.J.A.C. 7:4-2.3, inform the owners what registration of the property will mean to the owner, and explain the benefits and responsibilities of property registration. The property owner(s) shall have at least 60 days but not more than 75 days from the date of issuance of written notification to submit written comments to the Department and to concur in or object to the nomination of such property.

ii. For a nomination with more than 50 property owners, the Department may publish a public notice to

property owners concerning the Department's intent to nominate instead of individually notifying all property owners. Such public notice shall be published at least 60 days but not more than 75 days before the State Review Board meeting during which the nomination is scheduled to be considered. Such public notice must be published in one or more local newspapers of general circulation in the area of the nomination.

9. At least 60 but not more than 75 days before the State Review Board meeting during which the nomination is scheduled to be considered, the Department shall send, via certified mail, to the applicable chief elected local official of the county and municipality in which the property is located written notice of the Department's intent to bring the nomination before the State Review Board on a specific date, time and place. Notifications of a proposed district shall include a map showing the district boundaries. In addition to informing the chief elected local official that the property is being considered for nomination to the New Jersey Register, the notice shall solicit written comments on the significance of the property and whether or not it meets the criteria for evaluation in N.J.A.C. 7:4-2.3. The chief elected local official shall have 60 but not more than 75 days from the date of issuance of written notification to submit written comments on the nomination to the Department.

10. The complete National Register Nomination Form shall be on file with the Department during the comment period in (c)8 and 9 above and a copy shall be made available by mail when requested by the public or made available at a location to which all affected property owners have reasonable access, such as a local library, municipal building, courthouse, or other public place so that written comments regarding the nomination can be prepared.

11. In the case of a nomination of an historic district including 50 or more property owners, the Department shall conduct a public meeting in the municipality in which the property is located prior to consideration of the application by the State Review Board. In the event of an archaeological nomination, the public meeting may be waived by the Department. The Department shall publish public notice of the meeting to property owners in accordance with provisions of (c)8ii above. The notification shall provide the following: a description of the proposed historic district, the benefits and responsibilities of historic district registration, the place that the nomination document can be examined prior to the meeting, and the date, time and place that the meeting will be held. Alternative methods of notification for the meeting such as publication in the official newspaper of the municipality, or in a newspaper circulating in the municipality may be used when the number of property owners in a proposed historic district exceeds 50.

12. Upon notification under (c)8 above, any owner or owners of a private property who objects to the nomination

to the National Register shall submit to the Department a notarized statement certifying that the objector is the sole or partial owner of the private property and objects to the nomination. Upon receipt of notarized objections respecting a district or single private property with multiple owners, the Department shall ascertain how many owners have objected. If an owner whose name did not appear on the ownership list submits a written notarized statement from the municipality that the party is the sole or partial owner of a nominated private property, such owner shall be counted by the Department in determining how many owners have objected. Each owner of private property in a district shall be considered only once regardless of how many properties or what part of one property that party owns and regardless of whether the property contributes to the significance of district. Owner objections shall be considered by the State Historic Preservation Officer only with regard to submission of the nomination to the Keeper of the National Register of Historic Places.

13. Completed National Register Nomination Forms, Department recommendations, and public comments concerning the significance of a property and its eligibility for the New Jersey and National Registers shall be submitted by the Department to the State Review Board. The State Review Board shall review the nomination forms and comments concerning the property's significance and eligibility for the New Jersey Register. The State Review Board shall evaluate whether or not the property meets the criteria for evaluation set forth in N.J.A.C. 7:4-2.3 and make a recommendation to the State Historic Preservation Officer to approve or disapprove the nomination. The State Review Board may request that the applicant submit additional information before making a recommendation to the State Historic Preservation Officer. If a nomination is not recommended for approval by the State Review Board, the Board shall explain at the meeting the reasons for its determination that the property does not satisfy the criteria for evaluation set forth in N.J.A.C. 7:4-2.3. The Board's explanation shall be made a part of the minutes of the meeting.

14. Nominations approved by the State Review Board, along with any comments received, shall be reviewed by the State Historic Preservation Officer. If the State Historic Preservation Officer determines that a nomination is adequately documented and technically, professionally, and procedurally correct and sufficient and in conformance with the criteria for evaluation set forth in N.J.A.C. 7:4-2.3, the State Historic Preservation Officer shall, within 90 days of the State Review Board meeting, sign the National Register Nomination Form and thereby place the property on the New Jersey Register and simultaneously recommend the nomination to the Keeper of the National Register of Historic Places, National Park Service, United States Department of the Interior, Washington, D.C. 20240. All comments received by the Department and notarized statements of objection to listing received by the Department shall be submitted to the National Park Service

along with the nomination. Historic properties placed on the New Jersey Register shall remain on the New Jersey Register regardless of the response of the National Park Service to the nomination to the National Register. The State Historic Preservation Officer's signature certifies that:

- i. All procedural requirements set forth in this section have been met;
- ii. The National Register Nomination Form is adequately documented;
- iii. The National Register Nomination Form is technically and professionally correct and sufficient; and
- iv. In the opinion of the State Historic Preservation Officer, the property meets the criteria for evaluation set forth in N.J.A.C. 7:4-2.3.

15. If the State Historic Preservation Officer determines that the nominated property does not meet the criteria for evaluation set forth in N.J.A.C. 7:4-2.3, the State Historic Preservation Officer shall, within 45 days of the State Review Board meeting, advise the applicant in writing of the reasons for the determination. In the event that the State Historic Preservation Officer determines that the nominated property does not meet the criteria for evaluation, the State Historic Preservation Officer need not sign the National Register Nomination Form.

16. If the State Historic Preservation Officer and the State Review Board disagree on whether a property meets the criteria for evaluation set forth in N.J.A.C. 7:4-2.3, the State Historic Preservation Officer, if he or she chooses, may submit the nomination, with an opinion concerning whether or not the property meets the criteria for evaluation and the opinion of the State Review Board, to the Keeper of the National Register for a final decision on the listing of the property in the National Register. The State Historic Preservation Officer shall submit such disputed nominations to the Keeper within 45 days after the recommendation by the State Review Board if so requested by the State Review Board, the chief elected official of the municipality in which the property is located, or by the Keeper of the National Register pursuant to federal rules for appeals under the National Register Program set forth in 36 CFR Part 60, Section 60.12 or subsequent amendments thereto.

17. If the owner of a nominated private property or the majority of such owners of a nominated historic district or single property with multiple owners has objected to the nomination to the National Register by notarized statements before the State Historic Preservation Officer submits the nomination to the Keeper, the State Historic Preservation Officer shall sign the National Register Nomination Form, but shall submit the nomination to the Keeper only for a determination of whether the property or historic district is eligible for the National Register pursuant to the federal rules for the National Register Program set forth in

36 CFR Part 60, section 60.6(n) and (s) or subsequent amendments thereto.

18. Nominations will be included in the National Register within 45 days of receipt by the Keeper of a completed National Register Nomination Form from the State Historic Preservation Officer unless:

- i. The Keeper returns the nomination to the State Historic Preservation Officer because the National Register Nomination Form is not adequately documented and technically and professionally correct and sufficient;
- ii. The Keeper returns the nomination to the State Historic Preservation Officer because the Keeper has determined that the nominated property or historic district does not meet the criteria for listing in the National Register set forth in 36 CFR Part 60, section 60.4 or subsequent amendments thereto;
- iii. An appeal is filed with the Keeper as provided in (c)22 below; or
- iv. The owner of the nominated private property or the majority of the owners of property in a nominated historic district or single property with multiple owners objects by notarized statements received by the Keeper before the property or historic area is listed on the National Register.

19. When a nomination is returned to the State Historic Preservation Officer as provided in (c)18i and ii above, the State Historic Preservation Officer shall notify the applicant that the nomination has been returned. The notification shall include an explanation of the reasons for the return of the nomination. Upon receipt by the State Historic Preservation Officer of sufficient additional information from the applicant addressing the reasons for the return of the nomination, the State Historic Preservation Officer shall resubmit the nomination to the Keeper.

20. Any person or organization which supports or opposes the nomination of a property by the State Historic Preservation Officer for listing in the National Register may, during the review of the nomination by the National Park Service, petition the Keeper to accept or reject a nomination pursuant to the federal rules for appeals under the National Register Program, 36 CFR Part 60, Section 60.6(t) or subsequent amendments thereto. The petitioner must state the grounds of the petition and request in writing that the Keeper substantively review the nomination. Such petitions received by the Keeper prior to the listing of the property in the National Register or a determination of its eligibility where the private owners object to listing will be considered by the Keeper and the nomination will be substantively reviewed. Decisions by the Keeper on such petitions shall not affect a property's listing in the New Jersey Register.

21. If the Department determines not to nominate a property for inclusion in the National Register or the State

Historic Preservation Officer does not nominate a property recommended by the State Review Board for inclusion in the National Register, any person or local government may appeal to the Keeper the failure or refusal of the State Historic Preservation Officer to nominate a property to the National Register that the person or local government considers to meet the criteria for listing in the National Register set forth in 36 C.F.R. 60.4 or subsequent amendments thereto. Such appeals shall be made in accordance with Federal rules for appeals under the National Register Program (36 C.F.R. 60.12) or subsequent amendments thereto. Regardless of the decision by the Keeper, the State Historic Preservation Officer is not obligated to place the property on the New Jersey Register.

22. If subsequent to nomination of a property for listing in the New Jersey Register and National Registers, major revisions are made to the nomination or a property previously rejected by the Department or Keeper is renominated, the State Historic Preservation Officer shall notify the affected property owner(s) and the chief elected local official of the county and municipality in which the property is located of the revisions or renomination in the same manner as the original notification for the nomination under (c)8 and 9 above. In the case of major revisions, the Department may resubmit the nomination to the State Review Board or treat it as a new nomination to be processed in accordance with this section. Comments received and notarized statements of objection shall be forwarded to the Keeper along with the revisions or renomination. The State Historic Preservation Officer shall also certify by the resubmittal that the affected property owner(s) and the chief elected local officials have been renotified.

Amended by R.1997 d.373, effective September 15, 1997.

See: 29 N.J.R. 2503(a), 29 N.J.R. 4103(b).

Amended by R.2003 d.110, effective March 17, 2003.

See: 34 N.J.R. 3161(a), 35 N.J.R. 1410(a).

Substituted "60 days" for "30 days" preceding "but not more than 75 days" throughout; in (c), inserted "via certified mail" in the third sentence of 9 and the first sentence of 10.

Amended by R.2008 d.261, effective September 2, 2008.

See: 40 N.J.R. 1428(a), 40 N.J.R. 4945(b).

Rewrote (c).

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

(a) The criteria for evaluation listed below shall be used by the Department, State Review Board, and State Historic Preservation Officer to determine the eligibility of a property for listing in the New Jersey Register. The criteria for evaluation are also used by the National Park Service for determining eligibility of properties for the National Register (36 C.F.R. 60.4) or subsequent amendments thereto. These criteria are worded to apply to a wide diversity of properties. The criteria for evaluation are listed by letter as published in the Federal rules and as commonly utilized.

1. Criteria for Evaluation: The quality of significance in American history, architecture, archaeology, 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:

i. (Criterion A) That are associated with events that have made a significant contribution to the broad patterns of our history; or

ii. (Criterion B) That are associated with the lives of persons significant in our past; or

iii. (Criterion 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

iv. (Criterion D) That have yielded, or may be likely to yield, information important in prehistory or history.

2. 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 are generally not considered eligible for the New Jersey Register. However, such properties may qualify if they are integral parts of areas that do meet the criteria or if they fall within the following categories:

i. A religious property deriving primary significance from architectural or artistic distinction or historic importance;

ii. A building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with an historic person or event;

iii. A birthplace or grave of a historical figure of outstanding importance if there is no other appropriate site or building directly associated with his or her productive life;

iv. A cemetery which derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events;

v. 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;

vi. A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own historical significance; or

vii. A property achieving significance within the past 50 years if it is of exceptional importance.

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

Amended by R.1997 d.373, effective September 15, 1997.  
See: 29 N.J.R. 2503(a), 29 N.J.R. 4103(b).

Inserted new (a)2iii; recodified former (a)2iii through vi as (a)2iv through vii; in (b), deleted reference to New Jersey and National Register Manual, inserted reference to Bulletin No. 15, and amended Office reference.

Amended by R.2003 d.110, effective March 17, 2003.  
See: 34 N.J.R. 3161(a), 35 N.J.R. 1410(a).

In (b), added references to the website address.

#### **7:4-2.4 Notification of registration and National Park Service determinations of eligibility**

(a) Upon approval by the State Historic Preservation Officer of a property for listing in the New Jersey Register, all property owners named in the National Register Nomination Form in accordance with N.J.A.C. 7:4-2.2(c)4 shall receive from the Department written notification of the registration including the date of approval. Notification shall also be sent to the chief elected local official of the county and municipality in which the property is located and, if the property is located within the jurisdiction of a Certified Local Government, to the Historic Preservation Commission. Alternative methods of notification, such as publication in the official newspaper of the municipality, or in a newspaper circulating in the municipality, may be used when the number of property owners in a proposed historic area exceeds 50. Notification of all registrations in counties under the jurisdiction of the Pinelands Commission shall also be sent to the Pinelands Commission.

(b) Upon approval by the Keeper of a property for listing in the National Register, the State Historic Preservation Officer shall send written notification of the registration to the property owners and the chief elected local official of the county and the municipality in which the property is located and, if the property is located within the jurisdiction of a Certified Local Government, to the Historic Preservation Commission. Alternative methods of notification, such as publication in the official newspaper of the municipality, or in a newspaper circulating in the municipality, may be used when the number of property owners in a proposed historic area exceeds 50.

(c) In the case of nominations where the owner of private property or the majority of such owners for an area or a single property with multiple owners has objected to listing in the National Register and the Keeper has determined the property or area to be eligible for the National Register, the State Historic Preservation Officer shall send written notification of the determination of eligibility to the property owners and the chief elected local official of the county and the municipality in which the property is located and, if the property is located within the jurisdiction of a Certified Local Government, to the Historic Preservation Commission. Alternative methods of notification, such as publication in the official newspaper of the municipality, or in a newspaper circulating in the municipality, may be used when the number of property owners in a proposed historic area exceeds 50.

#### **7:4-2.5 Listed property file**

Documentation of properties approved for listing in the New Jersey Register shall be on file and, subject to the provisions of N.J.A.C. 7:4-2.7, shall be available for public inspection at the Department.

#### **7:4-2.6 Distribution of New Jersey Register and National Register**

The Department shall maintain an updated list of sites on the New Jersey Register and National Register and distribute a copy of the New Jersey Register and National Register to the clerk of each county and municipality and to all New Jersey State Government agencies, instrumentalities, or entities upon request.

Amended by R.2003 d.110, effective March 17, 2003.  
See: 34 N.J.R. 3161(a), 35 N.J.R. 1410(a).

Rewrote the section.

#### **7:4-2.7 Disclosure of nomination or registration of a historic property**

The State Historic Preservation Officer need not make available to any person or entity except a Federal or State agency planning a project, the property owner, the chief elected local official of the county or municipality in which the property or district is located and the local Historic Preservation Commission for Certified Local Governments of the municipality in which the property is located, specific information relating to the location of properties proposed to be registered, or already registered in the New Jersey or National Registers, if the State Historic Preservation Officer determines that the disclosure of specific information would create a risk of destruction or harm to such properties.

SUBCHAPTER 3. BOUNDARY REDELINEATION AND  
RELOCATION OF PROPERTIES LISTED IN THE  
NEW JERSEY REGISTER

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

(a) The boundary of a property listed in the New Jersey Register may be redelineated only if:

1. Property that meets the criteria for evaluation in N.J.A.C. 7:4-2.3 was not included in the registered property or property that does not meet the criteria for evaluation in N.J.A.C. 7:4-2.3 was included in the registered property as the result of professional error in the original nomination of the registered property for listing in the New Jersey Register;

2. Property comprising part of registered property no longer meets the criteria for evaluation in N.J.A.C. 7:4-2.3 because the integrity of the qualities that caused the property to be listed in the New Jersey Register has been lost;

3. The property possesses additional, previously unrecognized significance in American history, architecture, archaeology, engineering or culture which causes the property to meet the criteria for evaluation in N.J.A.C. 7:4-2.3;

4. Additional research documents that a larger or smaller area of the registered property should be listed; or

5. Original delineation is inadequate to determine boundary limits.

(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. 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 N.J.A.C. 7:4-2.2(c)13. 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, the revised boundaries of the regis-

tered 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) For redelineations under (a)5 above, an attachment to the National Register Nomination Form shall be prepared and submitted to the Department. The submission shall include a verbal boundary description, maps, and boundary justification. The Department shall process the redelineation in accordance with N.J.A.C. 7:4-2.2.

**7:4-3.2 Relocation of properties listed in the New Jersey Register**

(a) The Department encourages the relocation of properties on the New Jersey Register only when relocation is the only feasible means for preservation of the registered property. When a registered property is relocated every effort should be made to reestablish its historic orientation, immediate setting, and general environment.

(b) If the State, a county, municipality or any agency or instrumentality thereof proposes to relocate a property listed in the New Jersey Register, the State, county, municipality or agency or instrumentality thereof shall submit an application to the Department for project authorization for projects encroaching upon property listed in the New Jersey Register. The application shall be prepared, submitted and reviewed in accordance with the review procedures for projects encroaching upon property listed in the New Jersey Register set forth in N.J.A.C. 7:4-7.

(c) In order for a property listed in the New Jersey Register to be relocated and remain listed in the New Jersey Register during and after the relocation, the applicant shall submit documentation to the Department and obtain the approval thereof by the State Historic Preservation Officer prior to the relocation. The documentation shall set forth in detail:

1. The reasons for the relocation;
2. The effect of the relocation on the registered property's historical integrity which causes the property to meet the criteria for evaluation in N.J.A.C. 7:4-2.3;
3. The description of the new setting and general environment of the proposed site, including evidence that:
  - i. The proposed site does not possess historical or archaeological significance that would be adversely affected by the proposed relocation; and
  - ii. The proposed site will, to the maximum extent possible, contribute to reestablishing the registered property's previous historic orientation, immediate setting, and general environment; and
4. Photographs showing the proposed location.

(d) Documentation submitted to the Department under (c) above shall be 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.

(e) If the State Historic Preservation Officer approves continued listing of the property despite its relocation, the property shall remain in the New Jersey Register during and after the relocation unless the historic integrity which causes the property to meet the criteria for evaluation in N.J.A.C. 7:4-2.3 is in some unforeseen manner destroyed during or as a result of the relocation. Within 90 days after the registered property has been relocated, an applicant shall submit to the Department:

1. A letter notifying the State Historic Preservation Officer of the date that the registered property was relocated;
2. Photographs of the registered property on its new site;
3. A revised map of the new site including a United States Geological Survey map; and
4. The acreage and a verbal boundary description of the new site.

(f) The State Historic Preservation Officer shall respond to a complete and properly documented submittal under (e) above within 45 days of receipt with a final determination on whether the relocation has destroyed the historic integrity of the registered property which caused the property to meet the criteria for evaluation in N.J.A.C. 7:4-2.3. If the State Historic Preservation Officer makes such a determination, the property shall be deleted from the New Jersey Register as of the date of the relocation of the property. In cases of properties removed from the New Jersey Register, if the applicant has neglected to obtain prior approval for the move or has evidence that previously unrecognized significance exists, or has accrued, the applicant may submit a new National Register Nomination Form for the property.

(g) If a registered property is relocated without first obtaining approval for continued listing from the State Historic Preservation Officer as provided in (e) above, the property shall, as of the date of relocation, be deleted from the New Jersey Register. However, a property which is subject to the encroachment review process set forth in N.J.A.C. 7:4-7 shall not be automatically deleted from the New Jersey Register until said review process is completed. If a registered property is relocated without first obtaining the approval required under (b) or (e) above, it is the responsibility of the property owner or applicant to notify the Department.

(h) If a property is deleted from the New Jersey Register under (g) above, in order for the property to be reentered in 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 nomination of properties for inclusion in the New Jersey and National Registers set forth in N.J.A.C. 7:4-2.2. In addition to the information required as part of a complete National Register Nomination Form under N.J.A.C. 7:4-2.2, the nomination form shall set forth in detail:

1. The reasons for the relocation;
2. The effect of the relocation on the property's historical integrity which caused the property to meet the criteria for evaluation in N.J.A.C. 7:4-2.3;
3. The new setting and general environment, including evidence that the new site does not possess historical or archaeological significance that would be affected by intrusion of the property;
4. Photographs showing the new site;
5. A United States Geological Survey Map showing the property at the new site; and
6. The acreage and a verbal boundary description of the new site.

#### **7:4-3.3 Properties relocated in accordance with the recommendations of the Advisory Council on Historic Preservation**

Properties relocated in accordance with the recommendations of the Advisory Council on Historic Preservation under 36 C.F.R. 800, are exempt from N.J.A.C. 7:4-3.2(c) through (h). An applicant shall notify the Department of the new site after the property has been relocated. The notice shall include the information and documentation required in N.J.A.C. 7:4-3.2(e).

Amended by R.2003 d.110, effective March 17, 2003.  
See: 34 N.J.R. 3161(a), 35 N.J.R. 1410(a).

#### **7:4-3.4 Relocation by the State, a county or municipality of property listed in the New Jersey Register**

(a) When the relocation by the State, a county, municipality or agency or instrumentality thereof of property listed in the New Jersey Register is authorized by the Commissioner in accordance with the procedures in N.J.A.C. 7:4-7 for project authorization of projects encroaching upon property listed in the New Jersey Register, the authorization exempts the registered property from N.J.A.C. 7:4-3.2(c) through (h).

(b) When the relocation by the State, a county, municipality or agency or instrumentality thereof of property listed in the New Jersey Register is authorized by the Commissioner in accordance with the provisions in N.J.A.C. 7:4-7 for project authorization for projects encroaching upon property listed in the New Jersey Register, the authorization does not exempt the registered property from N.J.A.C. 7:4-3.2(c) through (h) for the purpose of the property remaining in the

National Register. In order for the property to remain in the National Register, an applicant shall comply with the procedures and obtain the determination required under N.J.A.C. 7:4-3.2(c) through (h).

(c) Under (a) and (b) above, an applicant shall notify the Department of the new site after the relocation. The notice shall include the information and documentation required under N.J.A.C. 7:4-3.2(e).

#### SUBCHAPTER 4. REMOVAL OF PROPERTY FROM THE NEW JERSEY REGISTER

##### 7:4-4.1 Grounds for removal of property from the New Jersey Register

(a) A property listed in the New Jersey Register may be removed from the New Jersey Register only when the State Historic Preservation Officer determines that a petition for removal filed under (d) below establishes any of the following grounds:

1. The property has ceased to meet the criteria for evaluation in N.J.A.C. 7:4-2.3 because the qualities which caused the property to be listed in the New Jersey Register have been lost or destroyed, or such qualities were lost subsequent to nomination and prior to listing in the New Jersey Register;
2. Additional information establishes that the property does not meet the criteria for evaluation in N.J.A.C. 7:4-2.3;
3. Any error in professional judgment occurred in determining that the property meets the criteria for evaluation in N.J.A.C. 7:4-2.3; or
4. Prejudicial procedural error occurred in the nomination or listing process.

(b) Property removed from the New Jersey Register on the grounds set forth in (a)4 above shall be reconsidered for listing by the State Historic Preservation Officer after correction of the procedural error or errors by the applicant or Department, as appropriate. The reconsideration shall be conducted in accordance with N.J.A.C. 7:4-2.2, 2.3 and 2.5. Any property removed from the New Jersey Register for procedural deficiencies in the nomination and/or listing process shall automatically be considered eligible for inclusion in the New Jersey Register.

(c) Property listed in the New Jersey Register five years prior to August 17, 1992 shall only be removed from the New Jersey Register on the grounds set forth in (a)1 above.

(d) Any person, organization or governmental agency may petition the Department in writing for removal of a property from the New Jersey Register. The petition shall fully document, describe and explain the reasons why the petitioner

believes that the property should be removed from the New Jersey Register for any of the grounds set forth in (a) above. If the petition is based on the grounds set forth in (a)1 above, the petition shall include:

1. A copy of the original nomination indicating by number the significant elements that have lost integrity;
2. A narrative description and analysis clearly demonstrating loss of integrity and the reasons for that loss such as vandalism, demolition, destruction, relocation and alterations. In the case of a district, the description shall specifically identify properties affected by loss of integrity; and
3. Photographs showing existing conditions and keyed to a map and the nomination form.

(e) The State Historic Preservation Officer shall respond to the petitioner in writing within 45 days of receipt of the petition for removal of a property from the New Jersey Register. The response shall advise the petitioner of the State Historic Preservation Officer's views on the petition. A petitioner desiring to pursue his or her removal request shall notify the State Historic Preservation Officer in writing within 45 days of receipt of the written views on the petition. A property shall be considered for removal according to the nomination application procedure in N.J.A.C. 7:4-2.2 except that:

1. The procedures in N.J.A.C. 4-2.2(c)4, 14, 15 and 16 shall be completed in 15 days; and
2. The State Historic Preservation Officer shall forward the removal petition to the Keeper of the National Register within 15 days of the date of the meeting at which the State Review Board considered the petition.

#### SUBCHAPTER 5. CERTIFICATION OF ELIGIBILITY FOR LISTING IN THE NEW JERSEY REGISTER

##### 7:4-5.1 Certification of eligibility for listing in the New Jersey Register

If the property for which a historic preservation grant is requested under the Garden State Preservation Trust Fund Act, N.J.S.A. 13:8C-1 et seq., is not listed on the New Jersey Register, the applicant shall, prior to submission of a historic preservation grant application under N.J.A.C. 15:34, obtain from the State Historic Preservation Officer a certification of eligibility stating that the property for which a grant is requested is eligible for listing in the New Jersey Register. An applicant for an historic preservation grant for property within a registered district which is not categorized on the National Register Nomination Form as either contributing or noncontributing to the character of the district shall apply to the Department for a certification of eligibility.

Amended by R.2003 d.110, effective March 17, 2003.

See: 34 N.J.R. 3161(a), 35 N.J.R. 1410(a).  
Amended the N.J.S.A. and N.J.A.C. references.

#### 7:4-5.2 Criteria for issuance of a certification of eligibility

In determining whether to issue a certification of eligibility, the Department shall apply the criteria of evaluation set forth in N.J.A.C. 7:4-2.3.

#### 7:4-5.3 Application for certification of eligibility

(a) To request a certification of eligibility for listing in the New Jersey Register, the applicant shall:

1. Obtain a preliminary application from the Department;
2. Submit the following to the Department for a determination by the State Historic Preservation Officer whether the property is eligible for listing in the New Jersey Register.
  - i. The completed preliminary application;
  - ii. Clear photographs that show the property in complete exterior and interior views; and
  - iii. A location map.
3. If a property within a district listed in the New Jersey Register is not described on the National Register Nomination Form as being contributing or noncontributing to the character of the district, the application shall describe on the individual survey form how the property contributes to the character of the district.
4. If, based on its review of information submitted under (a)2 above, the Department determines that a property may be eligible for listing in the New Jersey Register as part of a district, the Department shall provide the applicant with a district survey form. The applicant shall complete the district survey form and submit it to the Department with photographs that show representative views of the district.

(b) Within 45 days after receipt by the Department of a complete application for a certification of eligibility under (a) above, the State Historic Preservation Officer shall:

1. Determine whether the property is eligible for listing in the New Jersey Register under the Criteria for Evaluation set forth in N.J.A.C. 7:4-2.3; and
2. Notify the applicant in writing whether or not the State Historic Preservation Officer has determined that the property is eligible for listing in the New Jersey Register.

i. If the State Historic Preservation Officer has determined that the property is eligible for listing in the New Jersey Register, the State Historic Preservation Officer shall send a certification of eligibility, which

shall specify how the property meets the criteria for eligibility set forth in N.J.A.C. 7:4-2.3 to the applicant.

ii. If the State Historic Preservation Officer has determined that the property is not eligible for listing in the New Jersey State Register, the State Historic Preservation Officer shall give the applicant a written explanation of the State Historic Preservation Officer's determination that the property does not meet the criteria for evaluation in N.J.A.C. 7:4-2.3.

(c) If the State Historic Preservation Officer has determined that the property is not eligible for listing in the New Jersey Register, the applicant may apply for nomination of the property for listing in the New Jersey and National Registers under N.J.A.C. 7:4-2.2. The State Historic Preservation Officer's determination on the application for certification of eligibility shall be submitted with the National Register Nomination Form.

Amended by R.2008 d.261, effective September 2, 2008.  
See: 40 N.J.R. 1428(a), 40 N.J.R. 4945(b).

In the introductory paragraph of (a), substituted "request" for "apply for", and deleted "for an historic preservation grant" preceding "shall"; in (a)1 and (a)2i, substituted "application" for "questionnaire and individual survey form"; rewrote (a)2iii; and in (a)4, substituted "information" for "the preliminary questionnaire, individual survey form and photographs", and deleted "within 90 days of the Department's issuance of the form" preceding "and submit".

## SUBCHAPTER 6. STATE FUNDS

### 7:4-6.1 Expenditure of State funds for historic preservation

(a) The Act requires that only properties on the New Jersey Register shall receive State funding for acquisition, preservation, restoration, and maintenance as historic properties.

(b) It is the responsibility of all State agencies considering funding a property for use as an historic place or site to apply for listing on the New Jersey Register as early as possible in their planning process. State agencies shall contact the Department for help and advice as to the eligibility of a property under their jurisdiction for listing in the New Jersey Register.

(c) Historic properties owned and maintained by the State of New Jersey, Department of Environmental Protection before November 30, 1970, are exempt from this subchapter.

Amended by R.1997 d.373, effective September 15, 1997.  
See: 29 N.J.R. 2503(a), 29 N.J.R. 4103(b).

SUBCHAPTER 7. REVIEW PROCEDURES FOR  
PROJECTS ENCROACHING UPON NEW JERSEY  
REGISTER PROPERTIES

**7:4-7.1 Application procedure for encroachment  
authorization**

(a) During the earliest stage of planning for any undertaking and before taking any action that could result in a physical effect on a property listed in the New Jersey Register, the State, a county, municipality or an agency or instrumentality thereof shall:

1. Consult with the Historic Preservation Office for the purpose of defining the boundaries of the area of the undertaking's potential impact;

2. Consult the latest edition of the New Jersey Register at [http://www.state.nj.us/dep/hpo/identify/nrsr\\_lists.htm](http://www.state.nj.us/dep/hpo/identify/nrsr_lists.htm) to determine if there are any registered properties within the area of the undertaking's potential impact; and

3. Contact the Historic Preservation Office and determine if other properties within the area of the undertaking's potential impact have been listed in the New Jersey Register since the most recently published list. Public projects or actions for which acquisition or construction contracts have been let prior to listing on the New Jersey Register shall not require review and approval.

(b) If there is no property on the New Jersey Register in the area of the undertaking's potential impact, the undertaking may commence without further review and approval by the Department pursuant to the Act and this chapter.

(c) If there is property on the New Jersey Register in the area of the undertaking's potential impact, the State, a county, municipality or an agency or instrumentality thereof shall submit an application to the Department for project authorization.

(d) The application shall be prepared by the State, county, municipality or agency or instrumentality thereof planning the undertaking or its authorized representative on forms available from the Department. The application shall be sufficient to completely describe the planned undertaking and shall include:

1. Maps;
2. Photographs;
3. Plans;
4. Specifications;
5. Proposed agreements;

6. A complete list of owners of registered properties that would be directly affected by the undertaking. The list of property owners shall be the list of private and public property owners (including right-of-way owners) named in official municipal tax records and maps as of the date of

submission of the application and shall be certified by the appropriate municipal official;

7. A complete list of local historical societies and historic preservation commissions in the area of the undertaking's potential impact;

8. A list of all affected local government units, any agencies or instrumentalities thereof concerned with historic preservation, and any Statewide organization and local organization specifically concerned with historic preservation in the area of the undertaking's potential impact;

9. A copy of the historic preservation element from the county/municipal masterplan if applicable;

10. If demolition of all or a substantial portion of a property is proposed, the application shall include a structural assessment and an evaluation of whether the property could be reasonably repaired, to be prepared by an architect or engineer with demonstrated experience with historic properties consistent with criteria established in the Secretary of the Interior's Professional Qualifications Standards, 36 CFR 61, Appendix, incorporated herein by reference and related guidance as part of the larger Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation, incorporated herein by reference, as referenced in 36 CFR 61; and

11. An application for relocating property on the New Jersey Register shall also include the information and documentation required in N.J.A.C. 7:4-3.2(c).

(e) At the request of an applicant, the Historic Sites Council may grant the review of a project that has only been developed to a conceptual level in cases where the project involves substantial encroachment through new construction and/or demolition (stage 1) and subsequent compatible design of new construction (stage 2). The scope of work for the project shall be consistent in both phases and shall be distinguished solely by the level of detail/completeness to which it has been developed. Project phasing is appropriate in cases where it would not be prudent to expend funds on stage 2 work without stage 1 approval. Each application seeking such review shall contain the information specified at (d) above.

Amended by R.1997 d.373, effective September 15, 1997.

See: 29 N.J.R. 2503(a), 29 N.J.R. 4103(b).

In (d), inserted second and fourth sentences.

Amended by R.2003 d.110, effective March 17, 2003.

See: 34 N.J.R. 3161(a), 35 N.J.R. 1410(a).

Rewrote (d).

Amended by R.2008 d.261, effective September 2, 2008.

See: 40 N.J.R. 1428(a), 40 N.J.R. 4945(b).

In (a)1 and (a)3, substituted "Historic Preservation Office" for "Department"; in (a)2, inserted "at [http://www.state.nj.us/dep/hpo/identify/nrsr\\_lists.htm](http://www.state.nj.us/dep/hpo/identify/nrsr_lists.htm)"; rewrote (d); and added (e).

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

(a) Within 30 days of receipt of an application for project authorization, the Department shall review the application for technical and professional completeness and sufficiency and shall notify the applicant in writing as to whether or not the application is complete and sufficient. If the application or material is not complete and sufficient, the Department shall notify the applicant in writing of what information is needed.

(b) Pursuant to N.J.S.A. 13:1B-15.131, the Department shall have 120 days to review an application for project authorization. The 120 day review period shall commence on the date that the Department receives an application that is technically and professionally complete and sufficient. In the event that the Department does not authorize, consent to, conditionally authorize or consent to, deny, or temporarily deny an application within the 120 day period, the application shall be deemed to have been approved. No waiver or extension of the 120 day period shall be allowed. This prohibition shall not apply in those cases in which the Commissioner issues a temporary denial based on a need for additional information. See N.J.A.C. 7:4-7.2(e)7iii.

(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, Trenton, New Jersey 08625-0404 or from website ([www.state.nj.us/dep/hpo](http://www.state.nj.us/dep/hpo)) or from the National Park Service website ([www.nps.gov](http://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. Within 45 days after the Department's issuance of notice to the applicant that an application is technically and professionally complete and sufficient, notify the applicant in writing whether or not the undertaking constitutes an encroachment or will damage or destroy the historic property. The notification shall include an explanation of the reasons for the Department's determination. The Department shall send a copy of any notification that an undertaking does not constitute an encroachment or will not damage or destroy the historic property to local historical societies and historic preservation commissions, as listed by the applicant in the application for authorization, pursuant to N.J.A.C. 7:4-7.1(d).

(d) If the Department determines that the undertaking does not constitute an encroachment or will not damage or destroy the historic property, the applicant may proceed with the project upon receipt of the Department's written notice under (c)2 above.

(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. The applicant shall submit 12 original copies of the application for project authorization to the Department for transmittal to the members of the Historic Sites Council.

2. Within 15 days of receipt of a notice that the undertaking constitutes an encroachment, the applicant shall provide written notice to owners of registered properties (as listed by the applicant in the application for authorization, pursuant to N.J.A.C. 7:4-7.1(d)) that an application has been submitted to the Commissioner for authorization and has been determined to constitute an encroachment.

3. The written notice shall contain a statement that indicates that the entity receiving the notice or any person directly affected by the undertaking may request in writing, that the Commissioner ask the Historic Sites Council to conduct a special public meeting specifically on the encroachment application. If the Commissioner receives a written request for a special public meeting from such an entity or from at least five persons directly affected by the undertaking, the Commissioner may ask the Historic Sites Council to conduct a special public meeting within the 120-day review period. If the Commissioner does not receive a written request for a public meeting from such an entity or from at least five persons directly affected by the undertaking, the Commissioner may, on his or her own initiative, request the Historic Sites Council to conduct a special public meeting within the 120-day review period or determine that such a special public meeting is unnecessary. Preference shall be given to holding the special public meeting in the municipality wherein the area, site, building, structure or object included in the New Jersey Register of Historic Places that would be affected by the application is located, or in a municipality as close thereto as can reasonably be arranged.

4. The application for project authorization shall be scheduled to be reviewed by the Historic Sites Council at a regularly scheduled meeting or a special public meeting pursuant to (e)1 above. At least 21 days before the regularly scheduled or special meeting date, the Department shall determine the agenda for the Council meeting and consistent with the Open Public Meeting Act, N.J.S.A. 10:4-6 et seq. send written notification of the meeting to:

- i. The applicant;

- ii. The chief elected local official of the municipality in which the proposed undertaking would occur;

iii. Two major circulation newspapers, including a major circulation newspaper in the area of the municipality in which the proposed undertaking would occur;

iv. Local historical societies and historic preservation commissions, as listed by the applicant in the application for authorization pursuant to N.J.A.C. 7:4-7.1(d);

v. All affected local government units, any agencies or instrumentalities thereof concerned with historic preservation, and any recognized organization specifically concerned with historic preservation in the State and in the area of the undertaking's potential impact as listed by the applicant in the application for authorization pursuant to N.J.A.C. 7:4-7.1(d);

vi. Owners of registered properties that would be directly affected by the undertaking, as listed by the applicant in the application for project authorization, pursuant to N.J.A.C. 7:4-7.1(d). For an application where more than 25 owners would be directly affected by the undertaking, the Department may publish a public notice to property owners concerning the Council's meeting instead of individually notifying all property owners. Such public notice shall be published 21 days before the scheduled meeting date; and

vii. Interested parties who have advised the Department in writing of their interest in the application.

5. If an applicant wishes to withdraw an application for project authorization, the applicant shall notify the Department in writing of said withdrawal and shall also immediately notify all parties listed by the applicant in the application for project authorization pursuant to N.J.A.C. 7:4-7.1(d) and interested parties who have advised the Department in writing of their interest in the scheduling of a special public meeting on the application, pursuant to (e)3 above. If a withdrawal is within 48 hours of a regularly scheduled or special meeting of the Historic Sites Council and if it is not possible for all people to be notified of the withdrawal, then the Historic Sites Council, at its discretion, may accept public comment on the withdrawn application on the day for which the application was scheduled. Such comments may be considered if pertinent to a new application on the same encroachment.

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, Trenton, New Jersey 08625-0404 or from website ([www.state.nj.us/dep/hpo](http://www.state.nj.us/dep/hpo)) or from the National Park Service website ([www.nps.gov](http://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. A draft recommendation prepared by Historic Preservation Office staff in the form of a resolution or other format as may be appropriate that evaluates the project against the standards identified in (e)6 above;

ii. The public benefit of the proposed undertaking;

iii. Whether or not feasible and prudent alternatives to the encroachment exist; and

iv. Whether or not sufficient measures could be taken to avoid, reduce or mitigate the encroachment.

7. The Historic Sites Council shall submit written recommendations to the Commissioner.

8. In addition to considering the recommendations of the Historic Sites Council, the Commissioner may direct the conduct of a public hearing on the application prior to granting or denying authorization of the encroachment.

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. Authorize or consent to the encroachment or project designed to the conceptual level, as described in the application;

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 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, Trenton, New Jersey 08625-0404 or from website ([www.state.nj.us/dep/hpo](http://www.state.nj.us/dep/hpo)) or from the National Park Service website ([www.nps.gov](http://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) The applicant shall respond to the conditions within 60 days of the issuance of the Commissioner's

decision. If the applicant agrees in writing that all the conditions are acceptable and will be met, the undertaking may proceed. If the applicant does not respond within 60 days or does not agree with all the conditions, the Commissioner shall deny the application for project authorization. Prior to the undertaking, the applicant shall submit to the Department written and photographic documentation or revised final architectural plans and specifications to show how the conditions of the approval have been or will be satisfied. Upon completion of the undertaking, the applicant shall document to the satisfaction of the Department that the applicant has complied with all the conditions;

iii. Deny the application for project authorization temporarily based on such factors as need for additional information, exploration of additional alternatives for avoidance or mitigation of the encroachment, damage, destruction or other adverse effects. The applicant shall respond to the Department within 60 days from the date of issuance of a temporary denial. In the event that no response is received by the Department within 60 days, the Commissioner shall deny the application. If the applicant submits a complete response including all information requested by the Department, it shall be within the discretion of the Department as to refer additional information to the Historic Sites Council, and the Department shall make a final determination within 60 days after receipt of the response; or

iv. Deny the application for project authorization with specific reasons therefor.

10. If an authorized, or conditionally authorized, project is not undertaken within five years of the date of authorization, the authorization shall automatically expire.

Amended by R.1997 d.373, effective September 15, 1997.  
See: 29 N.J.R. 2503(a), 29 N.J.R. 4103(b).

In (b), inserted last two sentences; in (c)1, amended sources of criteria to determine encroachment, damage or destruction; Inserted new (e)1, (e)2iii and (e)3; recodified former (e)1 as (e)2, (e)2v and vi as (e)2vi and vii, and former(e)3 through 5 as (e)4 through 7; in (e)3, inserted "Two major circulation newspapers, including"; in (e)4, amended sources of criteria to determine encroachment; in (e)7ii, amended sources of standards or guidelines; and in (e)7iii, inserted "it shall be within . . . a final determination".

Amended by R.2003 d.110, effective March 17, 2003.

See: 34 N.J.R. 3161(a), 35 N.J.R. 1410(a).

Inserted references to the website address throughout.

Amended by R.2008 d.261, effective September 2, 2008.

See: 40 N.J.R. 1428(a), 40 N.J.R. 4945(b).

Rewrote (e).

#### Case Notes

The Department of Environmental Protection's (DEP) approval of roadway improvements in historic district for shopping center development was not arbitrary and capricious; factors other than historic significance were important, most importantly traffic safety, and objectors did not satisfactorily prove that historic preservation considerations outweighed those other factors. *Beattystown Community Council v. Department of Environmental Protection*, 313 N.J.Super. 236, 712 A.2d 1170 (N.J.Super.A.D. 1998).

#### 7:4-7.3 Emergency undertakings

(a) In the case of an emergency undertaking which needs to be implemented by the State, a county or municipality or an agency or instrumentality thereof, within 30 days of an emergency, the State, county or municipality or agency or instrumentality thereof, in lieu of the application procedure in N.J.A.C. 7:4-7.1, shall notify the Department by telephone and in writing as soon as possible. Said notification shall include: the name and address of the property listed in the New Jersey Register, a written description of the scope of the emergency undertaking, photographs documenting the condition of the registered property, a statement from an appropriate expert demonstrating how the condition of the property constitutes an immediate, direct, demonstrable and severe hazard to the safety of the public, and a statement as to how the undertaking will encroach upon the registered property. If demolition of all or a substantial portion of a property is proposed, the notification shall include a structural assessment and an evaluation of whether the property could be reasonably repaired, to be prepared by an architect or engineer with demonstrated experience with historic properties consistent with criteria established in the Secretary of the Interior's Professional Qualification Standards and related guidance as part of the larger Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation as referenced in 36 C.F.R. 61.

(b) The Department shall respond within seven calendar days after receipt by the Department of the complete notification as described in (a) above. If the Department determines that the condition of the property constitutes an immediate direct, demonstrable, and severe hazard to the safety of the public, Historic Sites Council review is not required and the Department shall respond in accordance with N.J.A.C. 7:4-7.2(e)5 but within seven calendar days after receipt by the Department of the complete notification as described in (a) above. Until the Department authorizes the emergency undertaking, the State, county or municipality or agency or instrumentality thereof conducting the emergency undertaking shall only take measures necessary to stabilize or isolate the affected property to prevent danger to the public. The Department may determine that the situation does not constitute an emergency and require that the applicant follow the application procedure in N.J.A.C. 7:4-7.2.

Amended by R.2003 d.110, effective March 17, 2003.

See: 34 N.J.R. 3161(a), 35 N.J.R. 1410(a).

In (a), rewrote the third sentence.

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

(a) An undertaking will have an adverse effect and therefore constitute an encroachment when the effect of the undertaking on a property listed in the New Jersey Register may diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. Encroachments include, but are not limited to:

1. Physical destruction, damage, or alteration of all or part of the registered property;
2. Isolation of the registered property from or alteration of the character of the property's setting when that character contributes to the property's qualification for the New Jersey Register;
3. Introduction of visual, audible, or atmospheric elements that are out of character with the registered property or alter its setting; and
4. Acquisition, transfer, sale, lease, easement on, or an agreement or other permission allowing use of a registered property.

(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. The registered property is of value only for its potential contribution to archaeological, historical, or architectural research, and when such value can be substantially preserved through the conduct of appropriate research, and such research is conducted in accordance with applicable professional standards and guidelines including the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (Federal Register, Volume 48, No. 190), effective Thursday, September 29, 1983, as updated and revised by the National Park Service (see [http://www.nps.gov/history/local-law/arch\\_stnds\\_0.htm](http://www.nps.gov/history/local-law/arch_stnds_0.htm));
2. The undertaking is limited to the preservation, rehabilitation, restoration, or reconstruction of 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, Trenton, New Jersey 08625-0404 or from website ([www.state.nj.us/dep/hpo](http://www.state.nj.us/dep/hpo)) or from the National Park Service website ([www.nps.gov](http://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. The undertaking is limited to the acquisition, transfer, sale, lease, easement on, or an agreement or other permission allowing use of a registered property, and adequate restrictions or conditions are included to ensure preservation of the property's significant historic features.

Amended by R.1997 d.373, effective September 15, 1997.  
See: 29 N.J.R. 2503(a), 29 N.J.R. 4103(b).

In (b)2, inserted reference to preservation and reconstruction, deleted reference to stabilization and protection, and amended sources of standards.

Amended by R.2003 d.110, effective March 17, 2003.  
See: 34 N.J.R. 3161(a), 35 N.J.R. 1410(a).

Inserted references to the website address.

Amended by R.2008 d.261, effective September 2, 2008.  
See: 40 N.J.R. 1428(a), 40 N.J.R. 4945(b).

In (b)1, inserted "including the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (Federal Register, Volume 48, No. 190), effective Thursday, September 29, 1983, as updated and revised by the National Park Service (see [http://www.nps.gov/history/local-law/arch\\_stnds\\_0.htm](http://www.nps.gov/history/local-law/arch_stnds_0.htm))".

## SUBCHAPTER 8. CONSULTATION WITH OTHER DEPARTMENT PROGRAMS AND OTHER NON-FEDERAL GOVERNMENTAL AGENCIES

### 7:4-8.1 Definitions

The following words and phrases, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise. If there is a conflict with a definition at N.J.A.C. 7:4-1.3, the definition below will control:

"Impact" means the adverse effect upon any district, site, building, structure or object included in or eligible for inclusion in the New Jersey and National Registers of Historic Places resulting from the implementation of a project.

"Principal investigator" means the person in direct charge of the major archaeological survey tasks including background investigation; site predictive model development and development of a field strategy; field investigation and testing; data collection and analysis; reporting; and curation.

"Project" means any planned action, whether private or public, which has the potential to result in direct or indirect effects on any district, site, building, structure or object listed in or eligible for listing in the New Jersey and National Registers of Historic Places. A planned action shall be considered to have an effect whenever any aspect of the action causes or may cause any change, beneficial or adverse, in the quality of the historical, architectural, archaeological, or cultural characteristics that qualified a historic property to meet the criteria of evaluation for inclusion in the New Jersey and National Register at N.J.A.C. 7:4-2.3. For the purpose of determining effect, alteration of features of the property's location, setting or use may be considered relevant depending on a property's significant characteristics. Direct effects are caused by the project and occur at the same place and time. Indirect effects include those caused by the project that are farther removed in distance or later in time, but are still reasonably foreseeable. Such indirect effects may include changes in the pattern of land use, population density or growth rate that may affect the quality of the historical, architectural, archaeological, or cultural characteristics that qualified a historic property to be listed or eligible for listing in the New Jersey and National Registers of Historic Places.

"Smithsonian (SITS) numbers" means the three-part, unique Smithsonian Institution Trinomial System (SITS) number assigned by the New Jersey State Museum to archaeological sites identified in New Jersey. A Smithsonian (SITS) number can be obtained for a site by providing the New Jersey State

Museum with a completed archaeological site registration form, available from the New Jersey State Museum, 205 West State Street, Trenton, NJ 08625 or from the Historic Preservation Office's website at <http://www.state.nj.us/dep/hpo/Identify/survarkeo.htm>.

Amended by R.2008 d.261, effective September 2, 2008.

See: 40 N.J.R. 1428(a), 40 N.J.R. 4945(b).

Added definitions "Principal investigator" and "Smithsonian (SITS) numbers".

#### 7:4-8.2 Types of consultation available to other Department programs and non-Federal governmental agencies

(a) The Historic Preservation Office, under the supervision of the State Historic Preservation Officer, will provide consultation to any Department program and may provide consultation to any non-Federal governmental agency in the following areas:

1. Determining the area of potential effect of a proposed project;
2. Identifying and evaluating property that is potentially eligible for inclusion in the New Jersey and National Registers of Historic Places, pursuant to the criteria in N.J.A.C. 7:4-2.3;
3. Assessing a potential project's impact upon any property eligible for inclusion in the New Jersey and National Registers of Historic Places;
4. Assessing alternatives to avoid or minimize, and/or mitigate the impacts of a project on a listed property or a property that is eligible for inclusion in the New Jersey and National Registers of Historic Places;
5. Formulating recommendations arising from the assessments provided pursuant to (a)4 above; and
6. Providing technical assistance related to the identification, evaluation and protection of historic property as may be requested.

(b) The Historic Preservation Office will attempt to coordinate any such request for consultation with any historic review or consultation required by law.

#### 7:4-8.3 Standards used for consultation

(a) The criteria for evaluating the eligibility of a property for listing in the New Jersey and National Registers of Historic Places is that set forth in N.J.A.C. 7:4-2.3.

(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, Trenton, New Jersey 08625-0404, or from the

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

#### 7:4-8.4 Requirements for Phase I archaeological survey

(a) All Phase I archaeological surveys shall be sufficient to enable the identification of archaeological sites in the area of the undertaking's potential impact. The standard for survey sufficiency will be met when the archaeological survey provides identification of historic and prehistoric archaeological sites in accordance with the survey elements listed below and the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (Federal Register 48:190, September 29, 1983 (48 FR 44716)), incorporated herein by reference.

(b) The principal investigator(s) for all Phase I archaeological surveys prepared in accordance with this section shall be a trained professional archaeologist who meets the qualification standards of the National Park Service (NPS) as defined in the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (the Standards) referenced in (a) above.

(c) A Phase I archaeological survey shall include:

1. Background research consisting of:

i. A review of primary and secondary sources to identify the kinds of archaeological sites that potentially exist in the area of the undertaking's potential impact; their likely positioning across the landscape and within site soils; information regarding known historic and prehistoric archaeological sites; previous research in the locality; current environmental conditions; paleoenvironmental conditions; and historic and modern land use to facilitate predictions of the types of archaeological sites that may be present. Relevant sources are listed in chapter Appendix 1, incorporated herein by reference;

ii. A field inspection which includes observations regarding topography, historic land use and disturbance, field conditions, and indicators of potential for archaeological deposits (such as buildings, structures, and surface artifact scatters);

iii. The assessment report of a geomorphologist, pedologist or other soils specialist with expertise in Holocene geomorphology to assess potential for deeply buried artifact deposits within the area of the undertaking's potential impact, if the undertaking's area of

potential impact is located within a floodplain, colluvial slope, or alluvial fan depositional context; and

iv. For non-linear projects, and for linear projects greater than 100 feet in width of ground disturbance, a complete deed search for the area of the undertaking's potential impact prior to conducting archaeological testing to provide information regarding historic period land use, date by which buildings were present, ethnicity of occupants, number of households or uses through time, and in some instances detailed information regarding owners' occupations, buildings, and land use, thereby providing valuable information to guide field survey;

2. The development of an archaeological site predictive model based upon the results of the background and deed research and field inspection;

3. A systematic archaeological field investigation, including all field methods designed so that:

i. All portions of the area of the undertaking's potential impact defined as having potential to hold archaeological sites by the archaeological site predictive model referenced in (c)2 above shall be tested through systematic subsurface testing and/or archaeological surface inspection (including mapping, and collection, and augmented by subsurface testing), in accordance with (c)3ii through viii below.

ii. All sediments shall be screened through ¼-inch or finer mesh hardware cloth for areas that will be shovel tested rather than surface collected;

iii. The intensity of subsurface excavation shall be conducted at a density of 17 one-foot diameter subsurface shovel tests per acre, which is equivalent to testing on a 50-foot rectilinear grid, in order to ensure that archaeological sites are not missed by the survey. While all statistically quantifiable sampling strategies of equal overall coverage of the area of the undertaking's potential impact are acceptable, the sampling strategy selected shall minimally average 17 one-foot diameter shovel tests per acre;

iv. For linear projects such as road widening or installation of buried utility lines, where the area of the undertaking's potential impact is 50 feet or less in width, shovel testing at an overall density of one test for every 50 linear feet shall be performed. For linear corridors where the area of the undertaking's potential impact is greater than 50 feet, the principal investigator shall either estimate the acreage of the linear corridor and the survey density excavated shall minimally total a density of 17 tests per acre, or excavate additional transects (one for every additional 50 feet or less in width) at offsets from the first;

v. Shovel testing shall be maintained in planned density through offsets rather than leaving grid points or

other test locations untested, when planned test locations are not testable (for example, because of a rock or other obstruction) or obviously disturbed. Excavation at minimal offsets when necessary will facilitate identification of archaeological sites with minimal to no impact to the validity of the selected sampling strategy. Large offsets and those within archaeological sites should be illustrated in the project and site mapping;

vi. Systematic shovel testing as described in (c)3iii above shall be augmented by judgmentally placed subsurface tests excavated at the discretion of the principal investigator. These tests shall be used to investigate locations that are deemed during the field survey component of the Phase I survey to be likely archaeological site areas that were not identified as such during project planning. Judgmentally placed tests may also be excavated to collect information to supplement that obtained from the planned tests. These tests may prove useful to the survey effort by rendering additional phases of survey unnecessary, or allowing refinement of the recommendations through increased information about a discovery. Therefore, limited additional subsurface testing is necessary when it may provide benefit to the survey and survey recommendations;

vii. All shovel tests shall be excavated adequately deep below the ground surface to penetrate the full depth of intact Holocene sediments to culturally sterile sediments, and to the extent possible, shall be excavated according to visible stratigraphy (either cultural or natural strata);

viii. The archaeological field investigation shall be adequate to identify and investigate deeply buried cultural deposits (such as riverine settings where flooding has resulted in deep deposition of sediment). This shall be ensured through incorporation of an additional complementary testing and sampling strategy. The testing and sampling strategy shall be developed in consultation with the Historic Preservation Office and a geomorphologist, pedologist and/or other soils specialist with expertise in Holocene geomorphology. The individual or individuals shall have sufficient training to adequately evaluate the sedimentology, stratigraphy, and pedology of the deposits in the field and be able to describe and analyze the deposits using standard terminology and methods. The individual or individuals shall possess post-graduate degree(s) in an earth-science field (geology, physical geography, pedology, quaternary studies) or have demonstrated professional expertise in field geomorphology through experience and publications. Previous field work experience in the northeastern United States is necessary;

ix. Machine or mechanical-assisted excavation of soil shall be treated in the same manner as manually excavated soil matrices. For example, soil cores shall be recorded stratigraphically, to the extent possible, and the

soil matrices screened for artifacts. For backhoe excavations, a sample of the soil matrices may be screened for artifacts; and

x. Deviation from the testing density specified in this paragraph shall be approved by the Historic Preservation Office in advance of the field survey. Unless necessitated by specific circumstances related to the area to be surveyed, such as fill depths greater than six feet or a test area under a building or highway, deviations will not be approved;

4. In contexts where it can be demonstrated that all Holocene sediments are contained within a plow zone, surface inspection supplemented by broad interval subsurface testing may be substituted for 17 tests per acre to identify archaeological sites in the area of the undertaking's potential impact, provided that rainfall subsequent to plowing or other cultivation has been sufficient to wash obscuring sediments from exposed artifacts and that the ground surface visibility is at minimum 50 percent. When surface inspection is employed, the following methods shall be adhered to:

i. Cultivated or formerly cultivated fields shall be plowed or disked in order to eliminate ground cover; however, the cultivation shall not extend deeper than previous disturbance;

ii. If surface visibility does not meet or exceed these criteria, the field area should either be shovel tested or surface inspected after sufficient rainfall and/or cultivation to produce a minimum of 50 percent visibility;

iii. The survey lane spacing shall not exceed 10 feet;

iv. Information on pedestrian survey transects and conditions that may have impacted the recovery of artifacts and/or future survey including lane spacing and orientation, soil type and condition, surface visibility, vegetative cover, lighting conditions, and presence of hazardous material or other impediments to survey shall be recorded;

v. The locations of recoveries shall be recorded, mapped, and the recoveries retained by provenience (either recovery grid or point provenience) for analysis; and

vi. The absence of potentially artifact bearing deposits below the depth of plowing shall be adequately documented by subsurface testing, especially within the limits of identified sites and at the base of knolls and hills;

5. Analysis of data generated from the archaeological testing and field survey components of the Phase I archaeological survey to include, at minimum, the analyses specified at 5i through v below. Additional analyses to clarify the principal investigator's recommendations regarding the nature and structuring of additional phases of survey or the principal investigator's recommendation of

no further consideration of archaeological properties within the area of the undertaking's potential impact shall be conducted, if applicable. Required analyses and treatment of artifacts shall include:

i. Comparison of the types, number, and positioning (vertical and horizontal) of archaeological sites across and within the area investigated that were identified during the Phase I archaeological survey with those archaeological sites anticipated after background research and development of the archaeological site predictive model;

ii. Analysis of artifacts in accordance with basic classifications for historic period and prehistoric period artifacts including chronology, cultural affiliation, technology; and function;

iii. Recording of artifacts of all categories quantitatively;

iv. Cleaning recovered artifacts (except in cases where this might damage fragile artifacts or impair future analysis such as starch grain analysis of Native American stone tool surfaces), and labeling and packaging the artifacts to clearly indicate the provenience from which they were recovered; and

v. Discard of only limited categories of artifacts and only after they have been identified and recorded as to provenience and classification. This shall be solely limited to modern objects and bulk items such as concrete, asphalt, and coal that have no diagnostic value beyond identification of their presence and depositional context (that is, their vertical and horizontal positioning across the landscape, within site soils, and relative to other identified archaeological artifacts and features). Representative specimens of these latter items shall be retained. No prehistoric artifacts shall be discarded during the Phase I survey;

6. Provisions for the permanent curation of the artifact collection and records at a repository that meets the National Park Service's curation standards, 36 CFR Part 79, incorporated herein by reference, (for example, the New Jersey State Museum) as part of the Phase I survey project design. The receiving institution shall be contacted in advance in order to ascertain its requirements for preparation of the artifacts for curation within that facility. It may be possible to discard artifacts not associated with a potentially National Register or National Register eligible archaeological site at the conclusion of all phases of an archaeological investigation, but this decision shall not be made prior to the conclusion of all phases of archaeological survey and the explicit approval of the Historic Preservation Office and other reviewing agency, including the repository slated for receipt of the artifact collection and associated records; and

7. Reporting of all research, survey, and analysis required above for Phase I survey in accordance with N.J.A.C. 7:4-8.5.

New Rule, R.2008 d.261, effective September 2, 2008.  
See: 40 N.J.R. 1428(a), 40 N.J.R. 4945(b).

#### 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. Archaeological survey reports shall be produced:

- i. With a hard-covered binder suitable for shelving;
- ii. As a stand alone document that does not require the reader to obtain any other document or report to interpret and utilize its findings;
- iii. On bond paper, including all maps, figures, charts, plates, and tables;
- iv. With all figures, plates, charts, and tables incorporated into the report body following the page(s) on which they are discussed;
- v. With all photo CD-Rs in pockets, envelopes, or sleeves within the report body;
- vi. With all materials adequately durable to allow frequent use without damage;
- vii. With no page that is larger than 11 inches by 17 inches; and
- viii. With all pages sequentially paginated.

##### 2. Archaeological survey reports shall include the following elements and sections:

- i. Title Page, containing information specified in (a)3 below;
- ii. Management Summary, containing information specified in (a)4 below;
- iii. Table of Contents, identifying all report sections by page number, containing information specified in (a)5 below;
- iv. Lists identifying all figures, plates, and tables, containing information specified in (a)5 below;
- v. Introduction, containing information specified in (a)9 below;
- vi. Background Research, containing information specified in (a)10 below;
- vii. Research Design, containing information specified in (a)11 below;

viii. Field and Laboratory Methods, containing information specified in (a)12 below;

ix. Field Results, containing information specified in (a)14 below;

x. Artifact Analysis, containing information specified in (a)19 below;

xi. Interpretations, containing information specified in (a)20 below;

xii. Evaluation of National Register Eligibility, containing information specified in (a)21 and 22 below;

xiii. Assessment of the Impacts of the Undertaking on Historic Properties, containing information specified in (a)26 below;

xiv. Recommendations, containing information specified in (a)27 below;

xv. References Cited, containing information specified in (a)28 below; and

xvi. Appendices, containing information specified in (a)29 below.

##### 3. All reports shall include a title page clearly depicting:

- i. The title which shall include the phase of work as well as the location of the property which is the subject of the report (including municipality and county);
- ii. The names of the report author(s), including contributors;
- iii. The agency, organization or firm preparing the report;
- iv. The agency for whom report has been prepared;
- v. The project number(s), if applicable;
- vi. The contract number(s), if applicable; and
- vii. The date of report submission or completion.

##### 4. All reports shall include a management summary that is comprised of a summary of:

- i. A description of the undertaking;
- ii. The location and acreage of areas of proposed ground disturbance associated with the undertaking;
- iii. The regulatory process or funding triggering the Department review of the document, if applicable;
- iv. The field methods used in collecting data;
- v. The results of the archaeological survey in terms of whether archaeological sites were identified;
- vi. The evaluation of National Register eligibility, assessment of impacts to identified archaeological sites,

and recommendations for future treatment relative to identified archaeological sites;

vii. Identification of the location(s) where copies of the report are on file; and

viii. Identification of the planned repository for artifacts and records from National Register eligible and potentially National Register eligible sites.

5. All reports shall include a table of contents that is comprised of:

i. All report sections identified by page number;

ii. A list of figures identified by number of the figure and page number;

iii. A list of plates identified by number of the plate and page number; and

iv. A list of tables identified by number of the table and page number.

6. All photographs used in the report shall be:

i. Of sufficient visual quality and clarity to accurately convey the subject matter and to provide a comprehensive record of the findings;

ii. Photographic prints generated from 35 millimeter film or digital images meeting the standards specified at N.J.A.C. 7:4-8.9(a)3;

iii. Reproduced at a minimum print size of 3.5 inches by five inches or larger, as necessary for clarity;

iv. Labeled with captions that identify the photographer, date of exposure, and direction or orientation;

v. Taken of features, excavation units, and trenches and shall include a scale, the orientation of the photograph, and a sign board noting the provenience and subject of the photograph;

vi. Taken of artifacts and shall include a scale; and

vii. Taken of the area of the undertaking's potential impact and archaeological site overview, be labeled with the direction or orientation of the photograph, and keyed to a map.

7. All maps, including reproductions of historic maps, shall include a north arrow, accurate bar scale, delineation of the surveyed area, legend, map title, and the year of publication.

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, 2000 Edition, incorporated by reference, as amended and supplemented (available from the Munsell Company at [www.forestry-suppliers.com](http://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. Archaeological survey reports shall include an introduction that contains the following:

i. A summary of scope of work, purpose, and goals of the undertaking;

ii. A description of all applicable regulations and permits that are necessary to conduct the undertaking, as known;

iii. Identification of the entity responsible for administration of the undertaking and the contracting agency;

iv. A general description of the survey effort, including location, number of person days spent in the field, survey conditions and/or constraints;

v. The acreage of the areas of proposed ground disturbance associated with the undertaking and, if different, the acreage of the surveyed area;

vi. The surveyed area accurately delineated on a U.S.G.S. 7.5-minute topographic map;

vii. The appropriate county soil survey map, if one exists for the area, with the surveyed area accurately delineated;

viii. The names and roles of all individuals who participated in the survey, analysis and/or reporting; and

ix. The name and location of the curatorial facility for the artifact collections from potentially National Register eligible archaeological sites.

10. Archaeological survey reports shall include the results of background research conducted for the area of the undertaking's potential impact. This section will vary in length and scope depending on level of investigation, but shall relate directly to the undertaking's locality. Background research shall be sufficient to enable an evaluation of National Register eligibility by providing historic contexts for identified sites. For historic sites, background research shall be sufficient to identify associations with significant people and events.

i. Standard repositories and sources shall be consulted as part of conducting background research, and shall be documented in the archaeological survey report with a record of dates of visits, dates of phone calls, summaries of each phone call, and copies of correspondence (if received or sent). The following organizations shall be considered to be standard repositories and/or sources:

(1) The Historic Preservation Office;

(2) The New Jersey State Museum, Bureau of Archaeology and Ethnology;

- (3) Local County Cultural and Heritage Commission(s);
  - (4) Local Certified Local Governments;
  - (5) Local historic societies;
  - (6) The Archaeological Society of New Jersey;
  - (7) Other individuals, agencies, and groups possessing knowledge of the history and prehistory of the area under investigation;
  - (8) Native American informants both within and outside New Jersey, as appropriate (for example, for Native American sites);
  - (9) The New Jersey Pinelands Commission, if the undertaking is within the boundaries of the Pinelands National Reserve, as defined by the National Parks and Recreation Act of 1978 (Pub. L. 95-625); and
  - (10) The Canal Society of New Jersey and other canal-related groups, if the undertaking is in the vicinity of the Morris Canal or the Delaware and Raritan Canal.
- ii. The discussion of the results of background research shall include:
- (1) A description of the environmental setting of the area of proposed ground disturbance associated with the undertaking, including topography, soils, hydrology, geology, present climate, and current vegetation;
  - (2) A summary of the paleoenvironment of the area of the proposed ground disturbance associated with the undertaking;
  - (3) A discussion of the land use history of the site of the undertaking including documented ground disturbances and current conditions;
  - (4) An overview of the prehistoric and historic culture history of the area of the proposed ground disturbance associated with the undertaking, specific to the surveyed area which provides contexts for research questions, survey methods, site evaluations, and recommendations for further work;
  - (5) A discussion of known sites, previous investigations, and previous research conducted in the area of the proposed ground disturbance associated with the undertaking;
  - (6) A discussion of information provided by artifact collectors and Archaeological Society of New Jersey local chapter members;
  - (7) A discussion of primary documentary research that references historic maps (including all fire insurance maps, such as those created by the Sanborn Company available, for the area for all survey phases)

and all deeds and property title transfers for the subject site for all survey phases; and

- (8) A discussion of when during the survey various aspects of background research were conducted, and a rationale for any aspects of the background research that were not conducted prior to initiation of the field survey.

11. Archaeological survey reports shall include a description of the research design that formed the basis of the archaeological survey effort. This section will vary depending on the phase, scale, and scope of the investigation. It shall outline the purpose of the investigation, assumptions about the locations and types of cultural resources within the area of the undertaking's potential impact, and the rationale for the methods employed in the investigation. Discussion of the following shall be included:

- i. Research objectives and the theoretical context for the archaeological survey;
- ii. Specific research problems, objectives, and hypotheses that are being investigated as part of the current survey effort;
- iii. All field and laboratory methods that will be employed to investigate research problems, objectives, and hypotheses;
- iv. A discussion of the anticipated results of the research; and
- v. Anticipated research locations, sources, and materials that will be necessary and useful to facilitate investigation and identify archaeological sites.

12. Archaeological survey reports shall include a description of the field and laboratory methods and procedures employed, including a rationale for using those methods and procedures, a discussion of sources of bias in the methods and procedures employed, and any problems or obstacles encountered during the archaeological survey effort. The discussion shall also include descriptions of:

- i. Archaeological materials sorted and discarded both in the field and in the laboratory;
- ii. Sampling design employed in the survey and the rationale for using that sampling design, including justification for excluding areas from subsurface testing and, as appropriate, stratification of the survey area into areas of high, medium, low and no potential for the presence of archaeological sites;
- iii. The breakdown of the total number and sizes of shovel tests, test excavation units, and trenches excavated during the survey;
- iv. Any change(s) that were made during fieldwork from the methods stated in (a)12 above, and the rationale(s) for these change(s); and

- v. The definition of "site" used in the survey.

13. Site plans illustrating locations of survey and test excavations shall be included in the discussion of the field and laboratory methods used in the survey. Tests that were planned but excluded from excavation shall not be illustrated on site plans. One site plan/set of site plans shall illustrate both the proposed development and archaeological test locations that fall within archaeological sites or are near existing buildings greater than 50 years in age. Shovel tests, test excavation units, and/or trenches that were planned but excluded from excavation shall not be illustrated on site plans.

14. Archaeological survey reports shall include a description of field results, including:

i. A complete description of all areas investigated, including those where resources were not identified;

ii. The number of shovel tests per acre excavated, exclusive of areas excluded from testing (for example, because of disturbance) for Phase I testing;

iii. A summary of soils and stratigraphy across the area of proposed ground disturbance associated with the undertaking, by location, including areas and types of disturbance including variations in natural stratigraphy encountered in shovel tests and units;

iv. Descriptions of stratigraphy of representative shovel tests discussed with representative illustrations or listings appended in the rear of the report;

v. A discussion of the depth at which tests were terminated and rationale for the termination depths of shovel tests;

vi. A discussion of artifact proveniencing methods used during surface collection;

vii. A detailed description of features in both site descriptions and site registration forms;

viii. A discussion of feature fill treatments (for example, water screening and flotation);

ix. A discussion of any field sorting and disposal of any cultural material recovered during the archaeological survey as well as the rationale for decisions about field sorting and disposal; and

x. A description and illustration, as appropriate, of each identified site including topographic setting, stratigraphy, size, noted structures or features, artifact types, an estimate of artifact density, and disturbances.

15. The locations of all archaeological sites identified during the survey shall be marked on U.S.G.S. 7.5-minute topographic survey map(s).

16. All references to archaeological sites in the text, figure captions, and table titles in the report shall include Smithsonian (SITS) numbers.

17. New Jersey State Museum site registration forms with SITS numbers shall be appended to the report for all sites, both newly recorded and revisited, investigated in the survey.

18. Archaeological survey reports shall include maps, figures, and photographs of test locations and proveniences, including those for shovel tests, features, soil profiles, and disturbances, as appropriate to illustrate the presentation of results and recommendations.

19. Archaeological survey reports shall include a section on artifact analysis that provides descriptions of artifacts identified during the survey, the results of analysis of those artifacts, and the definitions of artifact classes and attributes referenced in the analysis. The artifact analysis section shall also include:

i. Photographs and/or drawings of diagnostic and representative artifacts meeting the standards specified at N.J.A.C. 7:4-8.9(a)3, including a scale;

ii. A complete inventory of artifacts by provenience and class included as an appendix;

iii. Tables and/or other summary presentations of artifact classes and data represented by recovered data;

iv. The name and location of the repository for the artifact collection, copies of all survey records and files, and reference to the draft deed of gift form, if applicable (with the draft deed of gift form appended);

v. The standards used for artifact processing and collection treatment (such as, in accordance with the New Jersey State Museum's standards and guidelines); and

vi. A discussion of how the proposed curation facility meets the Secretary of the Interior's Standards for Curation, 36 CFR 79, if the planned curatorial repository is not the New Jersey State Museum, including discussion of the following:

(1) Adequate climate control;

(2) Security from theft, vandalism, fire, flood and other natural and human threats;

(3) Access for research; and

(4) A mission compatible with retention, care, and interpretation of collections.

20. Archaeological survey reports shall include a section on the interpretation of the results of the survey that includes:

i. A discussion of the results in terms of the background cultural context, research design, goals, and research problems with reference to the historic contexts;

ii. A discussion of the constraints and the reliability and/or appropriateness of the methods used in the survey; and

iii. Recommendations for additional research and/or methods of investigation in light of the results of the current work.

21. Archaeological survey reports shall include an evaluation of the National Register eligibility of all sites identified during the survey.

22. Phase I reports shall address potential National Register eligibility.

23. Documentation shall be sufficient to allow independent evaluations of New Jersey Register and National Register eligibility of identified properties. This shall include sufficient documentation to evaluate significance using all appropriate National Register Criteria and Criteria Considerations at 36 CFR 60.4, incorporated by reference, as amended and supplemented.

24. Reports shall contain complete information and evaluations on both horizontal and vertical extent of evaluated sites, if applicable.

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>. The eligibility of each site 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>.

26. Archaeological survey reports shall identify and describe both direct and indirect impacts of the undertaking on each site identified, including depictions of identified sites on project maps. The known or estimated site limits shall be described and illustrated in relation to the boundaries of the area of proposed ground disturbance associated with the undertaking, including all potential project related impacts.

27. Archaeological survey reports shall include appropriate recommendations for each site, including, for example, no further work, additional investigations, data recovery, avoidance, and mitigation as well as specific tools, methods, and analyses recommended for achieving

these goals. Other specific recommendations may also be appropriate, including, for example, special analysis that should be undertaken if there is additional work at the site.

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 or on their website at <http://www.saa.org/publications/Styleguide/styframe.html>. The sources/references section shall include:

i. References cited and consulted in the preparation of the report;

ii. Maps;

iii. Archival documentation;

iv. All personal communications and sources of information from State, county, and local organizations and informants, including oral histories; and

v. All correspondence relating to the proposed undertaking.

29. Archaeological survey reports shall contain appendices consisting of:

i. Qualifications of principal investigator, field director, and laboratory supervisor, if applicable, including vitae of principal investigators appended, if not previously submitted to the Historic Preservation Office specifically demonstrating that the principal investigator meets the relevant National Park Service Professional Qualifications Standards for archaeology as published in the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, as referenced in N.J.A.C. 7:4-7.4(b)1;

ii. The scope-of-work and/or technical proposal for the archaeological survey;

iii. Representative soils logs;

iv. The artifact inventory, organized by provenience;

v. Any specialized artifact analyses and deed research that were conducted as part of the survey and reporting;

vi. New Jersey State Museum site registration forms for all recorded sites, and site form updates for revisited sites; and

vii. Supporting documents, including pertinent correspondence about the undertaking.

New Rule, R.2008 d.261, effective September 2, 2008.  
See: 40 N.J.R. 1428(a), 40 N.J.R. 4945(b).