



IN REPLY REFER TO:

# United States Department of the Interior

## NATIONAL PARK SERVICE

P.O. BOX 37127

WASHINGTON, D.C. 20013-7127

H34(418)

JUL 11 1988

Mr. Joseph Sweeney  
Commodore, The Schuylkill Navy  
4 Boat House Row, Fairmount Park  
Kelly Drive  
Philadelphia, Pennsylvania 19130

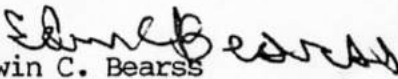
Dear Mr. Sweeney:

We are pleased to inform you that the National Park Service has completed the study of the property identified on the enclosed sheet for the purpose of nominating it for possible designation as a National Historic Landmark. We enclose a copy of the study report. The National Park System Advisory Board will consider the nomination during its next meeting, at the time and place indicated on the enclosure. The Board will make its recommendation to the Secretary of the Interior based upon the criteria of the National Historic Landmarks Program.

You have 60 days before the meeting of the Advisory Board to submit your views in writing, if you so desire. After the 60-day period, we will submit the nomination and your comments to the Advisory Board and then inform the Secretary of the Board's recommendations for his final action.

To assist you in considering this matter, we have enclosed a copy of the regulations that govern the National Historic Landmarks Program. They describe the criteria for designation (Sec. 65.4), the effects of designation (Sec. 65.2), and specify how you may comment on a proposed designation (Sec. 65.5(d)(4-5)). Should you wish to comment, please send your comments to me, at the National Park Service, History Division (418), P.O. Box 37127, Washington, DC 20013-7127.

Sincerely,

  
Edwin C. Bearss  
Chief Historian

Enclosures

PROPERTY STUDIED FOR NATIONAL HISTORIC LANDMARK DESIGNATION

Boat House Row, Fairmount Park, Philadelphia, Pennsylvania

☐ As a private owner of the property identified above you may concur in or object to the designation. Your comments may govern whether or not the property will be designated. You can find guidance for your comments in Section 65.5(d)(4-5) of the enclosed regulations.

☒ In commenting on the possible designation of the property identified above you can find guidance in Section 65.5(d)(4) of the enclosed regulations.

The above property will be considered for possible designation as a National Historic Landmark by the National Park System Advisory Board at a meeting on September 17, 1986, at 1 p.m., at the Lake Hotel in Yellowstone National Park, Wyoming. Should you wish to obtain information about the meeting, or about the National Historic Landmarks Program, please contact Ben Levy at the National Park Service, History Division (418), P.O. Box 37127, Washington, DC 20013-7127, 202-343-8164 or FTS-343-8164.

If you have questions about the study report, you may contact Jim Charleton at the above address, (202) 343-8165 or FTS: 343-8165.

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National Park ServiceNational Register of Historic Places  
Inventory—Nomination FormSee instructions in How to Complete National Register Forms  
Type all entries—complete applicable sections

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## 1. Name

historic Boat House Row

and or common

## 2. Location

street &amp; number 1-15 East River Drive not for publication

city, town Philadelphia vicinity of

state Pennsylvania code county Philadelphia code

## 3. Classification

Category	Ownership	Status	Present Use	
<input type="checkbox"/> district	<input checked="" type="checkbox"/> public (land)	<input checked="" type="checkbox"/> occupied	<input type="checkbox"/> agriculture	<input type="checkbox"/> museum
<input checked="" type="checkbox"/> building(s)	<input checked="" type="checkbox"/> private (buildings)	<input type="checkbox"/> unoccupied	<input type="checkbox"/> commercial	<input type="checkbox"/> park
<input type="checkbox"/> structure	<input type="checkbox"/> both	<input type="checkbox"/> work in progress	<input type="checkbox"/> educational	<input type="checkbox"/> private residence
<input type="checkbox"/> site	Public Acquisition	Accessible	<input type="checkbox"/> entertainment	<input type="checkbox"/> religious
<input type="checkbox"/> object	<input type="checkbox"/> in process	<input checked="" type="checkbox"/> yes: restricted	<input type="checkbox"/> government	<input type="checkbox"/> scientific
	<input type="checkbox"/> being considered	<input type="checkbox"/> yes: unrestricted	<input type="checkbox"/> industrial	<input type="checkbox"/> transportation
		<input type="checkbox"/> no	<input type="checkbox"/> military	<input checked="" type="checkbox"/> other: Recreation

## 4. Owner of Property

(rowing, skating,  
and social clubs)

name See continuation sheet

street &amp; number

city, town vicinity of state

## 5. Location of Legal Description

courthouse, registry of deeds, etc. City of Philadelphia, Office of Recorder of Deeds

street &amp; number City Hall

city, town Philadelphia state Pennsylvania

## 6. Representation in Existing Surveys

Philadelphia Register  
title of Historic Placeshas this property been determined eligible? ☐ yes ☐ nodate November 27, 1983 ☐ federal ☐ state ☐ county ☒ local

depository for survey records Philadelphia Historical Commission, 1313 City Hall Annex

city, town Philadelphia 654 state Pennsylvania

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## 4. Owners

The land on which the structures of Boat House Row rest is owned by the Fairmount Park Commission, a municipal agency. The individual boathouses are under the following ownership. (All structures are situated in Philadelphia, Pa. 19130.)

Boat House # 1	Fairmount Park Commission Memorial Hall
Boat House # 2 and 3	Fairmount Rowing Association 2 East River Drive
Boat House # 4	The Schuylkill Navy 4 East River Drive
	Pennsylvania Barge Club 4 East River Drive
	Pennsylvania Boathouse Association 4 East River Drive
Boat House # 5	Crescent Boat Club 5 East River Drive
Boat House # 6	Bachelors Boat Club 6 East River Drive
Boat House # 7 and 8	University Barge Club 7-8 East River Drive
Boat House # 9	Malta Boat Club 9 East River Drive
Boat House # 10	Vesper Boat Club 10 East River Drive
Boat House # 11	College Boat Club of the University of Pennsylvania 11 East River Drive
Boat House # 12	Philadelphia Athletic Club Rowing Association 12 East River Drive
Boat House # 13	Undine Barge Club 13 Boat House Row

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Boat House # 14

Philadelphia Girls Rowing Club  
14 Boat House Row

Boat House # 15

Sedgeley Club  
15 Boat House Row

## 7. Description

<b>Condition</b>		<b>Check one</b>	<b>Check one</b>
<input type="checkbox"/> excellent	<input checked="" type="checkbox"/> deteriorated	<input type="checkbox"/> unaltered	<input checked="" type="checkbox"/> original site
<input type="checkbox"/> good	<input type="checkbox"/> ruins	<input checked="" type="checkbox"/> altered	<input type="checkbox"/> moved      date
<input type="checkbox"/> fair	<input type="checkbox"/> unexposed		

**Describe the present and original (if known) physical appearance**

### Summary

The fifteen boathouses of Boat House Row stand along the east bank of the Schuylkill River north of the Fairmount Water Works.<sup>1</sup> They exhibit the wide variety of styles employed during the second (1860-70), third (1870-85), and fourth (1885-1905) generations of boathouse construction on the site.

Boat House Row contains examples of architectural styles prevalent during the late 19th century. Its appearance, however, has not completely retained its Victorian character. The construction of two new boathouses early in the 20th century and changes and additions to many of the others have altered its overall appearance. The Row had its beginnings in the 1850s but none of the first generation (before 1860) boathouses have survived. They were small frame and brick boat shelters, simple, unpretentious, and utilitarian. The City ordered their demolition in the late 1850s.

The City allowed the erection of three stone boathouses and the stone Skating Club Building in 1860. The three houses occupied the present sites of #2-3, 6, and 14. Two boathouses (at #3 and #6) were Gothic Revival in style; the Skating Club (#14) was Italianate. By 1868, three brick houses also existed (on the sites of the present #4 and 5, 7 and 8, and 9 and 10). After the creation of the Fairmount Park Commission in 1867, the Commissioners required the replacement of the brick structures by ornamented stone buildings.

By 1873, all of the brick houses had been replaced and, within the following 10 years, the stone houses at #1, 11, 12, and 13 had been built, extending the Row eastward toward the Water Works and filling the gap between the Philadelphia Barge Club (#10) and the Skating Club (#14). Most of the houses erected in the 1870s and early 1880s exhibited an ornamental Victorian Gothic associated primarily with the Philadelphia Centennial buildings elsewhere in Fairmount Park and then considered the proper style for park buildings. (The University and Philadelphia Barge Clubs used a Second Empire style for their boathouse at #7 and 8) [1870-71]).

Frank Furness' design for the Undine Barge Club (#13) in 1882 started a movement away from ornamental Victorian Gothic and into more eclectic styles. In the 1890s and early 1900s, the boat clubs either replaced or altered their old boathouses. The architects used a variety of styles, including modified Eastlake (#4 and additions to #10), Shingle (#7 and 8), and Mediterranean-influenced styles (#6).

After 1900, two clubs used variations on the Colonial and Georgian Revival styles. The Sedgeley Club hired Arthur H. Brockie to design a house using elements of both Colonial Revival and Shingle styles. The Fairmount Rowing Association's house, an excellent example of Georgian Revival, replaced the earlier stone house at #2 in 1904.

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Tudor and half-timbered styles were also used. Plaisted Hall (#1, 1881), the Pennsylvania Barge Club (#4, 1912), and the Malta Barge Club (#9, 1901) contain sections of their buildings in this style.

No new boathouse has been built since 1904. Alterations and additions have accounted for the work occurring on them during the 20th century. Especially during the last decade, the growth of women's racing has prompted new additions to several boathouses to provide separate locker and shower facilities.

Condition of Boat House Row

Most, if not all, the houses have preservation problems: e.g., Boat House #5 (Crescent) suffers from deteriorating stonework; #6 (Bachelors) has a large crack running through its brickwork that appears to be the result of a settling foundation; and #1 (Plaisted Hall) has been poorly painted and is very heavily used. (A full evaluation of the preservation problems of the component boathouses is beyond the scope of this nomination.)

DESCRIPTIONS OF INDIVIDUAL BOATHOUSESBoat House # 1 -- Plaisted Hall

Plaisted Hall (the former Public Boat House) is of half-timbered, shingle, and stucco construction. The eastern wing of the building stands 1-1/2 stories high in approximately an octagonal shape with gables on each exposed elevation. Each of the gables contains two large window openings on the second floor. The ground floor contains many windows, each framed by half-timbering. According to oral history, this section originally housed a carousel at another location and was brought here and converted first for boat purposes and later into a basketball court with locker facilities for the members of the Schuylkill Navy.

The western section of the building stands 2 stories high in a cross shape with the long arm of the cross extending toward the Schuylkill River and standing only 1-1/2 stories high. The north elevation contains a tripart opening on the ground floor and paired sash within a second floor opening. The front door sits on the western side of this arm of the building. The eastern and western cross-gabled sections contain four-part openings on both the ground and second floors. The side elevations of these cross-gabled sections each contain paired openings. The long 1-1/2-story rear section has two cross-gables and several door openings to the boat storage space. The 2-story front section presently houses food and bicycle rental concessions.

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The Public Boat House was built in 1881 after the commodore of the Schuylkill Navy complained of the disreputable practices of the boat rental men on the Row and the ill-kept condition of their houses, and suggested that the Park Commission replace the three existing houses with one new public one. Russell Thayer, Chief Engineer of Fairmount Park, prepared the design. Completed in 1881, the structure was renamed in honor of Fred Plaisted, a habitue of the Row, after his death in 1946. Alterations had been completed the previous year.

Boat House # 2 -- Fairmount Rowing Association, or Fairmount Boat Club

The Fairmount Rowing Association, which has occupied this structure, designed by Walter Smedley, since its construction in 1904, originally shared a double stone boat house dating to 1860 with the Quaker City Barge Club. The Pacific Barge Club had erected the earlier structure. Eventually, around 1880, the Pacific turned the house over to the Fairmount Rowing Association, which used it for 20 years before needing the larger present structure.

Boat House # 2 is a Flemish-bonded brick structure standing 2-1/2 stories high with a hipped roof. Designed in Georgian Revival style, the building faces east so that an observer from the Schuylkill River or East River Drive actually sees the side of the building, not the front or rear.

On the river side, the structure measures three bays wide with arched openings on the ground floor. These formerly flanked a semicircular portico which has been recently removed. The portico covered a slightly arched door flanked by two small openings, each with flat brick arches. On both sides of the ground floor recessed 1-bay extensions support open second-floor porches. The second floor contains three large openings, each with 6/9 double-hung sash flanked by 2/3 double-hung sash. Three gabled dormers pierce the roof. The wall finish on the first floor has brick beltcourses on both the main building and wings. Quoining appears on all corners of the principal building.

The East River Drive elevation contains three rounded arched openings on the ground floor, three large openings similar to the river front with one small opening in the far right bay on the second floor, and one third-level dormer. A 1-bay stuccoed back section contains a door opening on the ground floor and two 6/6 double-hung sash in a single opening above. The porch above the ground floor on the main wing continues over the stuccoed addition.

Boat House # 3 -- former Quaker City Barge Club

The Quaker City Barge Club occupied the western half of this clubhouse until it became inactive in 1932. The building was erected by the Pacific Boat Club in 1860. The 1-bay, 1-story stone structure displays a very low profile, especially in relation to its immediate neighbors. It was designed by an unknown architect in the Gothic Revival style.

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A set of steps leads to its East River Drive door, filling the 1 bay of the north elevation. A steeply pitched roof is pierced by a cross-gable over the door opening. The river side originally duplicated the Drive elevation but a 1-story extension erected in 1874 to provide additional storage space still fronts this elevation. The gable on the river side contains a rounded arched opening with two casement sash. Two narrow openings appear within the gable on the western elevation.

Boat House #3 is one of the two second-generation boathouses erected along Boat House Row. After 1932, the Fairmount Rowing Association incorporated this house into its building at #2.

Boat House # 4 -- Hollenback House, or Schuylkill Navy Headquarters (former Pennsylvania Barge Club

In 1868, the Pennsylvania Barge Club received permission to erect a boathouse to replace its earlier brick house. By the time construction started, the Crescent Boat Club had joined forces to build a double stone house at #4 and 5, respectively. After the Crescent Boat Club, in 1892, authorized alterations to their half of the building which destroyed its symmetry, the Pennsylvania Barge Club decided to replace their building with one more architecturally current.

The resulting design by Louis Hickman produced a boathouse containing much of the eclecticism found in period residences. Eastlake in appearance, the building had a stone ground floor and basement with many deviations from the main plane of the building line, including two side bays and a corner tower. Porches ran the width of the building on both the front and rear elevations. A large hipped roof, penetrated by pedimented eyebrow dormers, hipped dormers and a cross-gable, topped the entire structure.

In 1912, the need for space led the club to hire C. E. Schermerhorn to design a second-floor addition. He removed the original roof of the main building and tower and replaced them with a half-timbered and stucco addition that changed the overall appearance of the building. The extension of the three-sided bay around the chimney into the second floor, the use of leaded glass on the addition, and the placement of a cross-gable in the same location as in the original helped the addition to blend with the ground floor. The structure now appears as a 2-1/2-story building with a gabled roof, two cross-gables, a ground-floor porch on the north elevation, and a 2-story open porch on the river elevation.

The Pennsylvania Barge Club ceased active operations in 1955 and offered the use of its house to the various governing organizations of rowing. It now houses the Schuylkill Navy, the United States Rowing Society (formerly the Schuylkill Navy Association), the Philadelphia Scholastic Rowing Association, the Middle States Regatta Association, the Dad Vail Rowing Association, the National Association of Amateur Oarsmen, and the United States Rowing Association. In 1974, the United States Rowing Society honored one of its former presidents, William M. Hollenback, Jr., by renaming the building the "Hollenback House."

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Boat House #4 has undergone some alterations since the governing organizations occupied it. These alterations have included the replacement of some sash on the ground floor. In addition, all wooden parts, including the timbering, have been covered with aluminum siding.

Boat House # 5 -- Crescent Boat Club (LaSalle Rowing Association)

The Crescent Boat Club erected their original house in 1869-71 in conjunction with the Pennsylvania Barge Club. In 1890-91, Charles Balderston enlarged the house for the club by adding two stories.

The street front of the building has three defined sections: a central section containing the doorway, flanked by a recessed left section and a protruding right pavilion. The ground floor is constructed of stone and the upper floors of brick, timber, and stucco.

The left section has one ground-floor door opening with a brick arch above and a narrow horizontal opening containing two sash, also with a brick arch, at the second-floor level. The original gable has been enlarged with a stuccoed addition to its right containing a window opening.

The center section contains the door with a brick arched opening. A large brick course runs at the top of the door level. Smaller brick courses separate the stone ground floor from the stuccoed and timbered second and third floors. Four casement sash fill the second-floor opening. The third floor contains three openings, each filled with two casement sash.

The right section contains a large window opening on the ground floor with a brick arch above; the opening is filled by two 1/1 double-hung sash and three transoms reading "1867 Crescent 1891." The second floor contains two openings, each having two multi-light casement sash. An eyebrow dormer pierces the hipped roof. On the western elevation a cross-gable covers a protruding bay.

The Crescent Boat Club turned the house over to the LaSalle Rowing Association in 1951, when it resigned from the Schuylkill Navy and ceased active operations. By 1974, the house was vacant. Subsequently, the revived Crescent Boat Club reoccupied the house. The club rents space in it to the LaSalle College High School, the North Catholic High School, and the St. Joseph's University Women's rowing teams.

Boat House # 6 -- Bachelors Barge Club

The Bachelors Barge Club, the oldest active boat club along the Schuylkill River, has occupied several boathouses in succession: two in sequence during the period before 1860, when it erected a stone house. In 1893, the Fairmount Park Commission granted the club the authority to replace that structure with the present edifice. This boathouse has remained essentially unaltered.

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This free-standing house, completed in 1894, exhibits a Mediterranean appearance with Pompeian brick composing the ground floor and pebble-dashed stucco covering the second story. Two square openings with 9-light casement sash pierce the ground floor on either side of the center door opening. The latter contains a frontispiece reminiscent of work executed by the firm of Hazlehurst & Huckel, the architects, on Philadelphia townhouses. The second floor is highlighted by an open arcade on the front elevation with six arches facing north and two each facing east and west. A hipped roof with flared pedimented dormers sits on the top of the building.

On the east elevation there is an octagonal bay on the second floor and a story brick pavilion covering the rear half of the elevation. The second floor openings on the bay and to the left of the bay on the east elevation and the right center and right openings on the west elevation are arched. The openings closer to East River Drive on both elevations are square or rectangular in shape and contain multilight sash.

Today's tenants include the Baldwin School Girls Team and the Lower Merion High School teams, as well as the Bachelors Barge Club.

Boat Houses # 7 and # 8 -- University Barge Club (#8 -- formerly Philadelphia Barge Club)

One of the largest boathouses, this twin boathouse by an unknown architect, built in 1870-71, stands two stories high and exhibits a late 19th-century appearance. Now an example of the Shingle style, the house has lost its original Second Empire appearance. Work performed in 1893 gave the building a rectangular outline. By 1901, octagonal bays had been placed on the left center and right center openings flanking the center door openings. In addition, a 1-story pavilion, 3 bays wide, had extended the left and right bays toward River Drive.

The second floor has paired three light casement sash surmounted by three openings, each containing 9 light sash. These left and right second-floor bays are crowned by pyramidal roofs and connected by a central shingled section containing a single opening with double-hung sash. The left and right pavilions each contain 2/2 double hung sash within the left and right arched openings and a central arched door opening leading to the boat bays. The steeply pitched hipped roof covers the second floor and extends to the top of the ground floor. Hipped dormers pierce the roof over both projecting pavilions. Large gables highlight the east, west, and river elevations. The windows formerly located on these gables have, for the most part, been removed. The east and west elevations have four arched openings each with 2/2 double-hung sash on the ground floor. The gables contain two 12-light sash flanking carved medallions on the second floor.

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The University and Philadelphia Barge Clubs were partners in constructing these houses, teamed together to perform the alterations in 1893 and 1901 to maintain their symmetrical appearance and continued to act in concert. In 1900, they conceived the idea of an annual Inter-Club Regatta, which continued until the outbreak of World War I. When the Philadelphia Barge Club folded in 1932, most of its members joined the University Barge Club in what was in effect a merger between the two organizations. Today, several teams operate from this double boathouse, including that of Chestnut Hill Academy.

Boat Houses #9 and #10 -- Malta and Vesper Boat Clubs

The Malta and Vesper Boat Clubs joined forces in 1873 to erect an ornamental 1-1/2-story stone boathouse reminiscent of many Centennial buildings.

The stone house is still visible buried under the additions applied by later architects and contractors. Along the Drive elevation, the original building measured two bays wide with arched openings appearing on both floors. The front section has a low gable toward the Drive and a slightly larger and steeper pitched gable to the rear. A moderately pitched cross-gabled bay containing two second-floor openings appears at each side. A large, steeply pitched cross-gable with shingle siding exhibits two large and two small openings on the second floor and two openings on the third floor of the side elevations, two pyramidal-roofed bays on the Drive elevation, and two large gabled wall dormers facing the river.

Alterations to the Malta Boat House have included the replacement of the single opening on the ground floor with two openings, the addition of a bay window on the side in 1880, and a large shingled, stuccoed and timbered second- and third-story addition, creating the tallest house on the Row. The architects of the 1901 additions, George W. and William D. Hewitt, also changed the appearance of the bargeboards on the original gable to match that of the addition. The new 2-story addition exceeds the height of the rear cross-gable and covers the original gable roof and rear wall dormer. The side 2-1/2-story, half-timbered and stuccoed bay contains two openings on the second and third levels and three openings on the top level facing east. The center section of the present building has a large gabled roof with a tripart opening on the shingled-sided second floor facing north, two openings on the same level facing east, and two openings on the half-timbered and stuccoed third story. The right, and tallest, section contains a paired opening on the third level and a single opening on the fourth level.

The original design of the Vesper Boat House also underwent change, in 1898, when Howard Hagar added a second-floor turret between the front gable and the first side cross-gable, altered the ground floor front openings, and erected a 2-story brick and shingle addition that masks both the front cross-gable and the large rear bay and extends along the side toward the river. The rear bay's pyramidal roof is still visible. Other additions were planned and approved in 1981 but have not occurred.

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Boat House #11 -- College Boat Club of the University of Pennsylvania

This structure was erected in 1874-75 shortly after the University of Pennsylvania moved from the center city to its present West Philadelphia campus. The unknown architect used a Victorian Gothic style similar to that used for College Hall and other period University buildings. Over the years, additions and alterations have hidden the original building from view.

The original College Boat House forms the core of the present complex. Constructed of stone and measuring 2 stories high, this boathouse had a hipped roof, punctuated by large wall gables on the north and south ends and one large wall gable, flanked by two smaller gables, on the east and west elevations. The openings on the side mimicked the gables with a small arched opening on both floors under the small gables and a tripart, almost Palladian, opening on the first floor, and a tripart arched opening on the second floor under the large gable. The wall finish of all the gables was frame rather than stone, a treatment used on several of the additions.

A 1-1/2-story stucco and frame addition was placed (probably in 1920) on the Drive elevation, extending the original front wall gable. This addition has two square openings flanking the center opening on the ground floor and a tripart arched opening similar to that found on the original sides of the building on the second floor. Another addition extended the left wall gable of the east elevation in order to provide more boat storage space. A modern fire escape leads from the second floor of this gable end. Other 1-story stuccoed additions (ca. 1938 and ca. 1969) form the remainder of the eastern third of the complex, the front addition having two openings containing multilight double doors.

In 1980-81, the University of Pennsylvania hired the firm of Francis Cauffman Wilkinson & Pepper to design a 2-story stuccoed side addition along the western facade of the building, for women's locker facilities, effectively hiding the western elevation. The addition has two square openings flanking a center door on the ground-floor front elevation and a gabled dormer above. The side has two gabled sections forming the left and right bays and a recessed center section. Three openings appear within the ground floor of the left pavilion, four on the right pavilion, and four in the center. A band of windows is on the second floor between the gables. Small circular windows appear on the gables.

Boat House #12 -- West Philadelphia Rowing Club (Penn Athletic Association Rowing Club)

Erected in 1878 for the West Philadelphia Rowing Club by an unknown architect, this stone boathouse measures 1-1/2 stories high, three bays wide, and approximately four bays deep. The River Drive elevation has three openings on the ground floor: a central door opening flanked by two window openings, each with stone lintels and sills. On the second floor, within the gable, sits a bay window with two 3-light jalousie sash facing the Drive and one 3-light jalousie sash to either side.

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The eastern elevation has remained generally intact with a wall gable containing a three-sided bay window facing the first section: four openings with stone lintels and sills containing 2/2 double-hung sash on the first floor, two small openings with stone lintels and sills containing 2/2 double-hung sash on the second floor, and two small dormers, one shed and one gabled, piercing the roof forming the second section. The third section contains a small wall gable with paired 1/1 double-hung sash on the second floor. The fourth section is composed of a large cross-gable which protrudes from the main building. The river side of this cross-gable contains a large open second-story porch.

The western elevation has been effectively covered with unsympathetic 1968 and 1981 stucco-covered additions containing locker room facilities. The addition contains three rectangular openings on the ground and second floors of the north (Drive) elevation and five openings along the ground floor of the west elevation. The second floor of the 1981 addition extends back only three bays and an open porch covers the remainder of the structure. Door openings are located within the left bays on both floors; a fire escape leads from the second floor. A cross-gable tops the front of this addition.

Boat House #13 -- Undine Barge Club

The Undine Barge Club stands 2-1/2 stories high and measures three bays along the front (Drive) elevation. The arched center door opening is flanked by two smaller arched window openings on the first floor. The second floor contains a single opening framed by ornamental woodwork within the gable. Another second-floor opening exists on the right side under the eaves of the gable.

The western elevation contains two arched openings on the ground floor and a series of openings under the eaves of the roof. A door opening about two-thirds of the way along the facade toward the river leads to a small open porch. Four gabled dormers pierce the roof.

The eastern elevation is highlighted by a large covered porch running the length of the second floor to the cross-gable. The porch is joined by a large bay window at the northeast corner of the building with a massive stone support containing the coat-of-arms of the club below and a pyramidal roof above. Three dormers pierce the roof on this side.

The rear cross-gable culminates in a 2-1/2-story stone pavilion with curved walls and a hipped roof, a gabled dormer window, two openings on the second floor facing east, and a door opening on the ground floor facing north.

Unlike many of the other buildings on Boat House Row, the Undine Barge Club, erected in 1882-83 by the firm of Furness and Evans, has experienced few exterior changes. The Club continues to use the house and also permits Haverford School to use it.

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Boat House #14 -- Philadelphia Girls Rowing Club (formerly Philadelphia Skating Club and Humane Society)

The Skating Club building, with the Quaker City Barge Club (Boathouse #3), the oldest on the Row, has played host to many boat clubs. Over the years the Skating Club rented its space to the Undine (1860-82), the University (1860-70), the 2nd Iona (1884-95), the Sedgeley (1897-1902), and the Philadelphia Girls Rowing Club (1938-65), before relinquishing control of the building to the latter. By hosting the Sedgeley Club, it gained the honor of housing the first women's boat club along the Schuylkill River.

This Italianate stone building, erected for the Skating Club by James C. Sidney in 1860, stands 1-1/2 stories high. Despite its many tenants, it has remained remarkably unaltered over its 125-year history.

All of the openings are arched with stone window moldings. The front contains a central door opening flanked by two window openings facing the Drive and two others which are beveled. Three openings appear on the east elevation; two on the west elevation (the third is fronted by a small stone subsection containing a small opening with a stone lintel).

The back of the building is wider than the front and measures two bays deep. A porch on the river side has been enclosed within the past two decades. Bracketed eaves support the roof. A square cupola with three arched openings on all sides rests on top of the building.

Boat House #15 -- Sedgeley Club

The Sedgeley Club's boathouse was erected in 1902-03. Using a combination of the Shingle and Colonial Revival styles, Arthur H. Brockie created a house which complements the older houses on the Row and incorporates the old lighthouse which has stood on this point since the early 19th century.

Measuring 1-1/2 stories high, the street front of the building has a large five-sided bay topped by a parapet filling the left bay, and a door opening surmounted by a gable and flanked by one window opening on the left and two openings on the right, each containing 9/1 double-hung sash, filling the center and right bays. The front of the building curves to meet the side section which surrounds the old lighthouse. Three hipped dormers appear on the moderately pitched roof.

The north section of the building is curved and several openings appear containing single or paired 12/1 double-hung sash. A parapet exists above. The south (or east) elevation contains a door opening on the basement level with an arched window opening above, a narrow rectangular opening filling the right bay, and a square opening filling the central left bay of the ground floor. Two square openings and 6/1 double-hung sash appear on the second floor. A 2-story, partially open, porch stretches across the river elevation.

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The lighthouse has two arched openings at different levels and on different elevations providing light to the stairway inside, and an eight-sided walkway surrounding the six-sided light.

The Sedgeley Club today operates as a social club rather than a rowing club. When the house was erected, it had boat storage facilities. The deterioration of the slip, and the need for space to service the social functions of the club, led the members to arrange for storage of their boats in the Public Canoe House and remove the slip. The Colonial Dames of America, Chapter II, share the clubhouse with the Sedgeley Club.

Footnote

<sup>1</sup>This description is a condensed and edited version of Jefferson Moak's 1983 nomination form of Boat House Row for designation as a Philadelphia City Landmark.

## 8. Significance

Period	Areas of Significance—Check and justify below			
prehistoric	archeology-prehistoric	community planning	landscape architecture	religion
1400-1499	archeology-historic	conservation	law	science
1500-1599	agriculture	economics	literature	sculpture
1600-1699	architecture	education	military	social
1700-1799	art	engineering	music	humanitarian
X 1800-1899	commerce	exploration settlement	philosophy	theater
X 1900-	communications	industry	politics government	transportation
		invention		X other (specify) Recreation (rowing)

Specific dates    1860-date    Builder Architect    Various (See below)

### Statement of Significance (in one paragraph)

#### Summary

Boathouse Row's boat and barge clubs and skating club came into existence to serve the recreational needs of Philadelphians. The clubs and their parent organization, the Schuylkill Navy, have spread Philadelphia's name throughout the rowing world. The Schuylkill Navy's role is of particular importance. Formed in 1858, it is the oldest amateur governing body in sports in the United States. Indeed, the Navy's restriction of its contests to amateurs, beginning in 1872, contributed directly to clarifying the distinction between amateur and professional sports.<sup>1</sup>

Many of the Navy's premier oarsmen have become national and international champions. The Olympics have served as the setting of some of the most significant of these victories. A Vesper Boat Club eight won the gold medal in 1900. John B. Kelly, Sr., was the first American to win the singles, in 1920. American representation in 1920, 1924, 1928, and 1932 consisted solely, with the exception of the eights, of oarsmen from the Schuylkill Navy.

The growth of the sport over the years has brought Philadelphia fame as a major center for rowing, recognized not only for the Schuylkill Navy but also for the emergence and location of other governing bodies (the Philadelphia Scholastic Rowing, Middle States Regatta, and Dad Vail Rowing Associations) in Philadelphia. In addition, the Navy shares its quarters in Boat House #4 with the United States Rowing Association, the national governing body for rowing in this country (founded in 1873 as the National Association of Amateur Oarsmen).

The individual rowing clubs are of interest. They include both the oldest continuously existing club in the United States and the oldest women's club.

The architectural variety of the boathouses and the prominent individuals and firms associated with their design make them of considerably more interest than typical late 19th- and early 20th-century utilitarian buildings.

#### History

At an early stage in Philadelphia's history, residents of the area used the river to swim and fish.<sup>2</sup> Inns and hotels sprang up beside the riverbanks to cater to those who wished to frequent the area for hunting, fishing, sleighing, skating, or just to enjoy the inns' hospitality in a picturesque rural setting. As the city grew to the Schuylkill's banks, the river became increasingly used for recreation.

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In the early 19th century, the erection of the Fairmount Water Works and Fairmount Dam altered the river from a tidal stream to a very long freshwater lake that eventually drowned the cataract known as the Falls of Schuylkill. This change provided a relatively calm surface which, when frozen, was ideal for skaters and, when not frozen, became one of the finest courses available in the United States for a sport then in its infancy: rowing.

Indeed, the Schuylkill River and rowing became inextricably linked for much of the history of the sport. The first recorded regatta on the Schuylkill occurred in 1835 between the Blue Devils and the Imps Barge Clubs.<sup>3</sup> Earlier contests had probably taken place: the University of Pennsylvania claims that it first raced in 1801 against the Atalanta Boat Club of New York City. The excitement generated by the 1835 race sparked the formation of many rowing clubs, most of them short-lived. The surviving clubs, however, eventually recognized the need for an organization to control the sport and to prevent it from becoming a victim of shady practices and fixed races.

During much of the 19th century, professional rowers dominated the sport much as professional athletes dominate many sports today. The formation of the Schuylkill Navy in 1858 resulted from the clubs' intent to promote amateurism on the river. The rules of the Navy expressly prohibited the acceptance of any wagered money. Non-adherence led to expulsion. The success of the Navy and similar organizations throughout the country contributed heavily to the extinction of the professional rower.

In 1855, the City of Philadelphia declared the Lemon Hill Estate, purchased by the city in 1844, a public park to be known as "Fairmount Park." A leaseholder, who was using the Lemon Hill Estate as a beer garden, had allowed several boat clubs to erect houses along the river. The ramshackle nature of these structures prompted the city to condemn them in 1859. Pressure brought to bear upon the City by the various boat clubs and the Schuylkill Navy resulted in the passage of ordinances in 1860 that permitted the construction of three boathouses by the Pacific Boat Club and the clubs comprising the Schuylkill Navy, and allowed the Philadelphia Skating Club to erect a house.

Skating had become so popular a sport that in 1849 the Philadelphia Skating Club was formed to promote the sport and rescue skaters in danger. The lifesaving record of the club soon eclipsed that of the older Philadelphia Humane Society and the two organizations merged, in 1861, as the Philadelphia Skating Club and Humane Society.

Some clubs soon erected boathouses in much the former way although brick and stone structures replaced the earlier frame buildings. The city government exercised little or no control over their construction and design. After the enlargement of Fairmount Park in 1867, however, the Park Commission, in 1868, received the authority to review and approve plans for structures in the park. With this authority, the Commission ordered the removal of all but the Skating Club building and those that housed the Pacific and Bachelors Barge Clubs.

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The clubs then began to erect more aesthetic, rather than strictly utilitarian, buildings. By 1872, they had erected a number of stone boathouses, primarily in a Victorian Gothic style favored by park architects in the period. Again, in accordance with the accepted thought of the day, the Commission dictated the use of stone for all new construction.

Eventually, sentiment shifted. People came to feel that styles other than Victorian Gothic fitted well into park settings; the boat clubs were allowed to erect houses in a variety of styles, including Mediterranean, Picturesque Victorian (Eastlake), Shingle, and Colonial Revival. The Commission also let the clubs build with materials other than stone, including brick, shingle, and stucco. The clubs proved themselves responsible tenants, which the Commission informally recognized by allowing the construction of new buildings and enlargements that gave the clubs plenty of room to carry on social events as well as provide space for housing boats.

The Schuylkill Navy

The Schuylkill Navy began in 1858 with nine clubs and approximately 300 members. In 1983, its 125th year, it boasted a membership of ten clubs and more than 1200 participating rowers. The ten clubs (with dates of joining) are the University (1858), Undine (1858), Bachelors (1859-70, 1882-date), Malta (1865), Crescent (1868), Vesper (1870-71, 1879-date), College (1875), Fairmount (1916), Penn Athletic (1925), and Philadelphia Girls (1967). At least 23 other clubs have belonged to the Navy at various times.

The Schuylkill Navy and its member clubs still host many races. In 1953, the Navy convinced the Dad Vail Rowing Association to move its regatta to Philadelphia. It has remained since. The Dad Vail is probably the largest collegiate regatta held and usually signifies the end of the spring rowing season for most collegiate teams. The 45th Annual Dad Vail Regatta (1983) had participating teams from 67 colleges. Other major regattas held each year include the Thomas Eakins Head of the Schuylkill Regatta (sponsored by the University Barge Club) and the Frostbite Regatta. The Navy also sponsors other athletic endeavors including a basketball league and an annual cross-country race. The latter has been held since 1899, with a few interruptions during World War II.

Other Boat Clubs

In addition to the clubs in the Navy, other clubs associated with the boathouses over the years have included Sedgely, LaSalle, West Philadelphia, and Ione. Many of the clubs allow scholastic and collegiate clubs to share their facilities.

SPECIFIC BOAT CLUBS

Bachelors Barge Club: Organized in 1853, the Bachelors Barge Club claims to be the oldest boat club in existence today. It presently occupies Boat House #6.

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College Boat Club of the University of Pennsylvania: Originally the University of Pennsylvania was represented in rowing by the University Barge Club, which began as a university student club, but soon severed its ties. In 1872, students founded the "College Boat Club" to represent the University in rowing events. They erected their own house (#11) in 1874-75.

Crescent Boat Club: Members of two clubs, the Pickwick Barge Club and the (first) Ione Barge Club, formed the Crescent in 1867. Although not very active today, they rent their boathouse (#5) to several collegiate and scholastic teams.

Fairmount Rowing Association: Shortly after formation in 1877, the Fairmount Rowing Association procured the boathouse and equipment of the Pacific Barge Club. In addition to their own boathouse (#2), they acquired the Quaker City Club house (#3) after the latter's demise.

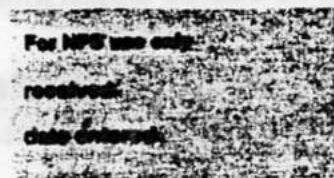
Malta Boat Club: The Malta Boat Club, founded in 1860, is the only club which traces its existence to rowing on the Delaware River, where they owned a boat and boathouse at Smith's Island. They moved to the Schuylkill in 1863. The club occupies Boat House #9.

Penn Athletic Club Rowing Association: The association traces its roots to 1871 when the West Philadelphia Boat Club was formed. The club erected Boat House #12, which it still occupies, in 1878. In 1924, the club became associated with the downtown Penn Athletic Club and changed its name. John B. Kelly, Sr., helped bring prominence to the club in the 1920s and 1930s.

Pennsylvania Barge Club: The Pennsylvania Barge Club existed from 1861 to late 1955 when they turned over their boathouse (#4) to the Schuylkill Navy.

Philadelphia Barge Club: First known as the Panola Barge Club, the Philadelphia Barge Club was organized in 1862. It first occupied a small brick house along with the old Washington Barge Club and replaced it in 1870 in conjunction with the University Barge Club, erecting present Boat Houses #7 and 8. A number of prominent Philadelphia architects belonged to the Philadelphia Barge Club, including Louis C. Baker, Jr., Arthur H. Brockie (who designed Boat House #15), James P. Sims, Emlen L. Stewardson, and John Stewardson. The club ceased operation at the end of 1932 and merged with the University Barge Club.

Philadelphia Girls Rowing Club: Composed primarily of wives of oarsmen who wished to participate in this mostly all-male sport, the Philadelphia Girls Rowing Club was organized in 1938. It is the oldest active such club in existence. They first rented the Philadelphia Skating Club and Humane Society building (Boathouse #14) and around 1965 obtained full title to it.

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Quaker City Barge Club: Organized in 1858, the club entered many races during its 74-year existence, and held the honor of competing in the first Four-Oared Shell with Coxswain race in 1870. It ceased active operations at the end of 1932.

Sedgeley Club: Formed in 1897 as the Bicycle, Barge and Canoe Club, this group's name was soon changed to the Sedgeley Club. They first occupied quarters in Boat House #14 and applied for permission from the Fairmount Park Commission to erect a new building in 1902. With the support of the University Barge Club, they obtained permission to build #15 Boat House Row. By World War II, the club had become largely a social organization.

Undine Barge Club: Undine Barge Club started operations in 1856, occupying a small frame house along the Schuylkill which the City condemned in 1859. Quartered in #14 Boat House Row from 1860 to 1882, the club commissioned Furness and Evans to design Boat House #13, which they still occupy, and to which they moved in 1883.

University Barge Club: The University Barge Club dates to 1854. It originally limited membership to students and graduates of the University of Pennsylvania. The club shared the Philadelphia Skating Club and Humane Society house (#14) with Undine before constructing Boat Houses #7 and 8 with the Philadelphia Barge Club. In 1932-33, University absorbed the latter and took over the entire double house. Like the Philadelphia, the University Club had a number of prominent architect members, including Charles L. Borie, Jr., Clarke Wharton Churchman, James S. Hatfield, George Howe, Sydney E. Martin, George B. Page, and John P. B. Sinkler.

Vesper Boat Club: Founded in 1865, this club operated under the name Washington Barge Club until 1870. In 1872, they joined the Malta Boat Club to erect present Boat Houses #9 and 10. John B. Kelly, Jr., is generally credited with leading the Vesper Club to its greatest successes during the middle of the twentieth century.

ARCHITECTS OF THE BOAT HOUSES

The architects of several of the boathouses were well-known figures in the profession. Others are of lesser significance, or were noted for other accomplishments. All were active in the Philadelphia area.

Frank Furness

Furness' works dominated Philadelphia's landscape during the late 19th and early 20th centuries; few still exist. He executed two commissions for the Undine Barge Club, the up-river Castle Ringstetten (1876) and Boat House #13 (1882-83).

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George W. and William D. Hewitt

These two brothers joined professional forces in 1878. George had been Furness' partner until 1876. The Hewitts proved their versatility by designing industrial, commercial, ecclesiastical, and residential structures. The Bellevue-Stratford Hotel, the Bourse Building, and the Wissahickon Inn are their most notable surviving buildings. The work they performed on the Malta Boat Club house came at the end of their firm's prolific existence.

Edward Hazlehurst and Samuel Huckel, Jr.

Hazlehurst and Huckel teamed in 1881, forming a 20-year partnership that specialized in ecclesiastical and residential architecture. Their ecclesiastical work includes Mother Bethel A.M.E. Church (a National Historic Landmark) and Union Methodist Church. Examples of their residential commissions are found throughout Germantown and Chestnut Hill. They designed two clubhouses for the Bachelors Barge Club: the "Bachelor's Button" in the East Falls neighborhood in 1882-83 and Boat House #6 in 1893-94. Huckel became a member of the club shortly after the boathouse was completed.

Louis Hickman

Hickman never attained the recognition accorded to many of his peers. His work within the T-Square Club and the renovation of the Merchants Exchange Building have come down as some of his most notable accomplishments. He designed the Pennsylvania Barge Club at the beginning of his career in a Picturesque Victorian style. The addition of a second story in 1912 modified his original design.

Clarence Schermerhorn

Schermerhorn does not have many major architectural works to his credit. On the other hand, he contributed heavily to architectural literature with Architectural Studies (1902), House Hints for Those Who Buy, Rent, or Sell (1902), "How to Go About Planning Your House" (1916), and Home Building Hints (1924), among others. He also became one of the first architects in the country to broadcast on the radio, with his brochure "Services of an Architect" being read over the air on thirty stations. His specialty lay in the field of domestic architecture. The Pennsylvania Barge Club hired him in 1912 to add the second story to their Hickman-designed building.

James C. Sidney

James C. Sidney, a cartographer, surveyor, and architect, designed the Philadelphia Skating Club building in 1860. He also wrote five parts of a proposed ten-part series entitled American Cottage and Village Architecture. In 1859, working with a partner, Andrew Adams, he produced an early landscape plan for Fairmount Park. During the late 1860s, he designed numerous school buildings in the city, few of which stand. Sidney has been overshadowed by his contemporaries Thomas U. Walter and John Notman.

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Walter D. Smedley

Smedley specialized in residential architecture, principally in the Colonial Revival styles. He also executed some notable designs for Philadelphia-area banks (principally the Northern National Bank and the West Philadelphia Title and Trust Company) and other commercial buildings. The Fairmount Boat Club house is only one of several structures Smedley contributed to Fairmount Park.

Arthur H. Brockie

The Sedgely Club building (1902-03) represents one of Brockie's earliest commissions. His reputation is based chiefly upon his residential designs, many of which still exist in Germantown and Chestnut Hill. His interest in Boat House Row was not limited to his role as one of its architects: his bosses, John and Emlen Stewardson, belonged to the Philadelphia Barge Club and he joined the University Barge Club in 1902.

Charles Balderston

Balderston's work consisted chiefly of alterations and additions to existing buildings. His work on the Crescent Boat Club, in 1890-91, came during his first years as an independent architect.

Howard Hagar

The alterations and additions to the Vesper Boat Club in 1898 were his major work within the central portions of the city.

Footnotes

1 "Amateur Athlete," in Frank G. Menke, The Encyclopedia of Sports, 5th rev. ed. (New York: A. S. Barnes & Co., 1975), pp. 11-12.

2 The bulk of the data contained in this statement is edited and condensed from Jefferson Moak's 1983 nomination of Boat House Row for designation as a Philadelphia City Landmark.

3 J.T. Scharf and Thompson Westcott, History of Philadelphia, 1609-1884 (Philadelphia: 1884), II, 1870-1871.

## 9. Major Bibliographical References

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## 10. Geographical Data

Acreeage of nominated property approximately 12

Quadrangle name Philadelphia

Quadrangle scale 1:24,000

UTM References

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Verbal boundary description and justification

SEE CONTINUATION SHEET

List all states and counties for properties overlapping state or county boundaries

state	code	county	code
state	code	county	code

## 11. Form Prepared By

name title James H. Charleton, Historian  
organization History Division, National Park Service date June 1985  
street & number 1100 L Street, NW telephone (202) 343-8165  
city or town Washington state DC 20013-7127

## 12. State Historic Preservation Officer Certification

The evaluated significance of this property within the state is:

☐ national ☐ state ☐ local

As the designated State Historic Preservation Officer for the National Historic Preservation Act of 1966 (Public Law 89-665), I hereby nominate this property for inclusion in the National Register and certify that it has been evaluated according to the criteria and procedures set forth by the National Park Service.

State Historic Preservation Officer signature

title \_\_\_\_\_ date \_\_\_\_\_

For NPS use only

I hereby certify that this property is included in the National Register

date \_\_\_\_\_

Keeper of the National Register

Attest:

Chief of Registration

date \_\_\_\_\_

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145 (March 11, 1891); VII, 103 (March 9, 1892); VIII, 413 (July 5, 1893); VIII,  
593 (September 20, 1893); XVII, 629 (September 24, 1902); XVII, 709 (October  
29, 1902); XVIII, 603 (September 16, 1903); XIX, 179 (March 23, 1904); XIX, 227  
(April 13, 1904); and XXVII, 511 (August 7, 1912).

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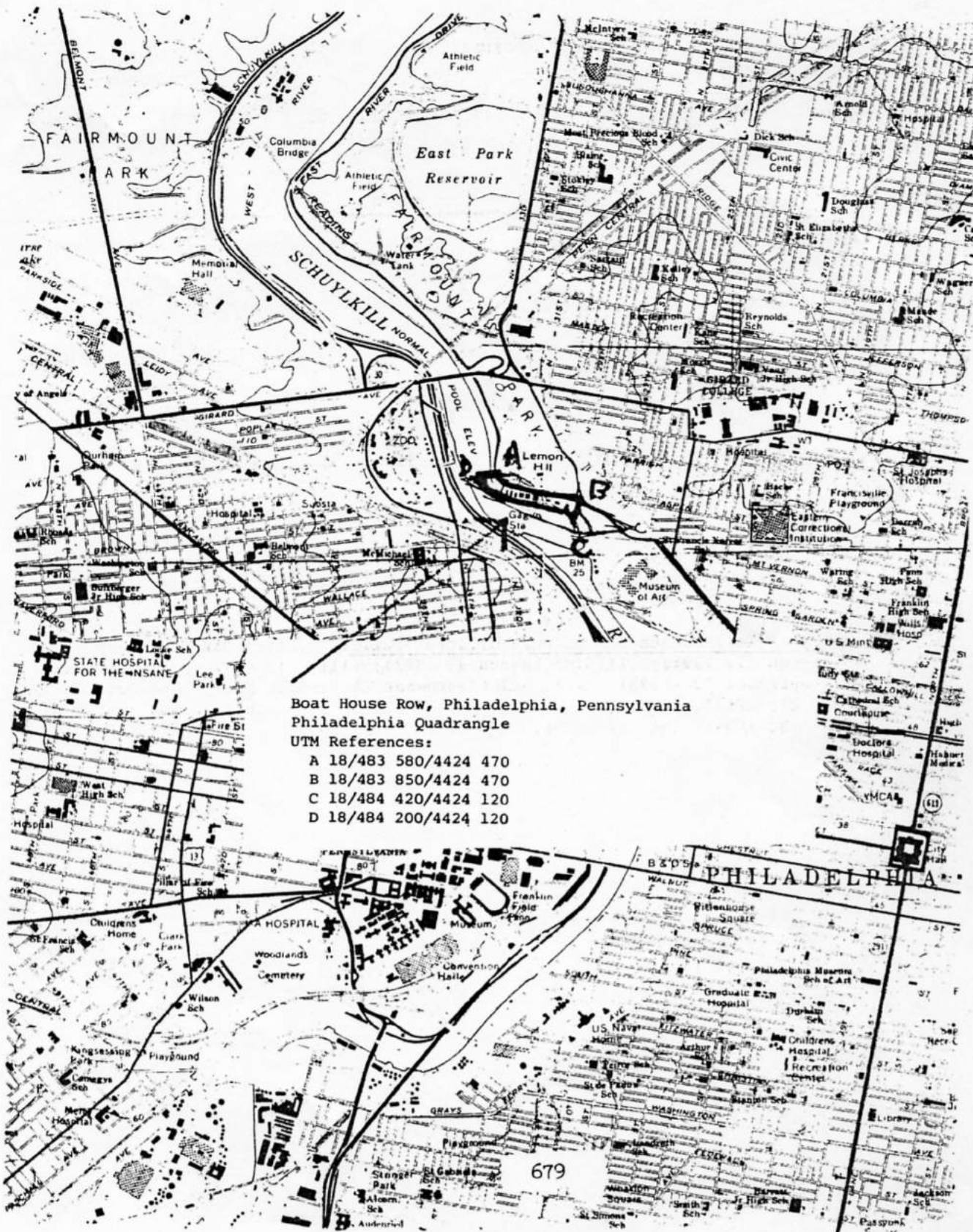
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Verbal Boundary Description

Boat House Row is enclosed by a line beginning at the apex of the curved west curblane of the intersection of Aquarium and East River Drives, proceeding south-east along that curblane of Aquarium Drive to the north edge of the traffic circle enclosing the Fountain of the Sea Horses, then due west to the edge of the Schuylkill River, then upriver along the shoreline to the south edge of the statue of Karlsefni at the river's edge, then due east from that point to the west curblane of East River Drive, and then generally east along that curblane to the point of beginning.





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offer and sale of commodity options is currently limited to member FCMs and their APs, as already noted. Rule 33.3(b) expressly allows non-member FCMs and their APs to engage in the offer and sale of commodity options if they are members of a registered futures association which regulates the option-related activities of its members in a manner equivalent to that required of contract markets under the Commission's rules. In this connection, the National Futures Association ("NFA") has submitted, pursuant to Section 17(j) of the Commodity Exchange Act, as amended, 7 U.S.C. 21(j)(1976), proposed compliance rules governing the solicitation and handling of option accounts by NFA-member FCMs and their sales personnel and option sales practice audit procedures. The Division staff is currently reviewing NFA's submission and anticipates completion of the review process shortly.<sup>4</sup> At such time as NFA rules governing options and the requisite joint audit agreements are approved by the Commission, and NFA implements its program to regulate the option-related activities of its members in a manner equivalent to that required of contract markets under the Commission's rules, any person adversely affected by this decision will be able to solicit and accept option orders as an NFA member. Thus, the restrictions imposed by this determination may be expected to be mitigated in the near future.<sup>5</sup>

<sup>4</sup>The NFA proposal, however, also relies upon the execution of joint audit agreements between the NFA and those exchanges designated or applying for designation to trade options. Although those joint audit agreements must also be approved by the Commission before NFA's option program can become effective, NFA and the participant exchanges have not yet submitted the agreements for Commission review.

<sup>5</sup>Consistent with the Commission's prior interpretation of Rule 33.3, the Commission also notes that a member FCM may decide whether to accept option orders solicited and accepted by the APs of its agents (except by agents which are non-member FCMs or agents of such FCMs), so long as the rules of the relevant contract market permit. In this regard, the Commission wishes to reemphasize the obligations of a member FCM which makes an affirmative decision on this issue, as originally expressed at the time the final option rules were adopted. Specifically, an FCM must assume full responsibility for the acts of such agents and, in particular, must supervise the option sales practices of their APs. Further, a member FCM may not accept option orders from non-member FCMs or agents of non-member FCMs which were solicited and accepted in violation of Rule 33.3(b)(1), as interpreted by the Commission. Similarly, contract markets which have option sales practice audit programs are reminded that they have represented that they will carefully monitor participation by agents of member FCMs in the pilot program to ensure that their activities are conducted in conformity with the foregoing limitations and obligations.

Issued in Washington, D.C. on January 26, 1983, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-2082 Filed 2-1-83; 8:45 am]

BILLING CODE 6351-01-M

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 6a

[T.D. 7832]

#### Income Tax; Temporary Income Tax Regulations Under Subtitle C of Title XI of the Omnibus Reconciliation Act of 1980; Foreign Investment in United States Real Property

##### Correction

In FR Doc. 82-25829, beginning on page 41532, in the issue of Tuesday, September 21, 1982, on page 41536, in the first column, in the second line, "June 21, 1982" should read "June 21, 1983."

BILLING CODE 1505-01-M

## DEPARTMENT OF THE INTERIOR

### National Park Service

#### 36 CFR Part 65

#### National Historic Landmarks Program

AGENCY: National Park Service, Interior.

ACTION: Final rule.

**SUMMARY:** These regulations set forth the Secretary of the Interior's criteria for national significance and the process used to identify, designate, recognize and monitor the integrity of National Historic Landmarks. This final rule incorporates revisions required by the National Historic Preservation Act Amendments of 1980 Pub. L. 96-515 ("Amendments"), and updates and revises in other minor respects the National Historic Landmark procedures based in part on comments received in response to publication of prior regulations. The regulations make available to Federal agencies, State and local governments, private organizations, and individuals information necessary for understanding of and participation in the National Historic Landmarks Program.

**DATES:** Final rule effective February 2, 1983.

**FOR FURTHER INFORMATION CONTACT:** Edwin C. Bearss, Chief, History Division (202) [redacted]. Address: Chief, History

343-9163

Division, National Park Service, P.O. Box 37127 Washington, DC [redacted] 20013-7127

**SUPPLEMENTARY INFORMATION:** The National Historic Landmarks Program, administered by the National Park Service, is the program of the Department of the Interior for identifying, designating, recognizing, listing, and monitoring National Historic Landmarks. Two offices in the national Park Service cooperate in managing the program: the Office of the Associate Director, Cultural Resources Management, through the History Division, manages the functions of identifying, designating and recognizing landmarks; the Office of the Associate Director for National Register Programs lists landmarks on the National Register of Historic Places and monitors their condition. The program provides limited protection to historic properties and assists the planning needs of Federal, State and local agencies and private organizations and individuals because it is the primary Federal means of assessing the national level of significance of historic properties, including those proposed for inclusion in the National Park System and for addition to the World Heritage List. Authority for the National Historic Landmarks Program is derived from the historic Sites Act of 1935 (49 Stat. 666, 16 U.S.C. 461 *et seq.*), which established a national policy to preserve "historic sites, buildings, and objects of national significance," and the National Historic Preservation Act Amendments of 1980 (Amendments).

Interim rules for the National Historic Landmarks Program were published in the Federal Register on December 18, 1979, 44 FR 74826, with a request for comments. The December 18, 1979 interim rules are replaced by the final rules published today. Responses to the publication of the December 18, 1979 interim rules indicate the wide range of parties participating in the Landmarks Program, including State Historic Preservation Officers, other State and Federal agencies, university faculties, business firms, private organizations and individuals. On December 12, 1980, the Amendments became law necessitating revisions in the National Historic Landmark designation process. The Amendments require the Secretary of the Interior to promulgate or revise regulations for the following:

- (a) Establishing and revising criteria for National Historic Landmarks;
- (b) Designating properties as National Historic Landmarks and removing such designations;

(c) Considering appeals from such nominations, removals, and designations (or any failure or refusal by a nominating authority to nominate or designate);

(d) Notifying the owner of a property, appropriate local governments and the general public, when the property is being considered for designation as a National Historic Landmark;

(e) Notifying the owners of private property and providing them an opportunity (including a reasonable period of time) to concur in or object to the nomination of the property or district for designation;

(f) Reviewing the nomination of the property or district where any such objection has been made, determining whether or not the property or district is eligible for designation, and informing the Advisory Council on Historic Preservation, the appropriate State official, the appropriate chief elected local official and the owner or owners of such property of the Secretary's determination; and,

(g) In the case of National Historic Landmark districts for which no boundaries have been established, publishing proposed boundaries in the Federal Register and submitting them to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Interior and Insular Affairs of the United States House of Representatives.

The Amendments require the Secretary to send any proposed regulations published thereunder to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate before publication in the Federal Register for comment, and to send final regulations to Congress before publication.

In addition to the changes required by the Amendments, these final regulations reflect comments made in response to the December 18, 1979 interim regulations. Since the issuance of the December 18, 1979 interim regulations, the Heritage Conservation and Recreation Service (HCERS) has been abolished and the National Historic Landmarks Program transferred to the National Park Service (NPS). Comments received often refer to the Consulting Committee which was a review board proposed to examine and make professional recommendations to the Director (HCERS) and the Secretary of the Interior regarding the qualifications of nominated National Historic Landmarks. With the transfer of the program to the National Park Service, these regulations substitute the National

Park System Advisory Board for the Consulting Committee.

Summary of comments and response to comments on the December 18, 1979 interim regulations:

One State urged that a specific system be established for nominations by State Historic Preservation Officers. The National Park Service also emphasized that National Historic Landmarks should be selected primarily on the basis of theme studies because of the importance of comparative analysis. Both of these concerns are incorporated into the priorities for selecting studies established in these regulations.

Several comments were received concerning the composition of the Consulting Committee and the role of the Committee. One comment suggested that designation by the Secretary without Consulting Committee review should be provisional and should require Committee concurrence within a specified period of time. Another comment recommended that the Committee include expertise in both historic and prehistoric archeology. As a result, the regulations have been made more specific concerning when and how the Secretary may designate National Historic Landmarks without National Park System Advisory Board review.

Several private companies expressed concerns about the effects of designation. One company interpreted the Historic Sites Act to mean that the Department of the Interior must obtain an interest in a property before designation. The Department does not agree with this interpretation of the act. The same company expressed concern that the owners were giving up some right in their property. Under Federal law, National Historic Landmark designation of a private property does not prohibit any actions which may otherwise be taken by the owner with respect to the property.

Others suggested that the role of the Director in the designation process should be clarified. This has been done in the regulations. One comment also urged that NPS should assure that all National Historic Landmark studies, public meetings, etc., should be carried out by NPS or with an NPS representative present. While this concern is not addressed in the regulations, NPS will assure that there is adequate NPS oversight of all aspects of the program.

One comment expressed concern that some aspects of the National Historic Landmark criteria are too broad, for example, the references to movements, ideals, beliefs and phenomena. The regulations make clear that the criteria are the general standards for evaluation

of national significance; however, NPS emphasizes that the significance of each property must be evaluated on the basis of a thorough and detailed scholarly study.

The notification procedures before designation were the subject of a number of comments. One State Historic Preservation Officer recommended that State Historic Preservation Officers always participate in public meetings. Although this is not addressed in the regulations, NPS always welcomes State Historic Preservation Officers' participation in public meetings as well as in other aspects of the program.

Other comments recommended that additional parties be notified, as well as those included in the interim regulations. Because notice is costly, NPS can routinely notify only a certain number of parties as part of the nomination process.

A number of comments recommended revising the registration section. Some comments recommended that certificates be presented to all National Historic Landmarks. This has been included. Others recommended that plaques not be presented unless the recipients are willing to publicly display them. This has been included. Another comment questioned getting owners to sign a preservation agreement which is not binding. Based on these comments the registration aspect of the program has been substantially revised.

To fulfill the requirements of the Amendments and on the basis of the comments received on the December 18, 1979 interim regulations, substantive revisions have been made in the sections of the regulations listed below:

**Section 65.2.** A new section on the effects of designation has been added.

**Section 65.4.** The National Historic Landmark Criteria, Section 1205.9 in the December 18, 1979 interim rules (reprinted as 36 CFR Part 65 in 1981 to reflect the reorganization of HCERS into NPS) have been moved to a new position to emphasize their importance as the basis for all decisions on landmark designation. These criteria were revised following consultation with historical and archeological associations, the History Areas Committee of the National Park System Advisory Board and the National Register. As a result, the revised criteria herein have been substituted for those of the 1979 rules. With some changes, these are the criteria used by the National Historic Landmarks Program before the 1979 rules. They are less cumbersome and more closely parallel with the criteria of the National Register (36 CFR Part 60).

*Section 65.5.* New language has been inserted to clarify the method and priorities used to identify prospective landmarks, to assure general understanding of how National Historic Landmark studies are scheduled, and to define the role of the appropriate State officials, Federal agencies and other parties in that process.

The Department receives numerous requests to designate properties as National Historic Landmarks from State officials, property owners and others. The requests to study and designate such properties far exceed the funds and staff available to the Department for the conduct of the program. National Historic Landmarks will, with rare exceptions, be identified on the basis of theme studies which provide the contextual framework to evaluate the relative significance of properties. The theme studies, which organize the study of American history, and special studies for properties not in active theme studies will be conducted according to priorities established herein.

State and Federal agencies evaluate, document, and nominate significant historic properties to the National Register of Historic Places, under the authorities of the National Historic Preservation Act of 1966, as amended, and Executive Order 11593. Their efforts are one basis for establishing National Historic Landmark Program priorities and assist in avoiding duplication of effort.

*Section 65.5(c)(2).* This paragraph has been modified to state that onsite visits will be required unless NPS determines such a visit is not necessary and to indicate that NPS may conduct a public information meeting for properties with more than 50 owners and will do so for such a property upon request by the chief elected official of the local, county or municipal political jurisdiction in which the property is located. This section also provides that properties on which the onsite visit was conducted before the effective date of these regulations are not subject to the notice provisions announcing that a study is being conducted.

*Section 65.5(c)(4).* New language has been added to identify minimum requirements for the study report or nomination for each prospective landmark.

*Section 65.5(d)(5).* This paragraph has been modified to provide owners an opportunity to concur in or object to designation and to specify how a statement of objection shall be transmitted to NPS.

*Section 65.5(e)(2).* New language has been added to provide that studies submitted to the Consulting Committee

or National Park System Advisory Board before the effective date of these regulations need not be resubmitted to the National Park System Advisory Board. In such instances, if a property appears to qualify for designation, NPS will provide at least 30 days notice, a copy of the study report, and an opportunity to comment, and, for owners, an opportunity to concur in or object to the designation as specified in § 65.5(d)(2) and (3), before submitting a property to the Secretary for designation.

*Section 65.5(e)(3).* New language has been added to clarify the role of the Director in the evaluation and designation of landmarks.

*Section 65.5(f).* New language has been added to provide that if the owners of private property or for a district the majority of such owners have objected to the designation, the Secretary shall make a determination of a property's eligibility for National Historic Landmark designation, as required by the Amendments. The paragraph also establishes that the Keeper may list in the National Register properties considered for National Historic Landmark designation which do not meet the National Historic Landmark criteria but do meet the National Register criteria for State or local significance or determine such properties eligible for listing if the private owners or a majority of such owners object to listing.

*Section 65.5(g).* This paragraph describes the notices which NPS will provide concerning designations, determinations of eligibility for designation or other actions taken by the Secretary.

*Section 65.5(h).* New language has been added to clarify when the Secretary may designate National Historic Landmarks without review by the National Park System Advisory Board and to identify notification procedures and other procedural steps to be followed in the designation of landmarks without Advisory Board review.

*Section 65.6.* Landmark Registration has been redefined as Landmark Recognition; this change will eliminate potential confusion between "Registered" Landmarks and National Register properties.

*Section 65.8(d)(1).* A new provision is added that in the case of National Historic Landmark districts for which no boundaries have been established, proposed boundaries shall be published in the Federal Register for comment and submitted to the Committee on Energy and Natural Resources of the United States Senate and the Committee on

Interior and Insular Affairs of the United States House of Representatives to allow not less than 30 nor more than 60 days to comment on the proposed boundaries.

*Section 65.9(a).* New language expands the potential justification for withdrawals of landmark designation from three to four, including alternation of kind or degree of significance because of previously undiscovered information and reevaluation of the theme under which the designation was originally granted.

*Section 65.9(b).* This section specifies that properties designated as National Historic Landmarks before enactment of the Amendments, December 13, 1980, can only be redesignated if they have ceased to meet the criteria for designation because the qualities which caused them to be originally designated have been lost or destroyed. This provision is consistent with the Amendments' "grandfathering" all historic properties listed as National Historic Landmarks in the Federal Register of February 8, 1979 or thereafter prior to the effective date of the Amendments, and with the Congressional committee reports on the Amendments which recognize that the Secretary may dedesignate properties which have lost the historic qualities for which they were designated.

*Section 65.9(c).* A process is established for appeals for dedesignation.

*Section 65.9(e).* New language provides for possible continued National Register listing when a landmark designation is withdrawn and automatic National Register eligibility when designation is withdrawn because of procedural error.

*Section 65.10.* A new section has been added which establishes a formal process for appealing decisions not to designate a property a National Historic Landmark.

These substantive revisions are accompanied by minor changes in language throughout the regulations for purposes of clarity and consistency. The Department of the Interior emphasizes that the National Historic Landmark criteria constitute the standards against which all prospective landmarks are measured. These criteria do not contain a specific definition of significance. Instead, they are purposely worded to create a qualitative framework that can be applied to the wide variety of properties of national significance. The basis for designation of properties as landmarks is a scholarly, professional analysis of the historical documentation for each property and of the property's

relative significance within a major field or theme of American history or prehistory.

The Department of the Interior has given particular attention to the need for expanded public participation in the National Historic Landmark designation process. Notification requirements have been set which will insure that property owners, appropriate State officials, local governments, Members of Congress, and other interested parties will have ample opportunity to participate in the National Historic Landmarks Program.

**Authority:** This rulemaking is developed under the authority of the Historic Sites Act of 1935, 16 U.S.C. 461 *et seq.*, and the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470 *et seq.*

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and does not have a significant economic effect on a substantial number of small entities in accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). These revisions are procedural, not substantive. They tell the public how properties are nominated for designation as National Historic Landmarks and because they are procedural only they have no significant economic effect on small entities.

#### Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Since this rule has to do only with the procedural aspects of the National Historic Landmarks Program and does not constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 an environmental impact statement is not required.

#### List of Subjects in 36 CFR Part 65

Historic preservation.

The originator of these procedures is Benjamin Levy, History Division, National Park Service.

Dated: October 19, 1982.

Ric Davidge,

Acting Assistant Secretary, Fish and Wildlife and Parks.

(16 U.S.C. 461 *et seq.*; 16 U.S.C. 470 *et seq.*)

Accordingly 36 CFR Part 65 is revised to read as follows:

### PART 65—NATIONAL HISTORIC LANDMARKS PROGRAM

Sec.

65.1 Purpose and authority.

65.2 Effects of designation.

Sec.

65.3 Definitions.

65.4 National Historic Landmark Criteria.

65.5 Designation of National Historic Landmarks.

65.6 Recognition of National Historic Landmarks.

65.7 Monitoring National Historic Landmarks.

65.8 Alteration of National Historic Landmark Boundaries.

65.9 Withdrawal of National Historic Landmark Designation.

65.10 Appeals for designation.

**Authority:** 16 U.S.C. 461 *et seq.*, 16 U.S.C. 470 *et seq.*

#### § 65.1 Purpose and authority.

The purpose of the National Historic Landmarks Program is to identify and designate National Historic Landmarks, and encourage the long range preservation of nationally significant properties that illustrate or commemorate the history and prehistory of the United States. These regulations set forth the criteria for establishing national significance and the procedures used by the Department of the Interior for conducting the National Historic Landmarks Program.

(a) In the Historic Sites Act of 1935 (45 Stat. 666, 16 U.S.C. 461 *et seq.*) the Congress declared that it is a national policy to preserve for public use historic sites, buildings and objects of national significance for the inspiration and benefit of the people of the United States and

(b) To implement the policy, the Act authorizes the Secretary of the Interior to perform the following duties and functions, among others:

(1) To make a survey of historic and archeological sites, buildings and objects for the purpose of determining which possess exceptional value as commemorating or illustrating the history of the United States;

(2) To make necessary investigations and researches in the United States relating to particular sites, buildings or objects to obtain true and accurate historical and archeological facts and information concerning the same; and

(3) To erect and maintain tablets to mark or commemorate historic or prehistoric places and events of national historical or archeological significance.

(c) The National Park Service (NPS) administers the National Historic Landmarks Program on behalf of the Secretary.

#### § 65.2 Effects of designation.

(a) The purpose of the National Historic Landmarks Program is to focus attention on properties of exceptional value to the nation as a whole rather than to a particular State or locality. The program recognizes and promotes the

preservation efforts of Federal, State and local agencies, as well as of private organizations and individuals and encourages the owners of landmark properties to observe preservation precepts.

(b) Properties designated as National Historic Landmarks are listed in the National Register of Historic Places upon designation as National Historic Landmarks. Listing of private property on the National Register does not prohibit under Federal law or regulations any actions which may otherwise be taken by the property owner with respect to the property.

(c) Specific effects of designation are:

(1) The National Register was designed to be and is administered as a planning tool. Federal agencies undertaking a project having an effect on a listed or eligible property must provide the Advisory Council on Historic Preservation a reasonable opportunity to comment pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended. The Advisory Council has adopted procedures concerning, *inter alia*, their commenting responsibility in 36 CFR Part 800.

(2) Section 110(f) of the National Historic Preservation Act of 1966, as amended, requires that before approval of any Federal undertaking which may directly and adversely affect any National Historic Landmark, the head of the responsible Federal agency shall, to the maximum extent possible, undertake such planning and actions as may be necessary to minimize harm to such landmark, and shall afford the Advisory Council a reasonable opportunity to comment on the undertaking.

(3) Listing in the National Register makes property owners eligible to be considered for Federal grants-in-aid and loan guarantees (when implemented) for historic preservation.

(4) If a property is listed in the National Register, certain special Federal income tax provisions may apply to the owners of the property pursuant to Section 2124 of the Tax Reform Act of 1976, the Economic Recovery Tax Act of 1981 and the Tax Treatment Extension Act of 1980.

(5) If a property contains surface coal resources and is listed in the National Register, certain provisions of the Surface Mining and Control Act of 1977 require consideration of a property's historic values in determining issuance of a surface coal mining permit.

(6) Section 8 of the National Park System General Authorities Act of 1970, as amended (90 Stat. 1940, 16 U.S.C. 1-5), directs the Secretary to prepare an

annual report to Congress which identifies all National Historic Landmarks that exhibit known or anticipated damage or threats to the integrity of their resources. In addition, National Historic Landmarks may be studied by NPS for possible recommendation to Congress for inclusion in the National Park System.

(7) Section 9 of the Mining in the National Parks Act of 1978 (90 Stat. 1342, 16 U.S.C. 1980) directs the Secretary of the Interior to submit to the Advisory Council a report on any surface mining activity which the Secretary has determined may destroy a National Historic Landmark in whole or in part, and to request the advisory Council's advice on alternative measures to mitigate or abate such activity.

#### § 65.3 Definitions.

As used in this rule:

(a) "Advisory Council" means the Advisory Council on Historic Preservation, established by the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 *et seq.*). Address: Executive Director, Advisory Council on Historic Preservation, 1522 K Street NW, Washington, DC 20005.

(b) "Chief elected local official" means the mayor, county judge or otherwise titled chief elected administrative official who is the elected head of the local political jurisdiction in which the property is located.

(c) "Advisory Board" means the National Park System Advisory Board which is a body of authorities in several fields of knowledge appointed by the Secretary under authority of the Historic Sites Act of 1935, as amended.

(d) "Director" means Director, National Park Service.

(e) "District" means a geographically definable area, urban or rural, that possesses a significant concentration, linkage or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history.

(f) "Endangered property" means a historic property which is or is about to be subjected to a major impact that will destroy or seriously damage the resources which make it eligible for National Historic Landmark designation.

(g) "Federal Preservation Officer" means the official designated by the head of each Federal agency responsible for coordinating that agency's activities under the National Historic Preservation Act of 1966, as amended, including nominating properties under that

agency's ownership or control to the National Register.

(h) "Keeper" means the Keeper of the National Register of Historic Places.

(i) "Landmark" means National Historic Landmark and is a district, site, building, structure or object, in public or private ownership, judged by the Secretary to possess national significance in American history, archeology, architecture, engineering and culture, and so designated by him.

(j) "National Register" means the National Register of Historic Places, which is a register of districts, sites, buildings, structures and objects significant in American history, architecture, archeology, engineering and culture, maintained by the Secretary. (Section 2(b) of the Historic Sites Act of 1935 (49 Stat. 666, 16 U.S.C. 461) and Section 101(a)(1) of the National Historic Preservation Act of 1966 (80 Stat. 915; 16 U.S.C. 470), as amended.) (Address: Chief, Interagency Resource Management Division, 440 G Street NW, Washington, DC 20243.)

(k) "National Historic Landmarks Program" means the program which identifies, designates, recognizes, lists, and monitors National Historic Landmarks conducted by the Secretary through the National Park Service. (Address: Chief, History Division, National Park Service, Washington, DC 20240; addresses of other participating divisions found throughout these regulations.)

(l) "Object" means a material thing of functional, aesthetic, cultural, historical or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

(m) "Owner" or "owners" means those individuals, partnerships, corporations or public agencies holding fee simple title to property. "Owner" or "owners" does not include individuals, partnerships, corporations or public agencies holding easements or less than fee interests (including leaseholds) of any nature.

(n) "Property" means a site, building, object, structure or a collection of the above which form a district.

(o) "Secretary" means the Secretary of the Interior.

(p) "Site" means the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined or vanished, where the location itself maintains historical or archeological value regardless of the value of any existing structure.

(q) "State official" means the person who has been designated in each State to administer the State Historic Preservation Program.

(r) "Structure" means a work made by human beings and composed of interdependent and interrelated parts in a definite pattern of organization.

#### § 65.4 National Historic Landmark criteria.

The criteria applied to evaluate properties for possible designation as National Historic Landmarks or possible determination of eligibility for National Historic Landmark designation are listed below. These criteria shall be used by NPS in the preparation, review and evaluation of National Historic Landmark studies. They shall be used by the Advisory Board in reviewing National Historic Landmark studies and preparing recommendations to the Secretary. Properties shall be designated National Historic Landmarks only if they are nationally significant. Although assessments of national significance should reflect both public perceptions and professional judgments, the evaluations of properties being considered for landmark designation are undertaken by professionals, including historians, architectural historians, archeologists and anthropologists familiar with the broad range of the nation's resources and historical themes. The criteria applied by these specialists to potential landmarks do not define significance nor set a rigid standard for quality. Rather, the criteria establish the qualitative framework in which a comparative professional analysis of national significance can occur. The final decision on whether a property possesses national significance is made by the Secretary on the basis of documentation including the comments and recommendations of the public who participate in the designation process.

(a) Specific Criteria of National Significance: The quality of national significance is ascribed to districts, sites, buildings, structures and objects that possess exceptional value or quality in illustrating or interpreting the heritage of the United States in history, architecture, archeology, engineering and culture and that possess a high degree of integrity of location, design, setting, materials, workmanship, feeling and association, and:

(1) That are associated with events that have made a significant contribution to, and are identified with, or that outstandingly represent, the broad national patterns of United States history and from which an understanding and appreciation of those patterns may be gained; or

(2) That are associated importantly with the lives of persons nationally significant in the history of the United States; or

(3) That represent some great idea or ideal of the American people; or

(4) That embody the distinguishing characteristics of an architectural type specimen exceptionally valuable for a study of a period, style or method of construction, or that represent a significant, distinctive and exceptional entity whose components may lack individual distinction; or

(5) That are composed of integral parts of the environment not sufficiently significant by reason of historical association or artistic merit to warrant individual recognition but collectively compose an entity of exceptional historical or artistic significance, or outstandingly commemorate or illustrate a way of life or culture; or

(6) That have yielded or may be likely to yield information of major scientific importance by revealing new cultures, or by shedding light upon periods of occupation over large areas of the United States. Such sites are those which have yielded, or which may reasonably be expected to yield, data affecting theories, concepts and ideas to a major degree.

(b) 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 and properties that have achieved significance within the past 50 years are not eligible for designation. Such properties, however, will qualify if they fall within the following categories:

(1) A religious property deriving its primary national significance from architectural or artistic distinction or historical importance; or

(2) A building or structure removed from its original location but which is nationally significant primarily for its architectural merit, or for association with persons or events of transcendent importance in the nation's history and the association consequential; or

(3) A site of a building or structure no longer standing but the person or event associated with it is of transcendent importance in the nation's history and the association consequential; or

(4) A birthplace, grave or burial if it is of a historical figure of transcendent national significance and no other appropriate site, building or structure directly associated with the productive life of that person exists; or

(5) A cemetery that derives its primary national significance from graves of persons of transcendent importance, or from an exceptionally distinctive design or from an exceptionally significant event; or

(6) A reconstructed building or ensemble of buildings of extraordinary national significance when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other buildings or structures with the same association have survived; or

(7) A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own national historical significance; or

(8) A property achieving national significance within the past 50 years if it is of extraordinary national importance.

#### § 65.5 Designation of National Historic Landmarks.

Potential National Historic Landmarks are identified primarily by means of theme studies and in some instances by special studies. Nominations and recommendations made by the appropriate State officials, Federal Preservation Officers and other interested parties will be considered in scheduling and conducting studies.

(a) *Theme studies.* NPS defines and systematically conducts organized theme studies which encompass the major aspects of American history. The theme studies provide a contextual framework to evaluate the relative significance of historic properties and determine which properties meet National Historic Landmark criteria. Theme studies will be announced in advance through direct notice to appropriate State officials, Federal Preservation Officers and other interested parties and by notice in the Federal Register. Within the established thematic framework, NPS will schedule and conduct National Historic Landmark theme studies according to the following priorities. Themes which meet more of these priorities ordinarily will be studied before those which meet fewer of the priorities:

(1) Theme studies not yet begun as identified in "History and Prehistory in the National Park System," 1982.

(2) Theme studies in serious need of revision.

(3) Theme studies which relate to a significant number of properties listed in the National Register bearing opinions of State Historic Preservation Officers and Federal Preservation Officers that such properties are of potential national significance. (Only those recommendations which NPS determines are likely to meet the landmarks criteria will be enumerated in determining whether a significant number exists in a theme study.)

(4) Themes which reflect the broad planning needs of NPS and other

Federal agencies and for which the funds to conduct the study are made available from sources other than the regularly programmed funds of the National Historic Landmarks Program.

(b) *Special Studies.* NPS will conduct special studies for historic properties outside of active theme studies according to the following priorities:

(1) Studies authorized by Congress or mandated by Executive Order will receive the highest priority.

(2) Properties which NPS determines are endangered and potentially meet the National Historic Landmarks criteria, whether or not the theme in which they are significant has been studied.

(3) Properties listed in the National Register bearing State or Federal agency recommendations of potential national significance where NPS concurs in the evaluation and the property is significant in a theme already studied.

(c)(1) When a property is selected for study to determine its potential for designation as a National Historic Landmark, NPS will notify in writing, except as provided below, (i) the owner(s), (ii) the chief elected local official, (iii) the appropriate State official, (iv) the Members of Congress who represent the district and State in which the property is located, and, (v) if the property is on an Indian reservation, the chief executive officer of the Indian tribe, that it will be studied to determine its potential for designation as a National Historic Landmark. This notice will provide information on the National Historic Landmarks Program, the designation process and the effects of designation.

(2) When the property has more than 50 owners, NPS will notify in writing (i) the chief elected local official, (ii) the appropriate State official, (iii) the Members of Congress who represent the district and State in which the property is located, and, (iv) if the property is on an Indian reservation, the chief executive officer of the Indian tribe, and (v) provide general notice to the property owners. This general notice will be published in one or more local newspapers of general circulation in the area in which the potential National Historic Landmark is located and will provide information on the National Historic Landmarks Program, the designation process and the effects of designation. The researcher will visit each property selected for study unless it is determined that an onsite investigation is not necessary. In the case of districts with more than 50 owners NPS may conduct a public information meeting if widespread

public interest so warrants or on request by the chief elected local official.

(3) Properties for which a study was conducted before the effective date of these regulations are not subject to the requirements of paragraph (c) (1) and (2) of this section.

(4) The results of each study will be incorporated into a report which will contain at least (i) a precise description of the property studied; and (ii) an analysis of the significance of the property and its relationship to the National Historic Landmark criteria.

(d)(1) Properties appearing to qualify for designation as National Historic Landmarks will be presented to the Advisory Board for evaluation except as specified in subsection (h) of this section.

(2) Before the Advisory Board's review of a property, NPS will provide written notice of this review, except as provided below, and a copy of the study report to (i) the owner(s) of record; (ii) the appropriate State official; (iii) the chief elected local official; (iv) the Members of Congress who represent the district and State in which the property is located; and, (v) if the property is located on an Indian reservation, the chief executive officer of the Indian tribe. The list of owners shall be obtained from official land or tax record, whichever is most appropriate, within 90 days prior to the notification of intent to submit to the Advisory Board. If in any State the land or tax record is not the appropriate list an alternative source of owners may be used. NPS is responsible for notifying only those owners whose names appear on the list. Where there is more than one owner on the list each separate owner shall be notified.

(3) In the case of a property with more than 50 owners, NPS will notify, in writing, (i) the appropriate State official; (ii) the chief elected local official; (iii) the Members of Congress who represent the district and State in which the property is located; (iv) if the property is located on an Indian reservation, the chief executive officer of the Indian tribe; and, (v) will provide general notice to the property owners. The general notice will be published in one or more local newspapers of general circulation in the area in which the property is located. A copy of the study report will be made available on request. Notice of Advisory Board review will also be published in the *Federal Register*.

(4) Notice of Advisory Board review will be given at least 60 days in advance of the Advisory Board meeting. The notice will state date, time and location of the meeting; solicit written comments and recommendations on the study

report; provide information on the National Historic Landmarks Program, the designation process and the effects of designation and provide the owners of private property not more than 60 days in which to concur in or object in writing to the designation. Notice of Advisory Board meetings and the agenda will also be published in the *Federal Register*. Interested parties are encouraged to submit written comments and recommendations which will be presented to the Advisory Board. Interested parties may also attend the Advisory Board meeting and upon request will be given an opportunity to address the Board concerning a property's significance, integrity and proposed boundaries.

(5) Upon notification, any owner of private property who wishes to object shall submit to the Chief, History Division, a notarized statement that the party is the sole or partial owner of record of the property, as appropriate, and objects to the designations. Such notice shall be submitted during the 60-day commenting period. Upon receipt of notarized objections respecting a district or an individual property with multiple ownership it is the responsibility of NPS to ascertain whether a majority of owners have so objected. If an owner whose name did not appear on the list certifies in a written notarized statement that the party is the sole or partial owner of a nominated private property such owner shall be counted by NPS in determining whether a majority of owners has objected. Each owner of private property in a district has one vote 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 the district.

(6) The commenting period following notification can be waived only when all property owners and the chief elected local official have agreed in writing to the waiver.

(e)(1) The Advisory Board evaluates such factors as a property's significance, integrity, proposed boundaries and the professional adequacy of the study. If the Board finds that these conditions are met, it may recommend to the Secretary that a property be designated or declared eligible for designation as a National Historic Landmark. If one or more of the conditions are not met, the Board may recommend that the property not be designated a landmark or that consideration of it be deferred for further study, as appropriate. In making its recommendation, the Board shall state, if possible, whether or not it finds that the criteria of the landmarks program have been met. A simple

majority is required to make a recommendation of designation. The Board's recommendations are advisory.

(2) Studies submitted to the Advisory Board (or the Consulting Committee previously under the Heritage Conservation and Recreation Service) before the effective date of these regulations need not be resubmitted to the Advisory Board. In such instances, if a property appears to qualify for designation, NPS will provide notice and a copy of the study report to the parties as specified in subsections (d)(2) and (3) of this section and will provide at least 30 days in which to submit written comments and to provide an opportunity for owners to concur in or object to the designation.

(3) The Director reviews the study report and the Advisory Board recommendations, certifies that the procedural requirements set forth in this section have been met and transmits the study reports, the recommendations of the Advisory Board, his recommendations and any other recommendations and comments received pertaining to the properties to the Secretary.

(f) The Secretary reviews the nominations, recommendations and any comments and, based on the criteria set forth herein, makes a decision on National Historic Landmark designation. Properties that are designated National Historic Landmarks are entered in the National Register of Historic Places, if not already so listed.

(1) If the private owner or, with respect to districts or individual properties with multiple ownership, the majority of such owners have objected to the designation by notarized statements, the Secretary shall not make a National Historic Landmark designation but shall review the nomination and make a determination of its eligibility for National Historic Landmark designation.

(2) The Secretary may thereafter designate such properties as National Historic Landmarks only upon receipt of notarized statements from the private owner (or majority of private owners in the event of a district or a single property with multiple ownership) that they do not object to the designation.

(3) The Keeper may list in the National Register properties considered for National Historic Landmark designation which do not meet the National Historic Landmark criteria but which do meet the National Register criteria for evaluation in 36 CFR Part 60 or determine such properties eligible for the National Register if the private owners or majority of such owners in

the case of districts object to designation. A property determined eligible for National Historic Landmark designation is determined eligible for the National Register.

(g) Notice of National Historic Landmark designation, National Register listing, or a determination of eligibility will be sent in the same manner as specified in subsections (d)(2) and (3) of this section. For properties which are determined eligible the Advisory Council will also be notified. Notice will be published in the Federal Register.

(h)(1) The Secretary may designate a National Historic Landmark without Advisory Board review through accelerated procedures described in this section when necessary to assist in the preservation of a nationally significant property endangered by a threat of imminent damage or destruction.

(2) NPS will conduct the study and prepare a study report as described in subsection (c)(4) of this section.

(3) If a property appears to qualify for designation, the National Park Service will provide notice and a copy of the study report to the parties specified in subsections (d)(2) and (3) and will allow at least 30 days for the submittal of written comments and to provide owners of private property an opportunity to concur in or object to designation as provided in subsection (d)(5) of this section except that the commenting period may be less than 60 days.

(4) The Director will review the study report and any comments, will certify that procedural requirements have been met, and will transmit the study report, his and any other recommendations and comments pertaining to the property to the Secretary.

(5) The Secretary will review the nomination and recommendations and any comments and, based on the criteria set forth herein, make a decision on National Historic Landmark designation or a determination of eligibility for designation if the private owners or a majority of such owners of historic districts object.

(6) Notice of National Historic Landmark designation or a determination of eligibility will be sent to the same parties specified in subsections (d)(2) and (3) of this section.

#### § 65.6 Recognition of National Historic Landmarks.

(a) Following designation of a property by the Secretary as a National Historic Landmark, the owner(s) will receive a certificate of designation. In the case of a district, the certificate will be delivered to the chief elected local

official or other local official, or to the chief officer of a private organization involved with the preservation of the district, or the chief officer of an organization representing the owners of the district, as appropriate.

(b) NPS will invite the owner of each designated National Historic Landmark to accept, free of charge, a landmark plaque. In the case of a district, the chief elected local official or other local official, or the chief officer of an organization involved in the preservation of the district, or chief officer of an organization representing the owners of the district, as appropriate, may accept the plaque on behalf of the owners. A plaque will be presented to properties where the appropriate recipient(s) (from those listed above) agrees to display it publicly and appropriately.

(c) The appropriate recipient(s) may accept the plaque at any time after designation of the National Historic Landmark. In so doing owners give up none of the rights and privileges of ownership or use of the landmark property nor does the Department of the Interior acquire any interest in property so designated.

(d) NPS will provide one standard certificate and plaque for each designated National Historic Landmark. The certificate and plaque remain the property of NPS. Should the National Historic Landmark designation at any time be withdrawn, in accordance with the procedures specified in § 65.9 of these rules, or should the certificate and plaque not be publicly or appropriately displayed, the certificate and the plaque, if issued, will be reclaimed by NPS.

(e) Upon request, and if feasible, NPS will help arrange and participate in a presentation ceremony.

#### § 65.7 Monitoring National Historic Landmarks.

(a) NPS maintains a continuing relationship with the owners of National Historic Landmarks. Periodic visits, contacts with State Historic Preservation Officers, and other appropriate means will be used to determine whether landmarks retain their integrity, to advise owners concerning accepted preservation standards and techniques and to update administrative records on the properties.

(b) Reports of monitoring activities form the basis for the annual report submitted to Congress by the Secretary of the Interior, as mandated by Section 8, National Park System General Authorities Act of 1970, as amended (90 Stat. 1940, 16 U.S.C. 1a-5). The Secretary's annual report will identify those National Historic Landmarks

which exhibit known or anticipated damage or threats to their integrity. In evaluating National Historic Landmarks for listing in the report, the seriousness and imminence of the damage or threat are considered, as well as the integrity of the landmark at the time of designation taking into account the criteria in Section 65.4.

(c) As mandated in Section 9, Mining in the National Parks Act of 1976 (90 Stat. 1342, 16 U.S.C. 1980), whenever the Secretary of the Interior finds that a National Historic Landmark may be irreparably lost or destroyed in whole or in part by any surface mining activity, including exploration for, removal or production of minerals or materials, the Secretary shall (1) notify the person conducting such activity of that finding; (2) submit a report thereon, including the basis for his finding that such activity may cause irreparable loss or destruction of a National Historic Landmark, to the Advisory Council; and (3) request from the Council advice as to alternative measures that may be taken by the United States to mitigate or abate such activity.

(d) Monitoring activities described in this section, including the preparation of the mandated reports to Congress and the Advisory Council are carried out by NPS regional offices under the direction of the Preservation Assistance Division, NPS [Address: Chief, Resource Assistance Division, National Park Service, 440 G Street NW, Washington, DC 20243] in consultation with the History Division, NPS.

#### § 65.8 Alteration of National Historic Landmark boundaries.

(a) Two justifications exist for enlarging the boundary of a National Historic Landmark: Documentation of previously unrecognized significance or professional error in the original designation. Enlargement of a boundary will be approved only when the area proposed for addition to the National Historic Landmark possesses or contributes directly to the characteristics for which the landmark was designated.

(b) Two justifications exist for reducing the boundary of a National Historic Landmark: Loss of integrity or professional error in the original designation. Reduction of a boundary will be approved only when the area to be deleted from the National Historic Landmark does not possess or has lost the characteristics for which the landmark was designated.

(c) A proposal for enlargement or reduction of a National Historic Landmark boundary may be submitted

to or can originate with the History Division, NPS. NPS may restudy the National Historic Landmark and subsequently make a proposal, if appropriate, in the same manner as specified in § 65.5 (c) through (h). In the case of boundary enlargements only those owners in the newly nominated but as yet undesignated area will be notified and will be counted in determining whether a majority of private owners object to listing.

(d)(1) When a boundary is proposed for a National Historic Landmark for which no specific boundary was identified at the time of designation, NPS shall provide notice, in writing, of the proposed boundary to (i) the owner(s); (ii) the appropriate State official; (iii) the chief elected local official; (iv) the Members of Congress who represent the district and State in which the landmark is located, and (v) if the property is located on an Indian reservation, the chief executive officer of the Indian tribe, and shall allow not less than 30 nor more than 60 days for submitting written comments on the proposal. In the case of a landmark with more than 50 owners, the general notice specified in § 65.5(d)(3) will be used. In the case of National Historic Landmark districts for which no boundaries have been established, proposed boundaries shall be published in the *Federal Register* for comment and be submitted to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Interior and Insular Affairs of the United States House of Representatives and not less than 30 nor more than 60 days shall be provided for the submittal of written comments on the proposed boundaries.

(2) The proposed boundary and any comments received thereon shall be submitted to the Associated Director for National Register Programs, NPS, who may approve the boundary without reference to the Advisory Board or the Secretary.

(3) NPS will provide written notice of the approved boundary to the same parties specified in subsection (d)(1) of this section and by publication in the *Federal Register*.

(4) Management of the activities described in (d)(1), (2), and (3) is handled by the National Register of Historic Places, NPS, [Address: National Register of Historic Places, National Park Service, Department of the Interior, Washington, DC 20240].

(e) A technical correction to a boundary may be approved by the Chief, History Division, without Advisory Board review or Secretarial approval. NPS will provide notice, in writing, of any technical correction in a

boundary to the same parties specified in (d)(1).

#### § 65.9 Withdrawal of National Landmark designation.

(a) National Historic Landmarks will be considered for withdrawal of designation only at the request of the owner or upon the initiative of the Secretary.

(b) Four justifications exist for the withdrawal of National Historic Landmark designation:

(1) The property has ceased to meet the criteria for designation because the qualities which caused it to be originally designated have been lost or destroyed, or such qualities were lost subsequent to nomination, but before designation;

(2) Additional information shows conclusively that the property does not possess sufficient significance to meet the National Historic Landmark criteria;

(3) Professional error in the designation; and

(4) Prejudicial procedural error in the designation process.

(c) Properties designated as National Historic Landmarks before December 13, 1960, can be dedesignated only on the grounds established in subsection (b)(1) of this section.

(d) The owner may appeal to have a property dedesignated by submitting a request for dedesignation and stating the grounds for the appeal as established in subsection (a) to the Chief, History Division, National Park Service, Department of the Interior, Washington, DC 20240. An appellant will receive a response within 60 days as to whether NPS considers the documentation sufficient to initiate a restudy of the landmark.

(e) The Secretary may initiate a restudy of a National Historic Landmark and subsequently a proposal for withdrawal of the landmark designation as appropriate in the same manner as a new designation as specified in § 65.5 (c) through (h). Proposals will not be submitted to the Advisory Board if the grounds for removal are procedural, although the Board will be informed of such proposals.

(f)(1) The property will remain listed in the National Register if the Keeper determines that it meets the National Register criteria for evaluation in 36 CFR 60.4, except if the property is dedesignated on procedural grounds.

(2) Any property from which designation is withdrawn because of a procedural error in the designation process shall automatically be considered eligible for inclusion in the National Register as a National Historic Landmark without further action and

will be published as such in the *Federal Register*.

(g)(1) The National Park Service will provide written notice of the withdrawal of a National Historic Landmark designation and the status of the National Register listing, and a copy of the report on which those actions are based to (i) the owner(s); (ii) the appropriate State official; (iii) the chief elected local official; (iv) the Members of Congress who represent the district and State in which the landmark is located; and (v) if the landmark is located on an Indian reservation, the chief executive officer of the Indian tribe. In the case of a landmark with more than 50 owners, the general notice specified in § 65.5(d)(3) will be used.

(2) Notice of withdrawal of designation and related National Register listing and determinations of eligibility will be published periodically in the *Federal Register*.

(h) Upon withdrawal of a National Historic Landmark designation, NPS will reclaim the certificate and plaque, if any, issued for that landmark.

(i) An owner shall not be considered as having exhausted administrative remedies with respect to dedesignation of a National Historic Landmark until after submitting an appeal and receiving a response from NPS in accord with these procedures.

#### § 65.10 Appeals for designation.

(a) Any applicant seeking to have a property designated a National Historic Landmark may appeal, stating the grounds for appeal, directly to the Director, National Park Service, Department of the Interior, Washington, DC 20240, under the following circumstances.

Where the applicant—

(1) Disagrees with the initial decision of NPS that the property is not likely to meet the criteria of the National Historic Landmarks Program and will not be submitted to the Advisory Board; or

(2) Disagrees with the decision of the Secretary that the property does not meet the criteria of the National Historic Landmarks Program.

(b) The Director will respond to the appellant within 60 days. After reviewing the appeal the Director may: (1) deny the appeal; (2) direct that a National Historic Landmark nomination be prepared and processed according to the regulations if this has not yet occurred; or (3) resubmit the nomination to the Secretary for reconsideration and final decision.

(c) Any person or organization which supports or opposes the consideration of a property for National Historic

Landmark designation may submit an appeal to the Director, NPS, during the designation process either supporting or opposing the designation. Such appeals received by the Director before the study of the property or before its submission to the National Park System Advisory Board will be considered by the Director, the Advisory Board and the Secretary, as appropriate, in the designation process.

(d) No person shall be considered to have exhausted administrative remedies with respect to failure to designate a property a National Historic Landmark until he or she has complied with the procedures set forth in this section.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 123

[SW-2-FRL 2295-6]

#### Hazardous Waste Management Program; Phase I Interim Authorization

**AGENCY:** Environmental Protection Agency (EPA), Region II.

**ACTION:** Granting of phase I interim authorization to State hazardous waste program.

**SUMMARY:** The State of New Jersey has applied for Interim Authorization of its hazardous waste program under Subtitle C of the Resource Conservation and Recovery Act (RCRA) of 1976, as amended, and EPA guidelines for the approval of State hazardous waste programs (40 CFR Part 123, Subpart F). EPA has reviewed New Jersey's hazardous waste program and has determined that the program is substantially equivalent to the Federal program. EPA is hereby granting Phase I Interim Authorization to New Jersey to operate a hazardous waste program in lieu of Phase I of the Federal hazardous waste program in its jurisdiction.

**EFFECTIVE DATE:** February 2, 1983.

**FOR FURTHER INFORMATION CONTACT:** Deborah Craig, Solid Waste Branch, Air and Waste Management Division, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10278, 212/264-5186.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Subtitle C of RCRA requires EPA to establish a comprehensive Federal program to assure the safe management of hazardous waste. Once a Federal program is established, EPA is

authorized under Section 3006 of RCRA to approve State hazardous waste programs to operate in lieu of the Federal program in their jurisdictions. Two types of State program approvals are authorized under RCRA: "Final Authorization" is a permanent approval which may be granted to States whose programs are "equivalent" to and "consistent" with the Federal program and provide adequate enforcement; "Interim Authorization" is a temporary approval for States which might not meet the requirements of Final Authorization but whose programs are at least "substantially equivalent" to the Federal program. RCRA contemplates that States receiving Interim Authorization will use the Interim Authorization period to make the changes in their regulations and statutes necessary to qualify for Final Authorization.

On May 19, 1980, EPA published the first phase of the Federal hazardous waste program regulations (40 CFR Parts 260-263 and 265) including guidelines for authorizing State hazardous waste program under Section 3006 (40 CFR Part 123). These guidelines set forth the requirements for Interim Authorization and the procedures which EPA will follow in acting on State applications for Interim Authorization. They also provide that EPA will grant Interim Authorization in two major phases (Phase I and Phase II), corresponding to the two major phases of the Federal program.

On January 11, 1982, the State of New Jersey submitted to EPA its complete application for Phase I Interim Authorization (IA application). In the February 11, 1982 Federal Register (47 FR 6298), EPA announced the availability for public review of the New Jersey application. EPA also indicated that a public hearing would be held on March 24, 1982, with the public record open until March 31, 1982. At the public hearing, the New Jersey Department of Environmental Protection (DEP) made available copies of draft amendments to its hazardous waste regulations which were subsequently proposed in the October 18, 1982 State Register. These and other amendments were initially requested by EPA when it commented on an earlier draft version of the State's IA application. On May 10, 1982, DEP requested that EPA delay making a final determination on the State's IA application until after the State had an opportunity to solicit public comment on the regulatory amendments requested by EPA. EPA granted DEP's request. Presented below in Section II of this notice is a synopsis of the public

comments on the State's IA application and EPA's responses.

After detailed review of the final New Jersey IA application, EPA transmitted comments to DEP on June 1, 1982. These comments requested additions and revisions to the Program Description, Attorney General's Statement, Memorandum of Agreement and Authorization Plan portions of the IA application, including the State's hazardous waste regulations. On December 17, 1982, the State submitted amendments to the above mentioned portions of the IA application.

The major issue raised by EPA concerned the confidentiality of information obtained by inspection. New Jersey law may restrict the State's ability to use confidential information collected during inspections in enforcement proceedings or in court, and to share such information with EPA. DEP satisfied this area of concern by amending the Attorney General's Statement so as to commit the State to rely upon RCRA Section 3007(a) to support its inspection authority. As a result of such reliance on Section 3007(a), Section 3007(b) of RCRA would govern the use of information gained through inspections. Thus, there would be no unacceptable restrictions upon the use of information obtained through inspections.

The minor comments in EPA's June 1, 1982 letter were also addressed by DEP in its December 17, 1982 submission. The following summarizes the most significant of these comments and the State's responses:

(1) A Deputy Attorney General signed the Attorney General's Statement in lieu of the Attorney General. Under 40 CFR 123.125, this certification must be made by the Attorney General. In a letter dated August 18, 1982, the Assistant Attorney General demonstrated that the Deputy had the authority to perform this duty for the Attorney General.

(2) New Jersey's statutory definition of "solid waste" excludes from regulation, industrial sewage treated at publicly-owned treatment works (POTWs) devoted exclusively to the treatment of industrial wastes. This exclusion is not provided for under the RCRA definition. DEP satisfied this area of concern by amending the Program Description to include a demonstration that no existing POTWs in the State treated exclusively industrial wastes. Therefore, the statutory exemption could not be utilized by any existing POTWs.

(3) Pursuant to 40 CFR 123.127, the State must identify those statutory and regulatory changes needed to make the State program equivalent to the Federal