



DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY
INSTALLATIONS, ENERGY AND ENVIRONMENT
110 ARMY PENTAGON
WASHINGTON DC 20310-0110

12 February 2021

SAIE-ESOH

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Priority and Procedures for Listing Army Historic Properties in the National Register of Historic Places

1. References:

- a. National Historic Preservation Act (NHPA) Title 54, U.S. Code (USC) 300101, et seq.
- b. 36 Code of Federal Regulations (CFR) 60, National Register of Historic Places.
- c. 36 CFR 800, Protection of Historic Properties.
- d. 63 Federal Register (FR) 20496, The Secretary of the Interior's Standards and Guidelines for Federal Agency Historic Preservation Programs Pursuant to the NHPA.
- e. Memorandum, DAIM-IS, 27 Dec 2016, subject: Army Historic Property Guidance.

2. This memorandum defines the requirements and establishes Army priority and procedures for listing properties in the National Register of Historic Places (NRHP). The enclosure to this memorandum reviews the 2016 NHPA statutory amendments regarding listing properties in the NRHP (54 USC 302104 (c)), and provides an analysis and rationale for the Army's NRHP listing prioritization.

3. Priority for Listing Army Historic Properties in the NRHP: The Army will prioritize and strive to list properties in the NRHP that will be transferred out of Federal ownership where such listing may make preservation more likely and enhance the value of the property once it is no longer under Federal ownership.

- a. The prioritization of Army historic properties for listing in the NRHP is made in accordance with NHPA Section 110 (54 USC 306102), the Secretary of the Interior's Standards and Guidelines for Federal Agency Historic Preservation Programs, and the analysis in the enclosure to this memorandum. Section 110 of the NHPA requires that each Federal agency have a program in place to identify, evaluate, and nominate historic properties for listing in the NRHP. The Secretary of the Interior's Standards and Guidelines for Federal Agency Historic Preservation Programs are the Secretary of the Interior's formal guidance to each Federal agency for meeting the requirements of Section 110 of the NHPA. Those standards and guidelines state that Federal agencies with large inventories of historic properties need to establish explicit priorities for listing properties in the NRHP. The Army has a very large inventory of historic properties; it manages the largest inventory of historic buildings in the Federal government

SAIE-ESOH

SUBJECT: Priority and Procedures for Listing Army Historic Properties in the National Register of Historic Places

(General Service Administration Federal Real Property Profile), in addition to 85,000 archeological sites.

b. The analysis of the Secretary of the Interior's Standards and Guidelines for Federal Agency Historic Preservation Programs in terms of prioritization of properties for listing in the NRHP is in Section II of the enclosure. The Army priority for listing historic properties in the NRHP is focused on properties that will receive a significant preservation related benefit from listing. Army properties that receive a significant preservation related benefit from NRHP listing are defined as those properties the Army plans to transfer out of Federal ownership where listing in the NRHP may make preservation more likely and enhance the value of the property once it is no longer under Federal ownership. NRHP listing of historic properties to be transferred out of Federal ownership enables a private entity to apply for historic preservation tax credits, which may make preservation more likely and increase the value of the property once it is no longer under Federal ownership.

c. The prioritization also considers the cost / benefit of NRHP listing. Nominations for listing properties in the NRHP generally require extensive supporting documentation, photographs, and coordination requirements that can result in the expenditure of substantial financial and human resources. There is no significant military mission or preservation related benefit resulting from the investment of resources to nominate and formally list properties in the NRHP that are and will remain under Federal ownership. The NHPA does not mandate a higher standard of care or a greater preservation requirement for properties formally listed in the NRHP over and above those properties that are eligible for listing in the NRHP (see enclosure, Section II). Federally owned properties eligible for listing in the NRHP must be treated in the same manner under the NHPA and 36 CFR 800 as properties that are formally listed in the NRHP.

4. Procedures for Listing Army Historic Properties in the NRHP:

a. The Army Federal Preservation Officer (FPO) is the designated Army official authorized to sign nominations for listing Army properties in the NRHP (see references cited). Prior to agreeing to prepare a NRHP nomination in any NHPA Section 106 (54 USC 306108) Memorandum of Agreement or Programmatic Agreement prepared pursuant to 36 CFR 800, Army installations and activities must coordinate their intent to nominate a property for listing in the NRHP with their higher headquarters and the Army FPO.

b. Installations and activities will coordinate their intent to nominate a property for NRHP listing by means of a memorandum, endorsed at their higher headquarters by the appropriate O-6 / GS-15 level authority, to the Army FPO. The memorandum of intent must state the manner and timeframe in which the property is to be transferred out of Federal ownership and how listing may make preservation of the property more likely and enhance the value of the property once it is no longer under Federal ownership. If an Army property is proposed for NRHP listing and it is not planned to be transferred out of Federal ownership, the memorandum of intent must identify the exceptional circumstances that apply to the specific situation as justification for listing the property in the NRHP.

SAIE-ESOH

SUBJECT: Priority and Procedures for Listing Army Historic Properties in the National Register of Historic Places

c. Following Army FPO receipt and acknowledgement of the memorandum of intent, installations and activities are required to send NRHP nominations to the State Historic Preservation Officer (SHPO) for review and comment regarding the adequacy of the nomination, the significance and integrity of the property, and the property's eligibility for the NRHP (per 36 CFR 60). The SHPO must be given 45 days to make a recommendation regarding the nomination. Failure of the SHPO to provide a comment within the 45 day timeframe constitutes a recommendation from the SHPO to not support the nomination. Installations and activities must also ensure the chief elected officials of the county or equivalent governmental unit and municipal political jurisdiction have been notified and given 45 days to comment on the nomination. NRHP nominations are complete once all of the above coordination has successfully concluded, and the nomination bears the SHPO's signature as the *Commenting Official*.

d. Installations and activities forward complete NRHP nominations by means of a memorandum, endorsed at their higher headquarters by an appropriate O-6 / GS-15 level authority, to the Army FPO requesting action on the NRHP nomination. Any opinions received that do not support the nomination must also be included with the memorandum. The NHPA (54 U.S.C. 302104 subsection (c)), requires the FPO review the nomination to determine that all procedural requirements have been met, the nomination is adequately documented, and it is technically and professionally correct and sufficient. Subject to this review, the Army FPO signs nominations as the *Certifying Official* and forwards nominations to the Keeper of the National Register, National Park Service for listing in the NRHP.

5. NRHP nominations that do not conform to the procedural requirements defined in this memorandum will be returned to the originating installation or activity without action. Prior Army guidance in reference I.e., pertaining to the nomination and listing of properties in the NRHP is superseded by this memorandum. Inquiries regarding this NHPA policy, and required FPO coordination, may be addressed to the undersigned at david.b.guldenzopf.civ@mail.mil.



David Guldenzopf, Ph.D.

Department of the Army Federal Preservation Officer

Enclosure

DISTRIBUTION:

Army Office of General Counsel
Commander, Army Materiel Command
Deputy Chief of Staff G-9
Director, Army National Guard
Chief, Army Reserve
Commander, Installation Management Command
Commander, US Army Environmental Command

ENCLOSURE

This enclosure is divided into three sections. Section I provides a review of the statutory changes for National Register of Historic Places (NRHP) listing included in the 2016 amendments to the National Historic Preservation Act (NHPA). Section II provides a review and contextual analysis of the standards and guidelines for Federal agency listing of historic properties in the NRHP that are contained in the Secretary of the Interior's Standards and Guidelines for Federal Agency Historic Preservation Programs (63 FR 20496). The contextual analysis is necessary to understand the rationale for the Army's NRHP listing prioritization. Section III contains supplemental information pertaining to NHPA compliance and the NRHP.

Section I. NHPA Amendments Pertaining to NRHP Listing.

A. 2016 amendments to the NHPA. The 2016 amendments to the NHPA inserted a new subsection (c) *Nomination by Federal Agency* into 54 U.S.C. 302104 that sets forth a specific statutory process for Federal agencies to submit nominations of historic properties for inclusion in the NRHP. Specifically, 54 U.S.C. 302104 subsection (c) states that the Secretary of the Interior (SOI), acting through the Director of the National Park Service (NPS) may accept a NRHP nomination directly from a Federal agency only if:

(1) A completed nomination is sent to the State Historic Preservation Officer (SHPO) for review and comment regarding the adequacy of the nomination, the significance of the property, and the property's eligibility for the National Register;

(2) Within 45 days of receiving the completed nomination, the State Historic Preservation Officer has made a recommendation regarding the nomination to the Federal Preservation Officer (FPO), except that failure to meet this deadline shall constitute a recommendation to not support the nomination;

(3) The chief elected officials of the county (or equivalent governmental unit) and municipal political jurisdiction in which the property is located have been notified and given 45 days in which to comment;

(4) The FPO forwards the nomination to the Keeper of the National Register after determining that all procedural requirements have been met, including those described in (1)-(3) above, that the nomination is adequately documented, that the nomination is technically and professionally correct and sufficient, and may include the FPO's opinion as to whether the property meets the National Register criteria for evaluation;

(5) Notice is provided (by the SOI) in the Federal Register that the nominated property is being considered for listing in the National Register that includes any comments and the recommendation of the SHPO and a declaration whether the SHPO has responded within the 45 day-period of review; and

SAIE-ESOH

SUBJECT: Priority and Procedures for Listing Army Historic Properties in the National Register of Historic Places

(6) The SOI addresses in the Federal Register any comments from the SHPO that do not support the nomination of the property in the National Register before the property is included in the National Register.

B. Summary. The SOI may accept a nomination for the inclusion of a Federally-owned or controlled historic property in the NRHP from a federal agency only if the six conditions identified in the NHPA (54 U.S.C. 302104 subsection (c)) are met. These conditions serve as a prerequisite for the SOI and by extension, the Keeper of the National Register, to review a nomination submitted by a Federal agency, or to hear an appeal of a Federal agency's decision not to submit a nomination to the Keeper.

Section II. Army Priority and Rationale for Listing Historic Properties in the National Register of Historic Places.

A. Background. The NHPA authorized the SOI to maintain a NRHP composed of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture (54 U.S.C. 302101). This authority is delegated by the NHPA to the Director of the NPS, and has been further delegated to the Keeper of the NRHP (54 U.S.C. 300316), 36 CFR 60.3(f)). NHPA Section 110 (54 USC 306102) requires that each Federal agency have a historic preservation program in place to identify, evaluate, and nominate historic properties for listing in the NRHP. The definition of historic property in the NHPA (54 USC 300308) is any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in the NRHP, including artifacts, records, and material remains relating to the district, site, building, structure, or object. The term *eligible for inclusion* in the NRHP (as defined in 36 CFR 800.16) includes both properties formally determined as such by the Secretary of Interior in accordance with 36 CFR 60, and all other properties that meet the NRHP criteria, including properties determined eligible for the NRHP by consensus during the NHPA Section 106 compliance process (36 CFR 800.4 (c) (2)). The NHPA (54 USC 306104) requires Federal agencies designate a qualified FPO who is responsible for the agency's NHPA program activities, including serving as the designated agency official with the authority to sign nominations for listing agency owned historic properties in the NRHP. The NHPA (54 USC 306101) also requires that the SOI promulgate standards and guidelines for Federal agency historic property preservation programs.

B. The SOI Standards and Guidelines for Federal Agency Historic Preservation Programs. The standards and guidelines for Federal agency historic preservation programs are established by the SOI in 63 FR 20496, the Secretary of the Interior's Standards and Guidelines for Federal Agency Historic Preservation Programs Pursuant to the National Historic Preservation Act (SOI Standards and Guidelines). The SOI Standards and Guidelines are the SOI's formal guidance to each Federal agency for meeting the requirements of Section 110 of the NHPA (54 USC 306102). The SOI Standards and Guidelines provide the steps federal agencies must take to establish and maintain a preservation program that meets the applicable standards. The SOI Standards and Guidelines, Standard 3, pertains to federal agency listing of historic properties in the NRHP.

SAIE-ESOH

SUBJECT: Priority and Procedures for Listing Army Historic Properties in the National Register of Historic Places

SOI Standard 3 states: “An agency nominates historic properties under the agency’s jurisdiction or control to the National Register of Historic Places”. SOI Standard 3 provides the following Guidelines in section 3 (a) for Federal agency nomination of historic properties for listing in the NRHP:

“(a) The first step in designing a program for the nomination of historic properties is to determine what role nomination will play in the agency’s overall preservation program. For example:

(1) An agency that controls relatively few historic properties may find it realistic to nominate them all to the National Register, and then manage them accordingly. An agency with a great many historic properties will need to establish explicit priorities for identifying, nominating, and preserving properties.

(2) Placement on the National Register may help justify budgeting funds for preservation or management of a historic property, so agencies may want to give priority to nominating properties as a first step in upgrading their maintenance and providing for their continued active service in carrying out agency programs. Further, development of National Register-level documentation provides information on the property that will assist the agency in its subsequent property management decisions.

(3) An agency with an excellent internal program for identifying and preserving historic properties may find that other determinants, such as whether a property is to be managed and interpreted as a site of public interest, are more useful in establishing nomination priorities.

(4) An agency that regularly transfers property out of Federal ownership may find it useful to give higher priority to nominating properties to be transferred, at the expense of other properties, in those cases where placement on the National Register may make preservation more likely once a property is no longer under Federal management.”

C. Contextual Analysis of SOI Standard 3 and 3 (a) Guidelines. The following analysis provides the rationale, in terms of the SOI Standard 3 and 3 (a) Guidelines, for determining the role that nominating and listing properties in the NRHP will have in the Army’s historic preservation program:

(1) SOI Standard 3, Guideline (a) (1), Prioritization of Nominations for the NRHP: SOI Standard 3 Guideline (a) (1) states that an agency with a great many historic properties will need to establish explicit priorities for identifying, nominating, and preserving properties. The Army manages the largest inventory of historic buildings in the Federal government. The Army’s inventory totals over 120,000 archeological sites and historic buildings. The Army’s large inventory of historic properties requires establishment of explicit priorities for nominating historic properties for listing in the NRHP.

(2) SOI Standard 3, Guideline (a) (2), Budgetary Justification: SOI Standard 3 Guideline (a) (2) states that listing a historic property in the NRHP may help justify budgeting agency funds for preservation or management of a historic property. Formal listing in the NRHP does not create an Army budgetary justification and priority over other historic properties that have not been listed but meet NRHP eligibility criteria or have been determined eligible for listing in the NRHP through the NHPA Section 106 compliance process. As defined and required by the NHPA, historic properties eligible for listing in the NRHP must be treated by Federal agencies in the same manner as those that are formally listed in the NRHP. The Army plans, programs and budgets for historic properties eligible for listing in the NRHP with the same justification and priority as historic properties that are formally listed in the NRHP. Listing a historic property in the NRHP does not help justify additional funds for preservation or management of Army historic properties over and above historic properties determined eligible for listing. Additionally, preparation of the NRHP nomination and required supporting documentation, and the listing process itself, can involve the investment of significant financial and human resources that could otherwise be used for purposes that are more directly beneficial to historic property preservation. In consideration of the budget-neutral effect formal NRHP listing has for preservation of listed properties versus properties eligible for listing, and the impacts the formal NRHP nomination and listing requirements may have on available resources, the Army will focus formal NRHP listing efforts on those properties defined as receiving a significant preservation related benefit from listing.

(3) SOI Standard 3, Guideline (a) (3), Public Interpretation: SOI Standard 3 Guideline (a) (3) states that a property that is to be managed and interpreted as a site of public interest may be a useful priority in establishing nomination priorities. Due to Army operational security requirements, access to Army installations and facilities by the general public is generally restricted, and access to specific areas and properties on installations and facilities are often further restricted for site specific security reasons. NRHP listing of Army properties does not create a significant preservation benefit in terms of public interpretation. Due to operational security requirements and related general public access restrictions, historic properties on Army installations are in general, not managed and interpreted as sites of public interest. Public interpretation as sites of public interest is not a useful criterion in establishing Army NRHP nomination and listing priorities.

(4) SOI Standard 3, Guideline (a) (4), Transfer out of Federal Ownership: SOI Standard 3, Guideline (a) (4) states that an agency that regularly transfers property out of Federal ownership may find it useful to give higher priority to nominating properties that are to be transferred out of Federal ownership, at the expense of other properties, in those cases where NRHP listing may make preservation more likely once a property is no longer under Federal management. The Army routinely transfers property out of Federal ownership as a result of real property excessing actions, various Army real property initiatives, Congressional directives, and under base realignment and closure authorities. It is appropriate for the Army to give higher priority to listing historic properties in the NRHP that are to be transferred out of Federal ownership, at the expense of other properties, where listing in the NRHP makes preservation more likely and enhances the value of a property once the historic property is no longer under Federal ownership.

SAIE-ESOH

SUBJECT: Priority and Procedures for Listing Army Historic Properties in the National Register of Historic Places

NRHP listing of historic properties to be transferred out of Army ownership enables a private entity to apply for historic preservation tax credits, which may make preservation more likely and increase the value of the property once the historic property is no longer under Federal ownership and subject to the NHPA.

D. Summary. The Army's large inventory of historic properties requires establishment of explicit priorities for identifying those historic properties that may be nominated for listing in the NRHP. The Army priority for listing historic properties in the NRHP is focused on those properties that will receive a significant preservation related benefit from listing. Army properties that receive a significant preservation related benefit from NRHP listing are defined as those properties the Army plans to transfer out of Federal ownership where listing in the NRHP and makes preservation more likely and enhances the value of the property once a historic property is no longer under Federal ownership. NRHP listing of historic properties to be transferred out of Federal ownership enables a private entity to apply for historic preservation tax credits, which may make preservation more likely and increase the value of the property once it is no longer under Federal ownership.

Section III. Supplemental Information on NHPA Compliance and the NRHP.

A. Historic properties are 50 years old or older (with rare exception) and, as defined in the NHPA, include buildings, structures, archeological sites, objects, and districts that are eligible for inclusion or included in the NRHP. The NHPA (54 USC 306108), and its implementing regulation, 36 CFR 800 Protection of Historic Properties, are the statutory and regulatory historic preservation compliance requirements that Army installations must address regarding projects (NHPA uses the term undertakings) that may involve historic properties. 36 CFR 800 directs Federal agencies to identify, evaluate, and assess the effects of Army undertakings on historic properties in consultation with the Advisory Council on Historic Preservation (ACHP), State Historic Preservation Offices (SHPO), Tribal Historic Preservation Officers (THPOs), Indian Tribes, and other consulting parties. The ACHP is the federal oversight agency for NHPA Section 106 and 36 CFR 800 compliance, and must be given the opportunity to comment on undertakings.

B. Army installation, garrison, or facility commanders may function as the installation agency official as defined in 36 CFR 800, and are responsible for NHPA compliance at their installation or activity. Army commanders acting as the agency official for NHPA compliance purposes may assign agency official authority to staff members by means of a signed designation memorandum. SHPOs and THPOs consult with the agency official and provide their views on: proposed undertakings, plans to involve the public, identification of other consulting parties, the NRHP eligibility of properties, the effects that may result from implementation of undertakings, and on measures to mitigate adverse effects to historic properties developed in NHPA compliance agreements. The ACHP engages in those consultations at their discretion based on the criteria set forth in Appendix A to 36 CFR 800. The ACHP, SHPOs and THPOs provide their views and comments, but do not have approval or veto authority over Army undertakings.

SAIE-ESOH

SUBJECT: Priority and Procedures for Listing Army Historic Properties in the National Register of Historic Places

C. Historic properties are identified by Army installations or activities in the context of proposed Army undertakings by following the NHPA Section 106 compliance procedures at 36 CFR 800. Those identified properties are then evaluated for historical significance in terms of specific NRHP criteria and their integrity, and are then determined to be either eligible or not eligible for inclusion in the NRHP by consensus agreement between the installation and the respective SHPO. If there is consensus that a property meets these criteria, it is considered historically significant and eligible for inclusion in the NRHP and treated as such throughout the NHPA Section 106 compliance process. If the installation and SHPO disagree on NRHP eligibility, the matter is referred to the Keeper of the National Register, National Park Service for final adjudication. Properties that are 50 years old or older and have not been evaluated for NRHP eligibility, and properties that have been evaluated and determined eligible for inclusion in the NRHP must be treated in the same manner for NHPA compliance purposes as those that are formally listed in the NRHP. If a property is evaluated and determined not to be historically significant, or lacks the integrity to convey significance, it is not considered eligible for inclusion in the NRHP, is no longer treated as a historic property, and is not subject to further NHPA Section 106 compliance requirements.

D. Specific NRHP criteria for historical significance are applied by the installation and SHPO to reach consensus on NRHP eligibility. These criteria are set forth in 36 CFR 60.4:

“The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association and (a) that are associated with events that have made a significant contribution to the broad patterns of our history; or (b) that are associated with the lives of persons significant in our past; or (c) that embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or (d) that have yielded, or may be likely to yield, information important in prehistory or history.”

With time, changing perceptions, additional information, or physical changes to historic properties, prior eligibility determinations made for a property may change. Likewise, properties that have been formally included in the NRHP may be removed from the NRHP if they no longer satisfy the NRHP criteria. Further NRHP guidance is provided in National Register Bulletin 15, *How to Apply the National Register Criteria for Evaluation*.