

THE SECRETARY OF THE INTERIOR'S 20TH ANNIVERSARY REPORT ON THE NATIONAL HISTORIC PRESERVATION ACT

THIS REPORT HAS BEEN PRODUCED
PURSUANT TO THE REQUIREMENTS
OF SECTION 504 OF THE
NATIONAL HISTORIC PRESERVATION
ACT OF 1966, AS AMENDED.

This report was prepared in the National Park Service under the general direction of Dale Lanzone, Special Assistant to the Director, and Stephen M. Sheffield, Interagency Resources Division. Principal staff assistance was provided by Susan Harrison, Historic Architecture Division, and other National Park Service staff.

INTRODUCTION

For these past twenty years, the national historic preservation program has operated as a partnership between governments and private citizens. The basis for this partnership rests in the belief that historic properties are the pride and concern of the communities within which they are located. A strong commitment to historic preservation on the part of local communities is the key to this Nation's ability to preserve and maintain historic properties.

The other members of this partnership include State governments, Federal agencies and the National Trust for Historic Preservation. All of these parties have significant roles and responsibilities within the national program, but, without the day-to-day, hands on, involvement of the private citizen at the local level, there would be no national program and very little historic preservation of public value. The vitality of historic preservation in the United States is a result of the grass roots commitment by individual citizens to the stewardship of our historic resources.

The initiatives and recommendations in this report reinforce this partnership and the rededication of our national efforts to achieving the historic preservation goals of the National Historic Preservation Act.

Donald Paul Hodel

DONALD PAUL HODEL
Secretary of the Interior

Washington, D.C.

TABLE OF CONTENTS

SECRETARY OF THE INTERIOR'S
PROGRAM PURPOSES, GOALS AND OBJECTIVES 3

NATIONAL PROGRAM OVERVIEW 9

SECTION-BY-SECTION ANALYSIS
OF THE NATIONAL HISTORIC PRESERVATION ACT 12

SECRETARY OF THE INTERIOR'S PROGRAM PURPOSES, GOALS AND OBJECTIVES

The National Historic Preservation Act of 1966 responded to an increasing awareness on the part of the American public that irreplaceable historic resources were being lost without giving due consideration to the social and economic benefits of preserving such properties. In the 1960s there was a need for a national policy on historic preservation as well as for the active pursuit of preservation goals. With the 1966 Act, the United States began to institutionalize a national historic preservation ethic--an ethic dedicated to enhancing the quality of life in the United States through the preservation of historic properties.

For these past twenty years, the national historic preservation program has operated as a partnership between governments and private citizens. The basis for this partnership rests in the belief that historic properties are the pride and concern of the communities within which they are located. Local communities' historic values and interests are the key to this Nation's ability to preserve and maintain its historic properties. The other partners include State governments, Federal agencies, and the National Trust for Historic Preservation. All of these parties have significant roles and responsibilities within the national program, but, without the day-to-day, "hands on" involvement of the private citizen at the local level, there would be no national program and very little historic preservation of public value. The vitality of historic preservation in the United States is a result of the grass roots commitment by individual citizens to the stewardship of our historic resources.

The Secretary of the Interior occupies a unique position within the national historic preservation program. The Secretary promulgates the standards and guidelines by which Federal agencies and State and local governments determine which properties are historic and what level of Federal investment ought to be made based upon cultural resource values. The Secretary stands at the center of the program and ensures through policy, regulations, standards, and guidelines that the various program elements are balanced and that national preservation objectives are understandable to the public and are based upon common needs and common sense.

As the following report illustrates, much of what was sought through enactment of the National Historic Preservation Act has been accomplished. These accomplishments are objective and concrete; even the casual observer is aware of the upgrading and rehabilitation of historic properties and the broadening of citizen interest in historic preservation that has taken place throughout the United States. With few exceptions, Federal agencies now thoughtfully consider cultural resource values. Guidelines, standards, and technical materials defining good preservation practice are generally available. As a people, the quality of our lives has benefitted from historic preservation through appreciation of our history, through the beautification of our cities and rural landscapes, and through the creation of jobs and the economic revitalization of chronically impoverished areas. The verdict is in; historic preservation is a winning proposition.

Although much has been accomplished under the Act, this report and others by the General Accounting Office, the Congress, the Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers confirm that there

is still room for improvement in the program. These areas of improvement require a refocusing and rededication of our efforts through pride in our history and pride in our land.

This report focuses on the status of implementing those program features that are the responsibility of the principal governmental partners in the national historic preservation program — the Department of the Interior, the Advisory Council on Historic Preservation, and the States, as represented by their Historic Preservation Officers. This report does not attempt to evaluate either the accomplishments or the operational merits of other Federal agency historic preservation programs. Responsibility for such reporting appropriately rests with the Advisory Council on Historic Preservation.

In furtherance of my responsibilities under the Act, I am pleased to rededicate the efforts of this Department through a series of initiatives.

1. Assistance for Endangered National Historic Landmarks.

In 1985, 160 National Historic Landmarks, about 10 percent of the nationwide total, were found to be in deteriorated condition; many of their custodians are in need of immediate technical or financial assistance to reverse steadily deteriorating conditions and to ensure their long term preservation.

In Fiscal Year 1985, the National Park Service began a series of in-depth inspections of Landmarks to analyze the specific condition of the threatened resources, identify recommended work treatments for correcting identified damages, prioritize work needs, and estimate the costs of carrying out this work. No Federal funding is available to carry out the identified work, and most owners are unable to raise funds on their own. Late in 1985, the National Park Service was successful in establishing a special donations account with the National Park Foundation specifically to support the preservation of endangered Landmarks.

To assist endangered National Historic Landmarks, I will:

- o establish a "Support a Threatened Landmark" initiative aimed at meeting the critical needs of specifically identified Landmarks;

- o personally publicize the plight of Landmarks in speeches, articles, and press releases, calling on business leaders to support endangered Landmarks by providing funding, building materials, and professional services;

- o build on the momentum of the positive aspects of the tremendously successful fundraising efforts in connection with the Statue of Liberty restoration; using the July Fourth celebration/rededication of the Statue to publically enlist private sector support for endangered Landmarks, calling on citizens and corporations to "Take Pride in America" through donations to the Landmark Fund; and,

- o establish a panel of business leaders and cultural organizations to mobilize private sector support for Landmarks, to shape the "Support a Threatened Landmark" initiative, and to make specific recommendations to the Department for raising funds and donating materials and professional services. The panel will

consist of leaders of corporations actually owning Landmarks or having Landmarks in their communities, building materials companies, and government and private cultural organizations.

2. Federal Archeological Activities.

Federal agencies are expending large sums of money on activities to locate, inventory, evaluate, and protect archeological resources. It is not clear that these programs are being managed, coordinated, and conducted to the maximum public benefit in ways that ensure the protection of important properties from vandalism, deterioration, and adverse development impacts. Federal archeological programs continue to be the target of criticism from the archeological profession, which cites the low quality and redundancy of much of the work being conducted at government expense, as well as the unavailability of the resulting research reports. On the other hand, many Federal agencies have difficulty meeting statutory and regulatory archeological requirements and perceive them to be overly burdensome, ill-defined, and in conflict with agency missions and mandates.

To improve the Federal archeology program, ensure protection of important resources, and maximize public benefits, I will:

- ensure that the Department's government-wide archeological responsibilities and internal program operations are conducted effectively and to the highest professional standards achievable;

- establish a capability, through the National Park System Advisory Board, to assist the Departmental Consulting Archeologist and Department of the Interior Bureaus in improving the coordination and performance of the Department's archeological programs, assessing the propriety and effectiveness of archeological activities within the Department, and providing credibility within the professional archeological community to the effort to improve the Federal archeological program;

- appoint a Departmental task force to explore methods to improve coordination and cooperation among the Department's bureaus to protect archeological resources and to educate the public concerning resource protection;

- develop contract guidelines for Federal agencies to improve public benefit from the government's archeological activities; and,

- work with the Secretary of the Smithsonian Institution to develop a means to improve access of the public to reports resulting from Federal archeological activities.

3. Statewide Historic Property Management Systems

Over the last twenty years, a substantial amount of cultural resource information has been collected by Federal, State and local agencies. An estimated 1.2 million properties are currently identified in Federal and State inventories. At the same time, only limited progress has been made toward implementing comprehensive statewide management systems that make full effective use of these inventories. The fundamental component of the national historic preservation program is the establishment of evaluated State

historic property inventories. We now have the available management tools and techniques to complete this requirement through the establishment, nationwide, of State historic property management systems in accordance with the Secretary of the Interior's Standards and Guidelines for Planning. Such systems are needed in order to bring coherence to the many preservation laws and regulations and to ensure coordination among Federal, State and local preservation efforts.

In September 1983, to promote preservation planning, the Department issued the Secretary of the Interior's Standards and Guidelines for Preservation Planning. We have also explored the application of advanced data technology to historic property management systems, determined the need for maintenance of data among all users in a common format, and examined the role statistical sampling can play in implementing historic properties management objectives.

To further the development of statewide historic property management systems through the process by which State programs are approved to participate in the national historic preservation program, I will:

- ensure that the national historic properties survey and inventory requirements of the Act are met through the establishment of historic property management systems meeting the Secretary's Standards and Guidelines in every State, Territory, and the District of Columbia;

- ensure that such systems maintain information in common data formats to those of the Federal Government in order to facilitate communication and sharing of information among all participants in the national preservation program; and,

- ensure that Federal funding, as available, continues to recognize as a high priority the completion of the fundamental inventory and survey requirements of the Act through the implementation of statewide historic property management systems.

4. Decentralization of National Register Registration Decisions

The 1966 Act established a national historic preservation program which relied on a working partnership between the Federal Government and the States to identify, evaluate, and register historic properties. Although the partnership took immediate effect, decision-making authority for registration of all properties, including those of State and local significance, was retained by the National Park Service. This continued to be necessary until evaluative frameworks had been devised for determining State and local significance, and until States developed the professional capability to make consistently sound decisions on State and locally significant properties.

In the 1980 Amendments to the Act, Congress recognized the increasing professional capabilities of State historic preservation offices. In addition to authorizing the beginning of decentralization of decisionmaking to States, the 1980 Amendments institutionalized the participation of local governments and the public in the national program and authorized the Secretary of the Interior to develop and implement the various regulations, standards, and guidelines that would serve to guide all participants in the national program. Consistent with the intent of Congress, the National Park Service adopted a programmatic oversight and quality control role in National Register

decisions. The Service reduced its role in property-specific decisions to one of ensuring technical and procedural adequacy for all nominations, while performing spot check review of nominations to ensure professional adequacy and consistency.

During the next five years, while Federal agencies, States, and local governments prepared to assume greater preservation decision-making responsibilities, the Secretary of the Interior implemented the provisions of the 1980 Amendments that would complete the infrastructure of the national preservation program. With this infrastructure now essentially in place, further decentralization of determinations of eligibility, listings, and certifications of historic significance for Federal tax incentives, can take place.

The Act should be amended so that it is no longer necessary for the Federal Government to make the decisions that establish State or local significance. The role of the National Park Service should be one of programmatic oversight, quality control, technical assistance, and review of appeals of decisions. States which meet the Secretary of the Interior's Standards should be able to list properties of State and local significance and certify the historic significance of properties for Federal tax purposes without a property by property review by the National Park Service. The National Park Service should continue to maintain the National Register, to make listing decisions on nominations from Federal agencies, to make listing decisions on State nominations in disputed cases and other exceptional circumstances, and to make decisions concerning national significance.

In addition, Federal agencies in consultation with States should be able to determine the eligibility of historic properties as part of the Federal planning process without the need for a decision from the Secretary, except where disagreements exist. The legal delegation of authority for listings and determinations of eligibility to qualified States would make the Federal planning process more efficient and cost effective. State Historic Preservation Programs can be adequately evaluated against the the Secretary's standards through required periodic State program reviews.

To further decentralize National Register registration decisions, I will:

- propose that Congress amend the National Historic Preservation Act to allow delegation of National Register registration decisions for properties of State and local significance to appropriate qualified State and local authorities;

- revise guidance and other technical assistance and continue to provide professional assistance and training to States and local governments to ensure their capability to make registration decisions that meet Federal standards and requirements;

- maintain an effective programmatic review and approval process in the Department to ensure that only States and local governments which meet Federal standards and requirements are authorized to register properties; and,

- continue to support development of data bases for historic properties, particularly the National Register Information System, for the purposes of sharing information on registered properties and maintaining a comprehensive list of National Register properties within the Department of the Interior.

5. The Historic Preservation Fund.

Based upon national priorities and the immediate need to reduce Federal budget deficits, the Administration has requested no appropriations from the Historic Preservation Fund since 1981.

Although the Administration has requested no appropriations, Congress has appropriated approximately $25 million annually. At these appropriation levels, sufficient monies are now in the Fund for the next 37 years.

Based upon recent appropriations rates and the $968 million unappropriated balance in the Fund, I do not recommend extension of that provision of Section 108 that directs the covering of set amounts of monies into the Fund from revenues due and payable to the United States under the Outer Continental Shelf Lands Act.

NATIONAL PROGRAM OVERVIEW

Over the years since the 1966 Act became law, the national historic preservation program has been viewed explicitly by its participants as a partnership between the Federal and State Governments. The Federal Government takes responsibility for historic properties that might be affected by Federal activities and properties on Federal lands, dealing with these properties subject to agency missions and mandates and in accordance with the provisions of the 1966 Act, as well as other laws. The partnership role of the States is primarily focused on historic properties of State and local significance on non-Federal lands. The National Park Service serves a supportive role: responsible for lands within the National Park System, responsible for assisting State governments in establishing planning systems to evaluate historic properties and determine preservation objectives and treatments, and responsible for guiding Federal agencies in carrying out their statutory responsibilities with regard to historic properties.

Federal agencies, in carrying out their missions and mandates, often affect properties of historic significance. When this occurs, Federal agencies look to the States for advice on evaluation and appropriate treatment of such properties. Federal agencies working in consultation with State governments find solutions to historic preservation problems. In general, State historic preservation offices participate in Federal program implementation to the degree necessary to assure that the Federal Government is considering the States' historic resources, and as appropriate, implementing strategies for the protection and preservation of these resources.

Partners in the National Historic Preservation Program

Secretary of the Interior. The Secretary occupies a unique position within the national program. The Secretary promulgates the guidelines and standards by which the Federal agencies and State and local governments determine what is historic and what level of public support ought be given a property based upon its cultural resource values. The Secretary stands at the center of the program and ensures through policy, regulations, standards, and guidelines that the various program elements are balanced and that national preservation objectives, at the Federal, State and local levels, are understandable to the public and are based upon common needs and common sense. The Secretary has delegated his responsibilities under the Act to the National Park Service, which has the responsibility for administering the national program.

The Advisory Council on Historic Preservation. The Advisory Council is responsible for implementing Section 106 of the Act which requires Federal agencies to take into account the effect of their undertakings on historic properties, and to afford the Council a reasonable opportunity to comment on agency undertakings. The Council evaluates undertakings based upon the Section 110 Guidelines and the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation. The Council has issued regulations 36 CFR Part 800, "Protection of Historic and Cultural Properties," which direct agencies in their compliance with Section 106. The Council also undertakes a number of activities to advance historic preservation in general. These include advising on State legislation, coordinating international historic preservation activities, and compiling preservation assessments for use in annual reports to the President and the Congress.

Federal Agencies. In addition to affording the Advisory Council an opportunity to

comment on their undertakings under Section 106 of the Act, Federal agencies have numerous responsibilities under Section 110. Section 110 requires the heads of all Federal Agencies to assume responsibility for the preservation of historic properties under their ownership or control, to establish a system for survey, inventory and nomination of properties that appear to qualify for the National Register, and to carry out programs and projects in accordance with the purposes of the Act.

State Governments. The national program is based upon the precept that the States, following national guidelines and standards, should establish strategies for the protection of non-Federal historic properties. The Act, as amended in 1980, provides for the designation and appointment of State Historic Preservation Officers (SHPOs) to administer State government historic preservation programs. SHPOs are required under the Act to direct and conduct comprehensive statewide surveys and inventories of historic properties; identify and nominate properties to the National Register; prepare and implement comprehensive statewide historic preservation plans; advise and assist Federal and State agencies and local governments in carrying out their historic preservation responsibilities; cooperate with the Secretary, the Advisory Council and other Federal and State agencies to ensure that historic properties are taken into consideration in planning and development; and cooperate with and assist local governments in developing historic preservation programs and becoming certified to participate in the national program.

Local Governments. The 1980 amendments to the Act provide for certifying local governments to participate in the national program. Certification of a local government makes it eligible for matching grants-in-aid from the Historic Preservation Fund, passed through the State Historic Preservation Officer. To be certified, a local government must enforce appropriate State or local legislation for the designation and protection of historic properties, establish and maintain a qualified review commission, maintain a system for the survey and inventory of historic properties, provide for adequate public participation in its activities, including the process of recommending properties for nomination to the National Register, and perform other functions delegated to it by the SHPO. A State must transfer at least ten percent of its annual allocation from the Historic Preservation Fund to certified local governments; only certified local governments can apply for these set-aside funds.

Administrative Elements of the National Historic Preservation Program

The policies in the National Historic Preservation Act are implemented through a hierarchy of procedures. The Act authorizes the Secretary of the Interior to provide regulations, standards, guidelines, and technical assistance for the conduct of the national program. These administrative elements constitute the framework by which the various program participants carry out the preservation activities authorized by the Act.

It is important to note that the national program now embodies the essential administrative elements making it possible to complete and finalize implementation of the Act. These elements are:

The Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation. To coordinate preservation activities throughout the United States, the Secretary developed a series of standards and guidelines presenting the Department of the Interior's best advice on the professional methods and techniques

for dealing with historic properties. Developed in consultation with the Advisory Council, Federal agencies, SHPOs, the National Trust, and other interested citizens and organizations, the Secretary's Standards suggest effective and efficient methods to accomplish preservation objectives. Published in 1983, and based on the experience of nearly twenty years of intensive preservation activities at the Federal, State, and local levels, the Secretary's Standards present strategies for preservation planning and for the identification, evaluation, documentation, registration, and treatment of historic properties. The standards serve as the basic instrument of the national program, and all related regulations, standards, guidelines, and technical assistance developed by the Federal Government, or by its State and local government partners, should be consistent with the general principles and practices put forth in this document.

Guidelines for Historic and Archeological Resource Management: Federal Agency Responsibilities Under Section 110 of the National Historic Preservation Act. Section 110 of the Act prescribes both general and specific responsibilities for Federal agencies in the preservation of historic properties. The Section 110 Guidelines present a model useful to Federal agencies when establishing, revising, and operating programs for historic resource management. These guidelines assist agencies in carrying out their missions, programs, and projects in a manner consistent with Section 110 of the Act, regulations, and the Secretary's Standards. They serve as the "Federal handbook" for the national historic preservation program.

Regulations. The Act authorizes the promulgation of regulations to govern various preservation program activities, including operating the National Register of Historic Places, designating National Historic Landmarks, and certifying local governments to participate in the national preservation program. Regulations implementing the Act's requirements for these and other preservation program activities are, essentially, in place. These documents specify the procedures that participants in the national program must follow in order to meet the requirements of the Act and, together with the Secretary's Standards and the Section 110 Guidelines, serve as the framework to ensure that preservation activities are conducted in a manner consistent with the purposes of the national historic preservation program as set forth in the Act.

Technical Information. Each of the structural elements of the national preservation program — The Secretary's Standards, the Section 110 Guidelines, and pertinent agency regulations — is designed to address particular issues, such as describing preservation methods, outlining how policy is implemented, or prescribing procedural requirements. A body of technical information and assistance supports these elements by focusing on the specific needs of users in a way more general guidance cannot. Such technical information addresses problems encountered in preservation activities and suggests methods for resolution. Technical information prepared by the National Park Service addresses specific treatments of historic materials, guidance in completing National Register and tax incentive certification forms, evaluation of historic significance and guidance as to whether rehabilitation treatment conforms to specific standards, and information describing the national preservation program to the general public.

SECTION-BY-SECTION ANALYSIS OF THE NATIONAL HISTORIC PRESERVATION ACT

The following analysis includes the status of implementation of each section and, where appropriate, assessments and conclusions. Although the analysis is primarily concerned with the provisions of the National Historic Preservation Act, provisions of other related historic preservation and archeology legislation are referenced as appropriate.

Section 101(a)(1)-(6)

Authorization

Section 101(a)(1)-(6) authorizes the Secretary to maintain the National Register of Historic Places and related historic designation processes. The National Register is the Nation's official list of properties significant in American history, architecture, archeology, engineering and culture. These subsections require the promulgation of regulations to govern the National Register, National Historic Landmark designations, and World Heritage nominations. They also include provisions for notification, appeals, objections by property owners, and nominations in States without approved programs.

Status of Implementation

The Secretary is required by the Act to expand and maintain the National Register; to develop and issue criteria, standards, guidelines, and regulations for nominating properties to the National Register; to consider appeals of State and Federal decisions; and to make determinations of eligibility of properties at the request of Federal agencies or where private property owners object to listing. The National Register is maintained in the Washington Office of the National Park Service.

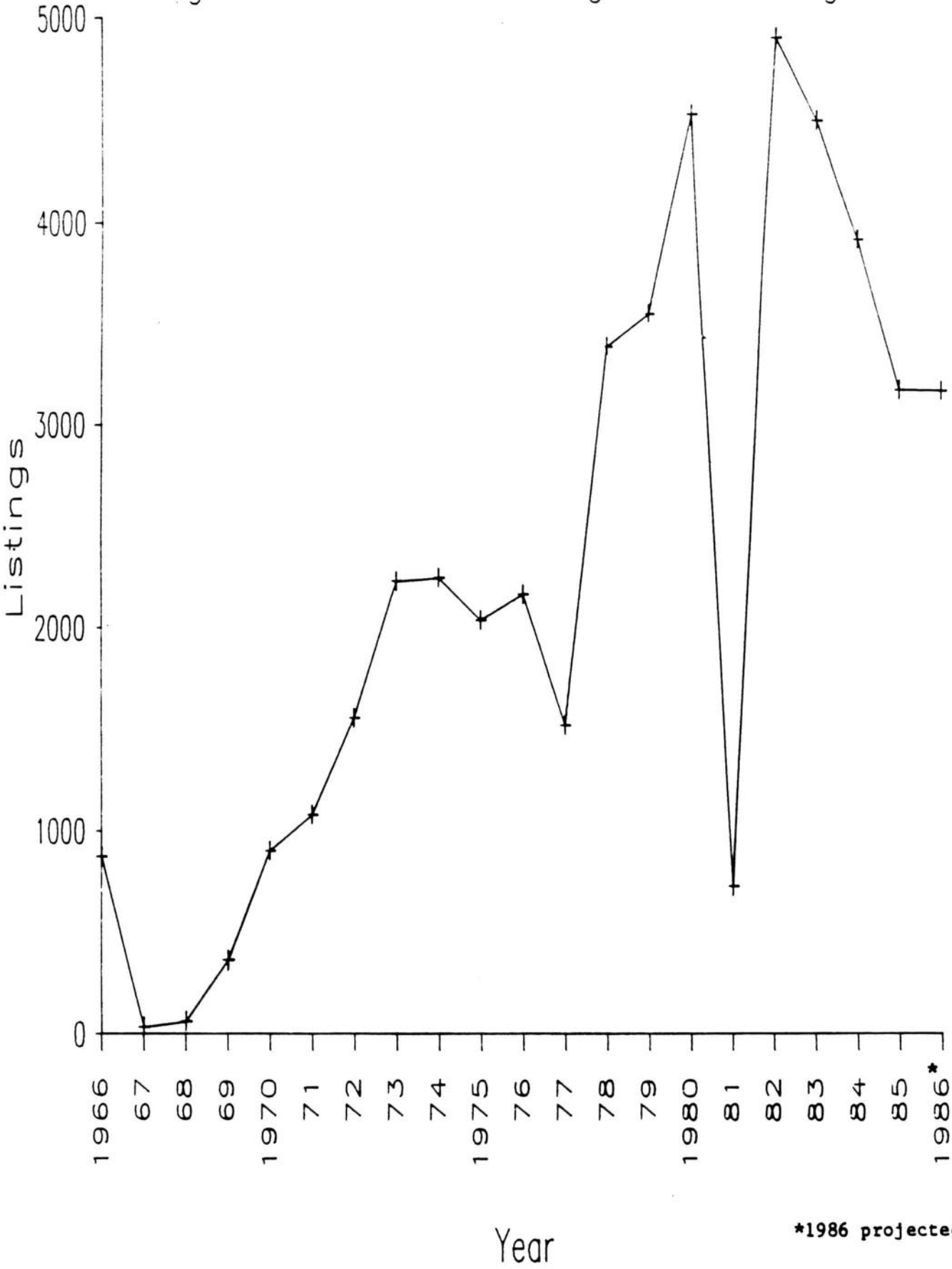
The State Historic Preservation Officer (SHPO) in each State and Territory sets priorities for nominating properties to the National Register, notifies local officials and property owners of proposed nominations, and submits completed nominations to the Keeper of the National Register. Federal agencies are also required to nominate properties under their jurisdiction. The National Park Service lists up to 5,000 nominations annually, and more than 43,000 properties have been included in the National Register. The number of properties added each year is shown in Table 1 and Figure 1. The number of properties listed in each State, Territory, and the District of Columbia is shown in Table 2 and Figure 2.

Table 1: National Register Listings by Calendar Year

Year	Number	Year	Number	Year	Number	Year	Number
1966	868	1971	1074	1976	2159	1981	724[1]
1967	29	1972	1551	1977	1513	1982	4893
1968	57	1973	2225	1978	3383	1983[2]	4495
1969	358	1974	2241	1979	3546	1984[2]	3915
1970	898	1975	2032	1980	4526	1985[2]	3171
						1986[3]	998
Total							44,656

[1]Low number of listings during 1981 resulted from a prohibition on listing privately owned property while regulations were being prepared to implement "owner objection" provisions of the 1980 Amendments to the Act.
[2]Of the total number of listings in 1983, 1984, and 1985, there were 571, 488, and 406 historic districts, respectively.
[3]Listings for 1986 are through April.

Figure 1: National Register Listings



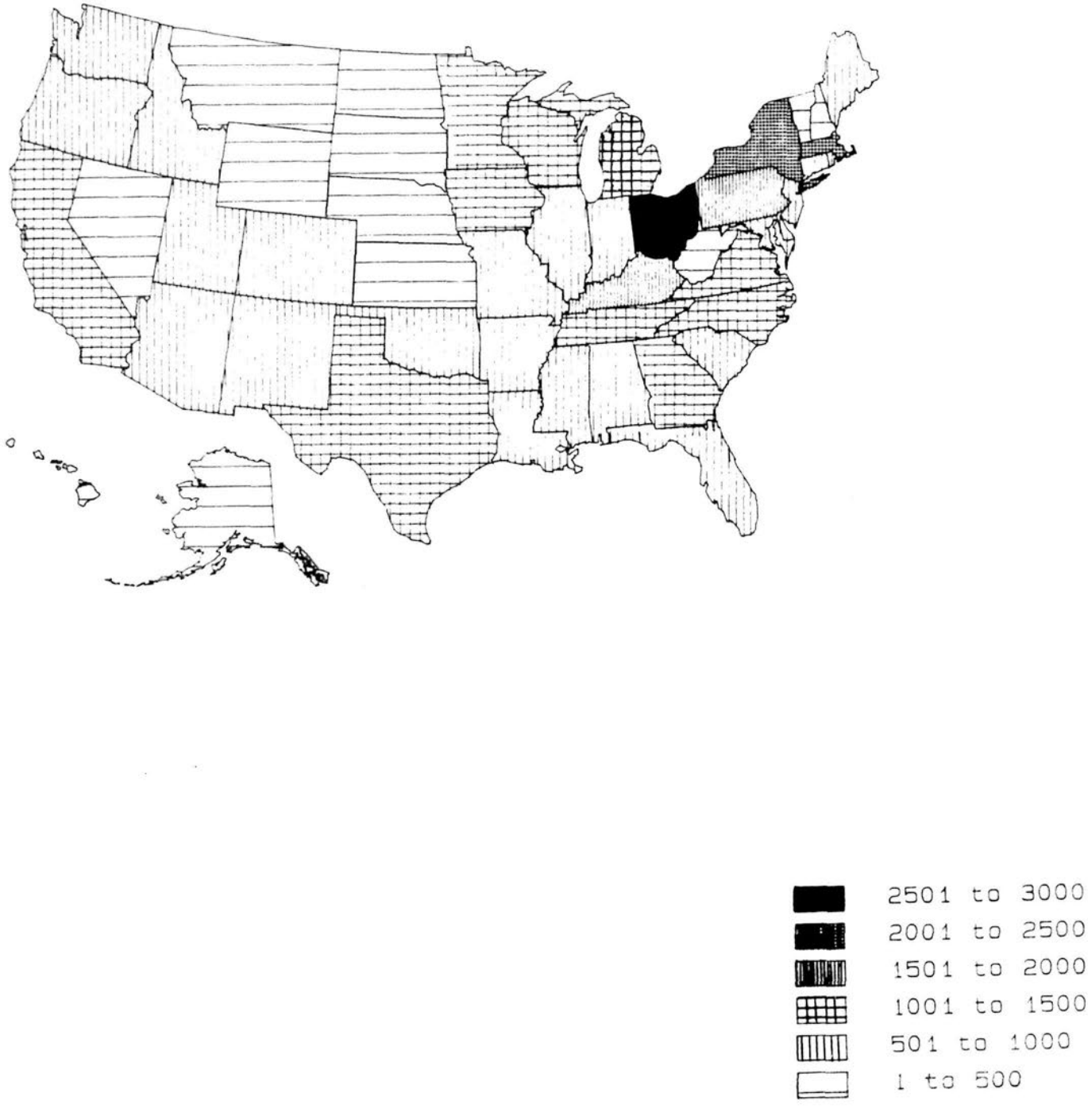
*1986 projected

Table 2: National Register Listings by State[1]

Alabama	673	Montana	343
Alaska	242	Nebraska	433
American Samoa	8	Nevada	197
Arizona	589	New Hampshire	488
Arkansas	770	New Jersey	945
California	1470	New Mexico	576
Colorado	627	New York	2225
Connecticut	707	North Carolina	1389
Delaware	519	North Dakota	212
District of Columbia	231	Northern Marianas	27
Florida	555	Ohio	2749
Georgia	1195	Oklahoma	690
Guam	67	Oregon	737
Hawaii	213	Pennsylvania	1866
Idaho	749	Puerto Rico	114
Illinois	896	Rhode Island	528
Indiana	837	South Carolina	925
Iowa	1009	South Dakota	461
Kansas	446	Tennessee	1043
Kentucky	1993	Trust Territory	35
Louisiana	653	Texas	1402
Maine	837	Utah	884
Maryland	959	Vermont	387
Massachusetts	2062	Virgin Islands	78
Michigan	989	Virginia	1234
Minnesota	1200	Washington	685
Mississippi	727	West Virginia	478
Missouri	900	Wisconsin	1140
		Wyoming	262
		Total	44,656

[1]Listings from program inception in 1966 through April 1986.

Figure 2: National Register Listings by State
(through April 1986)



All nominations to the National Register are reviewed for technical sufficiency and completeness of documentation. Based on the past performance record of a State or Federal agency, a sample of nominations is given an in-depth review by the National Park Service to ensure that the nominations meet the National Register criteria for evaluation and all documentation requirements. This system takes advantage of the professional capability of States and Federal agencies in evaluating historic properties, while ensuring the integrity of the National Register by maintaining necessary Federal oversight.

National Register Criteria. From time to time, questions arise regarding the validity of the criteria for determining whether properties are eligible for inclusion in the National Register. The Secretary solicited public comments on existing criteria when National Register regulations were published for interim effect in November 1981. The Secretary has not made significant changes in the criteria because they have effectively served the National preservation program in their present form since the National Register was established. The Secretary has developed guidance in the use of the criteria, such as the document "How to Apply the National Register Criteria for Evaluation," issued in June 1982. In addition, the National Register provides guidance on the application of professional evaluation standards through the issuance of a series of bulletins. The criteria will be reviewed again during 1986 to determine if changes are necessary and if additional guidance concerning the criteria is warranted.

National Register Regulations. Provisions for nominations, removals, revisions to documentation, owner notifications, opportunities for owners of private properties to object to nominations, appeals of State and Federal decisions, and nominations from individuals and local governments when there is no approved State Historic Preservation Program have been implemented in regulations, 36 CFR Part 60, "National Register of Historic Places," which took interim effect on November 16, 1981. Provisions in 36 CFR Part 60 were reviewed by the House Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resources prior to taking effect, as required in Section 307 of the Act.

Procedures for processing requests by Federal agencies for determinations of eligibility for inclusion in the National Register have been in effect since 1977 under 36 CFR Part 63. Procedures now in Parts 60 and 63 have been revised to clarify requirements and to consolidate procedures. A consolidated regulation will be proposed in 1986 in Part 60, and Part 63 will be deleted from the Code of Federal Regulations.

The National Register nomination form and instructions are being revised to make them compatible with the automated National Register Information System, described below, and to facilitate the nomination of groups of properties related historically. For information concerning National Register technical assistance, see the summary for Section 101(h).

National Register Information System (NRIS). The National Park Service will complete the entry of all National Register listings in an automated information system in FY 1986. Subsequently, data on properties determined eligible for listing will be added. States and Federal agencies will be given access to this system, and it is hoped that eventually they will be able to enter nomination data directly into the data base. Analyses of the 45 data elements on each property can be used to develop priorities for future identification and registration activities, plan other preservation activities, and develop public policy. The NRIS can also be used by Federal agencies and others to

identify properties which may be affected by proposed federally assisted projects.

National Historic Landmarks (NHLs). Final NHL regulations, 36 CFR Part 65, "National Historic Landmarks Program," were published in the Federal Register on February 2, 1983. The regulations incorporate revisions required by the 1980 Amendments, and update and revise NHL procedures. The regulations include criteria, designation and removal procedures, appeals of designations, and notification of owners and other interested parties when a property is being considered for NHL designation.

From 1981 to the present, 144 properties were designated as NHLs, bringing the total to 1697. This represents a renewed emphasis in identifying nationally significant properties. During 1979 and 1980, designation was virtually at a standstill. The majority of the designations since 1981 have been based on theme studies of groups of properties related to the same facet of history or prehistory. Theme studies provide a sound basis for systematic comparative evaluation of national significance that are the core function of the NHL Program. Since 1981, theme studies on the history of World War II in the Pacific, the U.S. space program and the history of recreation have been conducted, and a survey for the theme study of architectural history has been reinstated.

Each year a selected number of Landmarks are inspected by the National Park Service. The purpose of these inspections is to analyze the specific condition of the Landmark, identify appropriate treatments for correcting any damages, establish work needs, and estimate the costs for carrying out this work. In depth inspections are performed under contract by local architects and engineers in private practice who are experienced in dealing with historic buildings and structures. Information derived from the inspections is compiled in a building condition assessment report. This report is made available to owners, preservation organizations, and interested public and private groups. Inspections of archeological sites are performed by archeologists often associated with area universities. The Service also assists Landmark owners in identifying available sources of private and public funds for undertaking the preservation work recommended in the condition assessment reports.

The National Park Service is also involved in a cooperative effort with the National Park Foundation, whereby the Foundation has established a National Historic Landmark Fund for the purpose of obtaining private donations to assist damaged and threatened Landmarks, either publically or privately owned. The summaries of Sections 101(h), 109 and 303 provide more information concerning technical assistance for National Historic Landmarks.

World Heritage List. In 1982, the Department published the final rules, 36 CFR Part 73, specifying the procedures for nominating U.S. properties to the World Heritage List. The rules also establish a Federal Interagency Panel for the World Heritage as the principal advisory body to the Secretary concerning recommendations for nomination to the World Heritage List.

During the 1980-85 period, eight U.S. properties were nominated and subsequently designated as World Heritage Sites. See the discussion of Section 401 for a list of these sites.

Assessment and Conclusions

The passage of the Act in 1966 established a national historic preservation program which relied on a working partnership between the Federal Government and the States to identify, evaluate, and register historic properties. Although the partnership took immediate effect, the decisionmaking authority for the registration of all properties, including those of State and local significance, was retained by the National Park Service. This continued to be necessary until States developed the professional capability to make predictable and competent decisions on the eligibility of State and locally significant properties. In addition, multiple Federal professional reviews were required for all nominations to ensure consistency until national standards could be established.

As the program developed, adaptations to the National Register were made because the review and registration process was too time consuming in cases where Federal agencies needed to have speedy determinations of eligibility in order to consider the effects of Federal undertakings on historic properties. In response, a streamlined process for determinations of eligibility was established.

Changes in Federal tax statutes stimulated preservation activity and added to the workload of the national program. By the late 1970s, it was clear that the demands on the national preservation program had grown far beyond initial expectations. By this time, many States had developed the ability to make competent and predictable preservation decisions for properties of State and local significance and were now in the position to take on decisionmaking responsibilities in the national program.

With the passage of the 1980 Amendments to the Act, Congress recognized the increasing professional capabilities of State historic preservation offices. In addition to authorizing the beginning of decentralization of decisionmaking to States, the 1980 Amendments institutionalized the participation of local governments and the public in the national program and authorized the Secretary of the Interior to develop and implement the various regulations, standards, and guidelines that would serve to guide all participants in the national program. Consistent with the intent of Congress, the National Park Service adopted a programmatic oversight and quality control role in National Register decisions. The Service reduced its role in property specific decisions to one of ensuring technical and procedural adequacy for all nominations, while performing spot check review of nominations to ensure professional adequacy and consistency.

During the next six years, while Federal agencies, States, and local governments prepared to assume greater preservation decisionmaking responsibilities, the Secretary of the Interior implemented the provisions of the 1980 Amendments that would complete the infrastructure of the national preservation program. With this infrastructure now essentially in place, further decentralization of determinations of eligibility, listings, and certifications for Federal tax incentives, should take place.

The Act should be amended so that it is no longer necessary for the Federal Government to make decisions on properties of State and local significance. The role of the National Park Service should be one of programmatic oversight, quality control, technical assistance, and review of appeals of decisions. This way, decisions about the significance of properties can be made within the appropriate Federal, State or local context.

Ideally, States which meet the Secretary of the Interior's Standards should be able to list properties of State and local significance and certify the historic significance of properties for Federal tax purposes without a property-by-property review by the National Park Service. The National Park Service should continue to maintain the National Register, to make listing decisions on nominations from Federal agencies, to make listing decisions on State nominations in disputed cases and other exceptional circumstances, and to assist the Secretary in making decisions about national significance.

In addition, Federal agencies in consultation with States, should be able to determine the eligibility of historic properties as part of the Federal planning process without the need for a decision from the National Park Service, except where disagreements exist. The legal delegation of authority for listings and determinations of eligibility to qualified States would make the Federal planning process more efficient and cost effective. State Historic Preservation Programs can be adequately evaluated against the the Secretary's Standards through required periodic State program reviews. The automated National Register Information System (NRIS) will make National Register listings more accessible to States and Federal agencies and allow the States to enter nominations directly into the NRIS if they have listing authority.

In addition to the decentralization of the National Register through the existing State apparatus, Indian tribes should be given the option of having Tribal Historic Preservation Officers. In a number of instances, Indian governments have fairly well developed historic preservation programs and could participate in the Federal preservation program. In coordination with the State Historic Preservation Officers, designated tribal officials could perform the duties and have the authorities of the State Historic Preservation Officer for purposes of actions affecting properties on each Tribe's reservation lands, including nominations to the National Register. Such officials would have to meet the same qualifications requirements and be subject to the same National Park Service reviews and approvals as State Historic Preservation Officers.

The Service will continue to emphasize identification of properties of national significance through designations of National Historic Landmarks. This program, moribund in 1981, is now at its highest point of productivity. Of the 144 Landmarks designated during the period 1981 through April 1986, 93 were designated during 1985 and 1986. A plan will be developed for preparing Landmark studies in areas that have been under-represented in the list of Landmarks. Also, the taxonomy of historical themes that provide the framework for theme studies is being reviewed, to refine it as a tool in the Landmarks Program's comprehensive survey of our nation's historical heritage and to evaluate its potential for use in categorization of cultural resources within the National Park System, in connection with development of a new system of planning for the management needs of Park System historical and archeological properties.

Section 101(a)(7)(A)

Authorization

Section 101(a)(7)(A) directs the Secretary to promulgate or revise regulations ensuring that significant prehistoric and historic artifacts and associated records recovered under the Act, the Reservoir Salvage Act of 1960, as amended, and the Archaeological Resources Protection Act of 1979, are deposited in an institution with adequate long-term curatorial capabilities.

Status of Implementation

In recognition of the need for guidance on the curation of federally-owned collections, the National Park Service issued to its archeological field offices in 1976 and again in 1977, instructions and policy guidance on the disposition of specimens and records recovered under contracts the Service was administering for other Federal agencies. In 1977, the Service published proposed guidelines (36 CFR Part 66) on the recovery of scientific, prehistoric, historic, and archeological data. One section of the guidelines stated the responsibility of the Federal Government to maintain and care for data and materials, and set forth the requirements of "qualified" institutions.

In 1977, the Service contracted with the American Anthropological Association to assess the current state of curation of federally-owned collections which were being housed in non-Federal institutions, and to recommend measures that could be taken by the Federal Government to care for those collections. The final report was completed in January 1979, and copies were deposited with the National Technical Information Service. In September 1980, an abridged edition of the report was issued as a part of the Heritage Conservation and Recreation Service's Cultural Resource Management Series. The report contained (1) a review of Federal legislation affecting archeological sites; (2) an assessment of current curation practices (based on a literature review, solicited comments from the archeological community, and questionnaires and field visits to 20 institutions); (3) a proposal for a "National System of Public Repositories;" and (4) appendices illustrating various curation practices in the institutions examined. As a result of the study, the Service prepared new guidelines for curation which have been included in scopes-of-work and contracts for survey and data recovery projects. The U.S. Forest Service incorporated these guidelines into proposed policies and procedures on the enhancement, protection and management of cultural resources, published September 18, 1979.

On October 31, 1979, the Archaeological Resources Protection Act was signed into law. Section 5 of this Act gives the Secretary of the Interior the discretionary authority to promulgate regulations on (1) the exchange of archeological resources recovered from public and Indian lands under the 1979 Act; and (2) the ultimate disposition of archeological resources recovered under the 1979 Act as well as the Antiquities Act of 1906 and the Reservoir Salvage Act of 1960, as amended. Section 5 also requires that exchanges occur, where appropriate, between suitable universities, museums or other scientific or educational institutions. In addition, the section requires that any exchange or ultimate disposition of resources excavated or removed from Indian lands shall be subject to the consent of the Indian tribe or individual who owns or has jurisdiction over such lands.

In October 1980, the Service hosted staff from over 15 public and private institutions, including State and Federal agencies, to discuss legislation, funding, facilities and operations relating to the curation of federally-owned collections. In February 1981, the Service co-sponsored the New York Academy of Sciences' "Conference on the Research Potential of Anthropological Museum Collections." The proceedings of the latter conference were published as a part of the annals of the New York Academy of Sciences.

As an outgrowth of the Service's studies and conferences, and in accordance with Section 5 of the 1979 Act and Section 101(a)(7)(A) of the National Historic Preservation Act, the Service prepared draft curation regulations. The draft was circulated for comment in December 1981. Comments were assessed, but due to the implementation of higher priority regulatory and program initiatives, final regulations have not been published.

On September 29, 1983, the Service issued the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation. The Standards and Guidelines provide technical advice about archeological and historic preservation activities and methods. The section on archeological documentation briefly mentions the need for adequate curatorial arrangements, and describes in general terms what constitutes adequate arrangements.

On January 6, 1984, the Departments of the Interior, Agriculture, Defense and the Tennessee Valley Authority issued final uniform regulations (43 CFR Part 7, 36 CFR Part 296, 32 CFR Part 229, and 18 CFR Part 1312, respectively) implementing provisions of the Archaeological Resources Protection Act of 1979. One section of the regulations discusses ownership of archeological resources excavated or removed from public and Indian lands, and reiterates that the Secretary of the Interior may promulgate curation regulations. It also states that, in the absence of such regulations, Federal land managers may provide for the exchange of resources among suitable universities, museums or other scientific or educational institutions when the resources have been excavated or removed from public lands under the authority of a permit issued by the land manager.

In 1984, the National Park Service renewed its efforts to prepare curation regulations. The Service established an advisory working group composed of curators, collections managers, conservators, archeologists and program managers representing various land-managing agencies within the Department of the Interior and the Smithsonian Institution. Draft rules were prepared and reviewed by the working group, and after the draft is revised, the National Park Service will circulate it to a broad audience for review prior to issuance as a proposed rule. That audience will include State and Federal agencies, national professional organizations (archeological and curatorial), Native American organizations, and other interested parties.

The National Park Service also has taken steps to protect materials and specimens removed from public and Indian lands. When the Service issued permits under the Antiquities Act of 1906 and the Archaeological Resources Protection Act of 1979, the Service required all applicants to identify suitable, qualified repositories in permit applications. During 1984-85, when the Service divested itself of processing permits for other agencies, the Service prepared a manual of instructional materials for use by other agencies on how to process permit applications. The manual includes the qualifications of proposed repositories.

Assessment and Conclusions

There is no question that there has not been much improvement over the past seven years in the state of curation of federally-owned collections, be they housed in non-Federal or Federal repositories. Most agencies rely upon the guidance on curation contained in the National Park Service's proposed regulations (36 CFR Part 66) on data recovery, issued in 1977, and in the Secretary of the Interior's Standards and Guidelines for Archeological Documentation. However, the regulations have not been issued in final, and the Standards and Guidelines for Archeological Documentation are not regulatory.

Given this situation, many Federal agencies have prepared and issued their own standards, guidelines, procedures, and manuals to address curation matters. For example, the Army Corps of Engineers commissioned a study in 1981 on the disposition of artifacts recovered from project sites. In 1984, as a result of that study, the Corps prepared a draft circular on the storage and curation of archeological and historic data. The circular provides general policy and guidance concerning the disposition of materials, data, and records recovered in conjunction with Civil Works activities. In 1984, the South Carolina Department of Highways and Public Transportation, functioning as an agent for the Federal Highway Administration, issued a set of standards for archeological specimens, artifacts, data, notes and photographic materials. In 1986, the Bureau of Land Management's Idaho Office issued a supplement to the Bureau's administrative manual which provides further instructions and policies on the protection, removal and storage of archeological and historic materials from the Bureau's lands in Idaho.

Some Federal agencies have entered into contracts and cooperative agreements with other Federal, State, local and private institutions to store and care for their collections. For example, the National Park Service's Western Archeological and Conservation Center curates several collections belonging to the Bureau of Land Management and the Bureau of Reclamation. The Bureau of Land Management's Idaho Office has an agreement with the Idaho State Board of Education to curate materials recovered from Bureau lands within Idaho. The State of Idaho established three Regional Archeological Centers at the University of Idaho, Idaho State University, and the Idaho State Historical Society to curate and make available for scientific study and public interpretation materials recovered from public lands in Idaho. The Army Corps of Engineers' North Pacific Division has an agreement with the Washington State University's Archaeological Collections Repository to curate archeological materials recovered in conjunction with the Corps activities in Washington. The Corps' district offices in the South Atlantic Division have entered into agreements with the University of Alabama and Mississippi State University to curate archeological materials recovered in conjunction with the Tennessee-Tombigbee Waterway project and the Richard B. Russell Reservoir project.

Because State and private institutions frequently function as repositories for federally-owned collections, many of them also have prepared and issued their own standards, guidelines, procedures, and manuals regarding the curation of those collections. Among such institutions are the Arizona State Museum, the Arkansas Archeological Survey, Brigham Young University, Idaho's Regional Archeological Centers, the Missouri State Historic Preservation Office, the Nevada State Museum, the Oregon State Museum of Anthropology, the University of South Carolina's Institute of Archeology and Anthropology, the Council of Texas Archeologists, the Washington State University's Archaeological Collections Repository, and the University of Wyoming.

Given the plethora of disparate standards, guidelines and manuals for curation, it is imperative that the Department of the Interior complete and issue regulations for the curation of federally-owned collections. The regulations should systematically address several major issues that Federal agencies have had to wrestle with on a case-by-case basis over the years. First, the regulations should provide a mechanism for agencies to dispose of collections or artifacts and other materials within collections by several methods such as loans, transfers, exchanges, gifts, and consumptive uses (e.g., laboratory tests which destroy the specimens). Second, the regulations should contain standard procedures for handling human remains uncovered in an archeological context. Third, the regulations should identify funding sources and methods available to Federal agencies for the proper curation of federally-owned collections. Finally, the regulations should contain procedures for owners of Indian lands to be notified and give their consent regarding the disposition of materials recovered from Indian lands.

Section 101(a)(7)(B)

Authorization

Section 101(a)(7)(B) authorizes the Secretary to promulgate regulations establishing a uniform process and standards for documenting historic properties for purposes of inclusion in the records of the Library of Congress.

Status of Implementation

In accordance with the requirements of this section, the Secretary of the Interior's Standards and Guidelines for Architectural and Engineering Documentation were issued on September 29, 1983. These were developed by the Historic American Buildings Survey (HABS) and the Historic American Engineering Record (HAER) programs of the National Park Service. Specific information on how to produce HABS and HAER documentation has been issued in various forms and under various titles (Specifications, Field Instructions, Procedures Manuals, etc.) since the 1930s. All of the interpretive material is available from the Service upon request. HABS/HAER is currently compiling a new manuscript for a book to replace Recording Historic Buildings, a standard reference in the field of documenting historic buildings.

A number of publications supporting the HABS/HAER program have recently been issued. Historic America, a book listing all the HABS/HAER holdings as of January 1, 1982, along with essays detailing the collection, philosophy and usage was published by the Library of Congress in 1983. This year, the HAER Checklist was published, with nearly 3,000 copies distributed. The HABS/HAER Checklist, a computerized data base used in the publication of Historic America, is updated monthly, and acquisition and transmittal reports are sent to each State Historic Preservation Officer. In addition, hard copies of the Checklist are distributed annually to all State Historic Preservation Offices.

Additionally, HABS/HAER is pursuing wider dissemination of the collections: microfiche publication of the HABS data and photograph collection (through 1979) will be updated to include subsequent acquisitions and the HAER collection. The publication of HABS State catalogs continues; the Alabama catalog is due out this spring and manuscripts have recently been completed for Pennsylvania and California. State catalogs contain descriptions of historic properties in addition to location information.

Assessment and Conclusions

HABS and HAER have recently eliminated a twenty-year backlog of documentation previously not transmitted to the Library of Congress. This effort has, since 1980, approximately doubled the size of the HABS and HAER Collections in the Library.

The HABS and HAER collections are among the most popular in the Library of Congress and have long been a valuable source of information on historic properties. The National Park Service will continue to emphasize greater dissemination of the documentation through the publication Historic America and the updating of the HABS/HAER data base and microfiche copies of the collection.

Section 101(a)(7)(C)

Authorization

Section 101(a)(7)(C) directs the Secretary to promulgate regulations for local government certification for participation in the national historic preservation program and funding.

Status of Implementation

Draft regulations, 36 CFR Part 61, for the certification of local governments were issued in May 1983, after extensive consultation with interested parties; e.g., the National Conference of State Historic Preservation Officers, the National Alliance of Preservation Commissions, and the National Trust for Historic Preservation. Final regulations were published in April 1984, and became effective on May 14, 1984. These rules require States to establish procedures and have them approved by the Secretary. All States, except those exempted under 36 CFR Part 61, have approved procedures.

The discussion of Sections 101(c) and 103(c) provides information concerning implementation of program requirements for certification of local governments and funding.

Section 101(b)

Authorization

Section 101(b) authorizes the Secretary to promulgate regulations governing State participation in the national preservation program and to establish mechanisms for review and approval of such programs. Responsibilities of State Historic Preservation Officers are also established in this section.

Status of Implementation

Regulations for State historic preservation programs and the responsibilities of State Historic Preservation Officers (SHPOs) were published in 36 CFR Part 61 on April 13, 1984. State activities eligible for Historic Preservation Fund grant assistance to States are organized by "Program Areas" in accordance with the SHPO responsibilities specified in section 101(b)(3). These Program Areas were defined administratively in the early 1980s, and were incorporated in the National Register Programs Manual (NPS-49) in 1984. The following summarizes each "Program Area."

(1) Administration. Activity directly pertinent to formulating and executing budgets, personnel management, finance, property management, equal opportunity and other overhead functions not directly attributable to other Program Areas.

(2) Review and Compliance. Activity directly pertinent to advising and assisting Federal, State, and local government agencies, individuals, developers, and organizations in carrying out federally required historic preservation responsibilities.

(3) National Register. Activity directly pertinent to evaluating historic and archeological resources for their potential eligibility for listing in the National Register.

(4) Preservation Tax Incentives. Activity directly pertinent to certifying State or local statutes, certifying State or local districts, evaluating significance, certifying rehabilitations, educating and assisting the public on Federal preservation tax incentives, and other activities related to State and local preservation tax incentives.

(5) Survey. Activity directly pertinent to locating and identifying historic and archeological resources.

(6) Planning. Activity directly pertinent to the developing, implementing, and operating State comprehensive planning processes according to the Secretary of the Interior's Standards and Guidelines for Preservation Planning.

(7) Local Government Certification/Pass-Through. Activity directly pertinent to certifying local governments pursuant to Section 101(c) of the Act, and to monitoring and evaluating the programs of Certified Local Governments and their performance under subgrants.

(8) Development (grantee activities and subgrants). Activity directly pertinent to developing, implementing, operating, and monitoring pre-construction and construction activity.

(9) Acquisition. Activity directly pertinent to acquiring fee title or interest other than fee title of real property. No activity in this Program Area has been authorized since 1982.

(10) Covenants and Letters of Agreement. Activity directly pertinent to monitoring and enforcing covenants and letters of agreement between States and private or public property owners in compliance with section 102(a)(5) of the Act. Section 102(a)(5) requires a grantee to assume, upon completion of a project, the total cost of continued maintenance, repair and administration of a property in a manner satisfactory to the Secretary.

(11) Other Program Activities. These include any activity that is eligible for Historic Preservation Fund assistance, but that does not readily fall within one of the ten Program Areas described above, or involves multiple Program Areas, and the activity cannot be readily divided among the specific Program Areas.

The adequacy of State programs in the eleven Program Areas is reviewed periodically through on-site meetings with State staff. Currently, the National Park Service conducts these State Program Reviews on a three-year cycle. The first round of these reviews is complete, and the second round will be completed by September 30, 1987. Program deficiencies identified during the first round have been corrected and all States have been approved for continued financial assistance.

Assessment and Conclusions

In light of the effort to further decentralize to SHPOs the decisions to list properties in the National Register and certify properties for tax purposes, it is critical that the quality and consistency of decisions made by the States be the focus of regular National Park Service reviews and approvals of State programs. Although decentralization will require considerable additional effort by the National Park Service in developing and improving monitoring capabilities, the successful implementation of the State program review and approval processes is one of the highest cultural resource priorities of the National Park Service.

Sections 101(c) and 103(c)

Authorization

Sections 101(c) and 103(c) authorize the certification of local governments to participate in the national preservation program, including recommending nominations of properties to the National Register, and provide for the transfer of Federal funds from States to Certified Local Governments (CLGs).

Status of Implementation

The 1980 amendments to the Act formalized the partnership between State and local governments, a relationship that existed in many areas for some time; e.g., local governments are often recipients of Historic Preservation Fund (HPF) grants. Sections 101(c) and 103(c) require that State historic preservation programs provide the mechanism for certifying local governments to carry out the purposes of the Act, for local governments participating in the process of nominating properties to the National Register, and for transferring a minimum of ten percent of the annual apportionment of each State to Certified Local Governments. Section 101(a)(7) directs the Secretary to promulgate regulations implementing these sections (see summary of Section 101(a)(7) for information on promulgation of regulations).

Final regulations, 36 CFR Part 61, which took effect on May 14, 1984, require that all approved State historic preservation programs develop, for approval by the Secretary, procedures for the certification of local governments and for the transfer of funds by States to Certified Local Governments. During the time between enactment of the 1980 Amendments and the publishing of final regulations, the National Park Service developed a process to assist local governments in preparing to become certified. In FY 1983, States were required to pass through ten percent of their allocations to local governments certifiable under the draft regulations, while in FY 1984, they were required to pass through ten percent of their allocations to those certifiable under the final regulations. In FY 1985, States were required to subgrant ten percent of their allocation to certified local governments (or local governments who agreed to apply for certification). In FY 1986, for the first time, part of each State's apportionment was based on the number of local governments certified during FY 1985.

All States had approved procedures in place by September 1985, except for the District of Columbia and the Trust Territory of the Pacific Islands which are exempted from these provisions of the Act because they have no "local governments" as defined in the Act. As of April 1986, 177 local governments had been certified nationwide (Table 3). This is in contrast to a total number of six Certified Local Governments, all in Georgia, just one year earlier.

Table 3: Certified Local Governments

Alabama (4)
- Birmingham
- Huntsville
- Mobile
- Tuscaloosa

Arizona (5)
- Florence
- Jerome
- Prescott
- Willcox
- Yuma

Colorado (5)
- Aspen
- Boulder
- Denver
- Longmont
- Telluride

Florida (4)
- Gainesville
- Miami
- Saint Augustine
- Saint Petersburg

Georgia (10)
- Ashburn
- Atlanta
- Cobb County
- Dalton
- Guyton
- Milledgeville
- Monroe
- Norcross
- St. Marys
- Valdosta

Idaho (3)
- Kootenai County
- Pocatello
- Rathdrum

Illinois (9)
- Aurora
- Bloomington
- Chicago
- Evanston
- Highland Park
- Jacksonville
- Quincy
- Rockford
- Rock Island

Iowa (13)
- Albia
- Allamakee County
- Amana Colonies
- Buchanan County
- Clayton County
- Creston
- Des Moines
- Dubuque
- Guttenberg
- Keokuk
- Lake City
- Oskaloosa
- Winneshieck County

Kansas (1)
- Wichita

Kentucky (4)
- Bardstown
- Frankfort
- Jefferson County
- Shelbyville

Maine (2)
- Bangor
- York

Maryland (8)
- Annapolis
- Baltimore County
- Calvert County
- Chestertown
- Frederick
- Montgomery County
- Prince Georges County
- Rockville

Massachusetts (9)
- Boston
- Newton
- Quincy
- Salem
- Shirley
- Tisbury
- West Springfield
- Winchendon
- Worcester

Michigan (3)
- Ann Arbor
- Kalamazoo
- Pontiac

Minnesota (5)
- Cottage Grove
- Fairbault
- Lanesboro
- Minneapolis
- Saint Paul

Mississippi (3)
- Meridian
- Natchez
- Pascagoula

Nebraska (2)
- Lincoln
- Omaha

North Carolina (9)
- Alamance County
- Forsyth County
- Kernersville
- Monroe
- Morganton
- Oxford/Granville County
- Wilmington
- Wilson
- Winston-Salem

Ohio (2)
- Cleveland
- Mansfield

Oklahoma (2)
- Anadarko
- Enid

Oregon (2)
- Oregon City
- Salem

Rhode Island (8)
- Cranston
- East Greenwich
- Newport
- New Shoreham
- North Kingstown
- Providence
- South Kingstown
- Woonsocket

South Carolina (3)
- Charleston
- Cheraw
- Greenville

South Dakota (8)
- Aberdeen
- Brookings
- Brown County
- Clay County
- Codington County
- Mitchell
- Spearfish City
- Sioux Falls

Tennessee (8)
- Clarksville
- Covington
- Greenville
- Jackson
- Knoxville
- Memphis
- Montgomery County
- Nashville

Texas (2)
- Beaumont
- El Paso

Utah (27)
- Cedar City
- Draper
- Emery County
- Eureka
- Helper
- Kanab
- Layton
- Lewiston
- Morgan County
- Ogden
- Park City
- Parowan
- Pleasant Grove
- Price
- Richfield
- Riverton
- Salt Lake City
- San Juan County
- Sandy
- Scipio
- South Ogden
- Spring City
- Springville
- Tooele County
- Toquerville
- Uintah County
- Wellsville

Washington (7)
- Clark County
- Olympia
- Pierce County
- Spokane
- Spokane County
- Steilacoom
- Thurston County

Wisconsin (7)
- Eau Claire
- Evansville
- Janesville
- Mequon
- Milwaukee
- Waukesha
- Stevens Point

Wyoming (2)
- Cheyenne
- Sublette County

States receiving early approval of their procedures initially certified more local governments than States that did not have procedures in place until the deadline. The number of local governments certified in any one State reflects a variety of factors, including:

1. the energy and enthusiasm with which a State office addresses the Certified Local Government, and the resources it has to devote to it;

2. the nature of State enabling legislation, i.e., what a State requires of a local government in return for certification;

3. the number of local governments (i.e., potential CLGs) in the State;

4. the level of local interest in historic preservation issues, for example, a strong history of local preservation efforts, or an antipathy toward federally funded and administered programs; and,

5. the manner in which the program is overseen by the National Park Service Regional Offices which, while subject to the same overall review by the Washington Office, have somewhat differing orientations and relations with the States under their review. While all Regional Offices see that minimum Federal requirements are met, some have more personnel and enthusiasm to devote to administering the program and some are more strict in interpreting the rules.

The nature of State certification procedures also affects the rate of certification. Some States (e.g., Utah) take an approach designed to make it as easy as possible for local governments to become certified with the intention of working to improve local programs after certification. Other States take the approach that requires the upgrading of local programs prior to certification. Georgia and Kentucky have taken this approach; both require CLGs to have local ordinances for the designation and protection of historic and archeological resources.

Assessment and Conclusions

The National Park Service will continue to strengthen the Certified Local Government program so that local governments are better able to take on additional authorities and responsibilities in the national historic preservation program. While the National Park Service encourages States to involve CLGs in all aspects of the State program, the Service does not currently allow States to delegate complete authority and responsibilities to CLGs. States cannot delegate their authority to nominate properties to the National Register, their responsibilities under Section 106 of the Act, or their responsibilities in the preservation tax incentives program. CLGs must work through the State office of an approved State program in participating in these processes. The Service is decentralizing some of its authority to States (as discussed in the summary of section 101(a)(1)-(6)), however, the Service will not be in a position to consider allowing further delegations by States to CLGs until this decentralization is completely and adequately tested.

The issue of the role of Indian tribes in the national historic preservation program, discussed in the summary of section 101(a)(1)-(6) in this report, is also relevant to the Certified Local Government program. Indian tribes do not have formal roles or

responsibilities in the national program. Most Indian tribes and Native American corporations do not meet the definition of a "local government" as found in Section 310(3) of the Act -- "a city, county, parish, township, municipality, or borough, or any other general purpose political subdivision of any State". Therefore, Indian tribes are not eligible for CLG certification or funds. The Navajo nation, for example, does not function as a political subdivision of a State, and desires to be treated as an independent political entity. However, in some States, such as Alaska, many Native American corporations function as local governments, and represent a large proportion of local political entities in the State. Some Native American corporations in Alaska want to become certified in order to be eligible for CLG funds.

Indian tribes are eligible for project funding as subgrantees of State programs. In addition, section 101(d)(3)(B) of the Act authorizes direct project grants to Indian tribes, but funds to implement this section are not available.

Inasmuch as tribes do not meet the Act's definition of local governments, States do not have jurisdiction over tribes, and Indian tribes have a unique legal status in the United States, it would be appropriate for them to participate in the same manner as the States. Tribes should be given the option of having Tribal Historic Preservation Officers. In coordination with the State Historic Preservation Officers, designated tribal officials could perform the duties and have the authorities of the State Historic Preservation Officer for purposes of actions affecting properties on tribal reservation lands. Such officials and their programs would have to meet the same qualifications requirements and be subject to the same National Park Service reviews and approvals as State Historic Preservation Officers and their programs.

Sections 101(d), 102, and 103

Authorization

Section 101(d) authorizes the Secretary to administer matching grants-in-aid to States for projects and programs, and to the National Trust for Historic Preservation. This section also directs the Secretary to administer a program of grants for the preservation of National Register properties, National Historic Landmarks and World Heritage properties; for preservation training; to assist small businesses in National Register historic districts; and for assistance to Indian tribes and non-profit organizations for the preservation of their cultural heritage.

Section 102 sets out administrative requirements for the Historic Preservation Fund (HPF) and Section 103 authorizes the Secretary to apportion grants for projects and programs, and grants to certified local governments, and directs the Secretary to establish guidelines for apportionment to local governments.

Status of Implementation

The National Park Service exercises management oversight of Historic Preservation Fund grants through three mechanisms: the review of grant-related documents provided by the State Historic Preservation Officers, organization-wide financial audits, and periodic program evaluations (State Program Reviews). A comprehensive manual specifies grant program requirements. Oversight procedures have been established using the above mechanisms in order for the Secretary to carry out his responsibilites under the National Historic Preservation Act, the Federal Manager's Financial Integrity Act, and Department regulations governing grant-assisted programs. In addition, the first internal audit of Historic Preservation Fund grant administration has been performed by the Office of the Inspector General, and its recommendations have been implemented.

Grant-related documents reviewed by the National Park Service during the oversight and administration of the Historic Preservation Fund include applications, project notifications (summaries of proposed subgrants including the proposed scopes of work), End-of-Year (accomplishment) Reports, and Final Project Reports (reports certifying that work has been accomplished according to grant terms and the appropriate Secretary's Standards).

Appropriated funds are awarded based on annual grant applications. The National Park Service has developed an integrated grant application, accounting, and reporting structure in keeping with the annual appropriations cycle. With the exception of the Emergency Jobs Act of 1983, appropriation laws since 1982 have prohibited the use of HPF monies for acquisition or development. Guidelines for funding certified local governments are published in 36 CFR Part 61.

Section 103(b) requires the Secretary to notify each State of its apportionment within thirty days following the date of enactment of the legislation appropriating funds. An apportionment formula based on needs determined by individual State workload and performance factors is applied, and these factors correspond to the responsibilites of SHPOs specified in Section 101(b)(3). Application of the formula results in an allocation to each State and Territory from the aggregate appropriation.

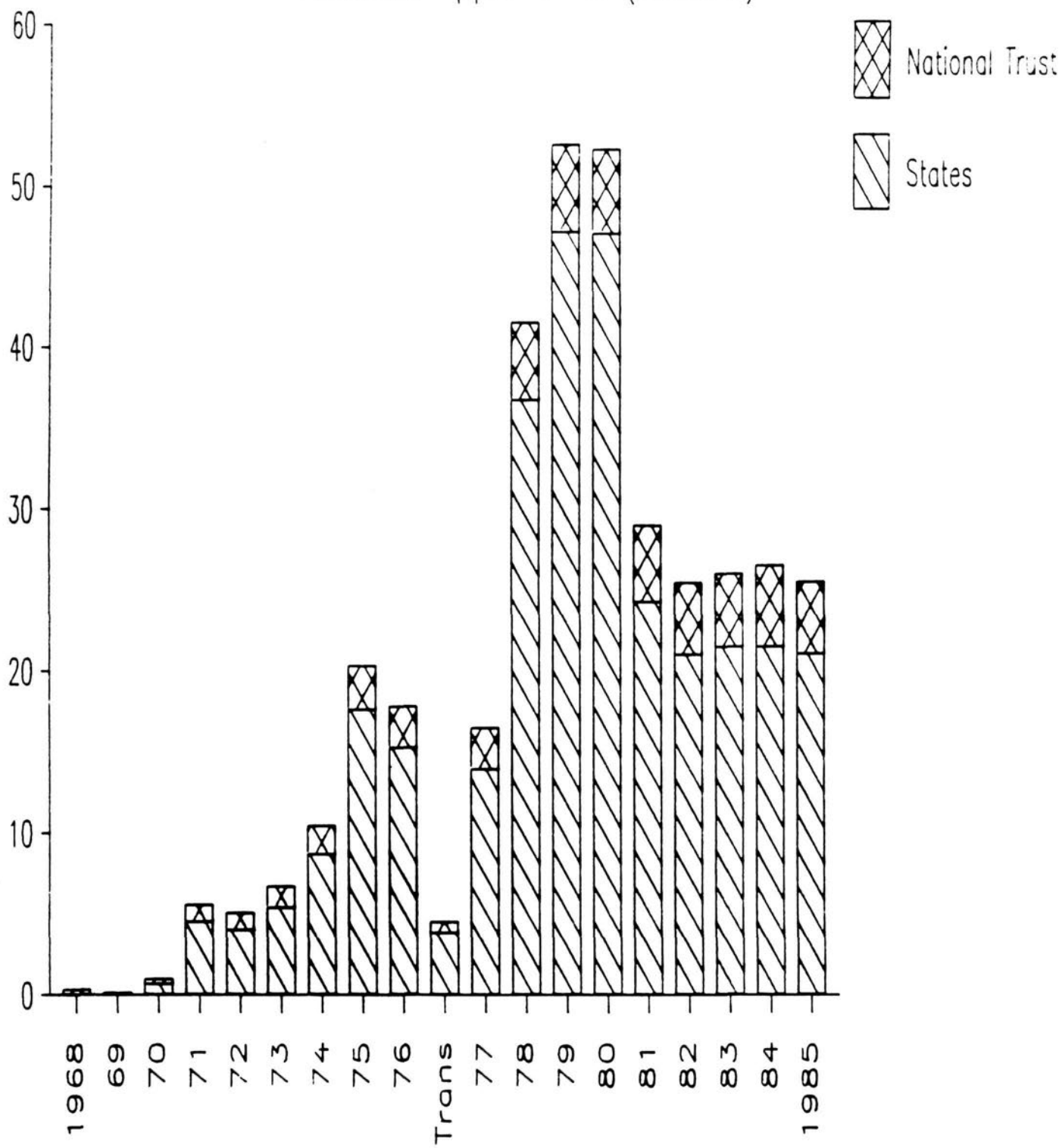
Table 4 and Figure 3 summarize the appropriated amounts for States and Territories and the National Trust for Historic Preservation for FY 1968-1985.

Table 4: Annual HPF Fiscal Appropriations

Fiscal Year	Amounts Appropriated (millions)	
	States	National Trust
1968	$.00	$.30
1969	.08	.02
1970	.67	.30
1971	4.51	1.04
1972	4.00	1.04
1973	5.38	1.31
1974	8.70	1.75
1975	17.60	2.70
1976	15.26	2.54
FY Transition Quarter	3.82	.68
1977	13.92	2.54
1978	36.72	4.80
1979	47.12	5.40
1980	47.02	5.20
1981	24.26	4.70
1982	21.02	4.42
1983	21.50[1]	4.50
1984	21.50	5.00
1985	21.07	4.41
Totals	$314.15	$52.65

[1] Does not include $25 million authorized under the Emergency Jobs Act.

Figure 3: Annual HPF Appropriations



Matching requirements set forth in Section 102(3) of the Act are 70 percent Federal funding for historic property surveys and 50 percent Federal funding for all other eligible projects and programs.

Table 5 presents sources of funds used to match expenditures reported by States in End-of-Year Reports. The annual totals may be less than the annual apportionments given in the Table 4 because of the 70 percent Federal share for historic property survey.

Table 5: Sources of HPF Matching Share

Source of Match	FY 1981[1] Amount	%	FY 1982[1] Amount	%	FY 1983 Amount	%	FY 1984 Amount	%
Federal (CDBG, Revenue Sharing)	$8,273,000	22.79	$649,000	4.10	$756,000	4.39	$1,203,000	3.87
Government/ Non-Federal								
State	11,286,000	31.09	9,943,000	62.84	12,013,000	69.83	13,594,000	43.77
Regional Public Organization[2]	-	-	-	-	-	-	222,000	.71
County	1,535,000	4.23	1,033,000	6.53	672,000	3.91	1,421,000	4.58
Certified Local Government[2]	-	-	-	-	-	-	572,000	1.40
Municipal	2,239,000	6.17	1,118,000	7.07	973,000	5.66	3,309,000	10.65
Non-government								
Educational Institution	2,155,000	5.94	741,000	4.68	943,000	5.48	2,101,000	6.76
Non-Profit	3,325,000	9.16	1,541,000	9.74	1,295,000	7.53	5,649,000	18.19
Commercial Organization	1,950,000	5.37	282,000	1.78	308,000	1.79	1,039,000	3.35
Other Private	5,534,000	15.25	515,000	3.25	242,000	1.41	1,949,000	6.28
Total	$36,297,000	100.00	$15,822,000	100.00	$17,202,000	100.00	$31,059,000	

[1] Data for these two years adjusted because all States did not report.
[2] Category introduced in FY84

Broad organization-wide financial audits were required by the Office of Management and Budget (OMB) Circular A-102, Attachment P. This requirement has been superseded by the Single Audit Act of 1984 and its implementing OMB Circular A-128. The broad single audit is limited generally to compliance testing of overall accounting systems rather than compliance testing of individual program-specific regulations and requirements. Under the organization-wide audit, the degree of accounting system testing is dependent on the percentage of funds provided by each Federal grant to the organization being audited. The relatively small preservation grant programs, averaging less than $500,000 annually per State, receive relatively little attention under the organization-wide audit concept. Because of this limitation, the State Program Reviews required by Section 101(b)(2) of the Act are particularly important.

The responsibilities of SHPOs are set forth in Section 101(b)(3) of the Act. Corresponding to those responsibilities, the National Park Service has defined program activities eligible for grant assistance in eleven program areas under which States describe activities in their applications for financial assistance. The National Park Service reviews the performance of States in each of these program areas. A description of those reviews can be found in the summary for Section 101(b) in this report.

Funds appropriated annually to States and the National Trust are promptly apportioned pursuant to Section 102. The rate of expenditures for program purposes has been greatly increased among the 57 States and Territories. This is related to annual "use or lose" requirements established in 1979. From 1979 through 1981, all funds were required to be obligated during the fiscal year apportioned. Funds not assigned to specific subgrants or expended were subtracted from the following year's apportionment and reallocated to other States. Beginning with FY 1982, up to 25 percent of the preceding year's apportionment not expended or committed to subgrants could be carried over by each State without penalty. Funds in excess of this 25 percent limit have been reprogrammed to other States. Any funds not expended within two years of appropriation are returned to the U.S. Treasury.

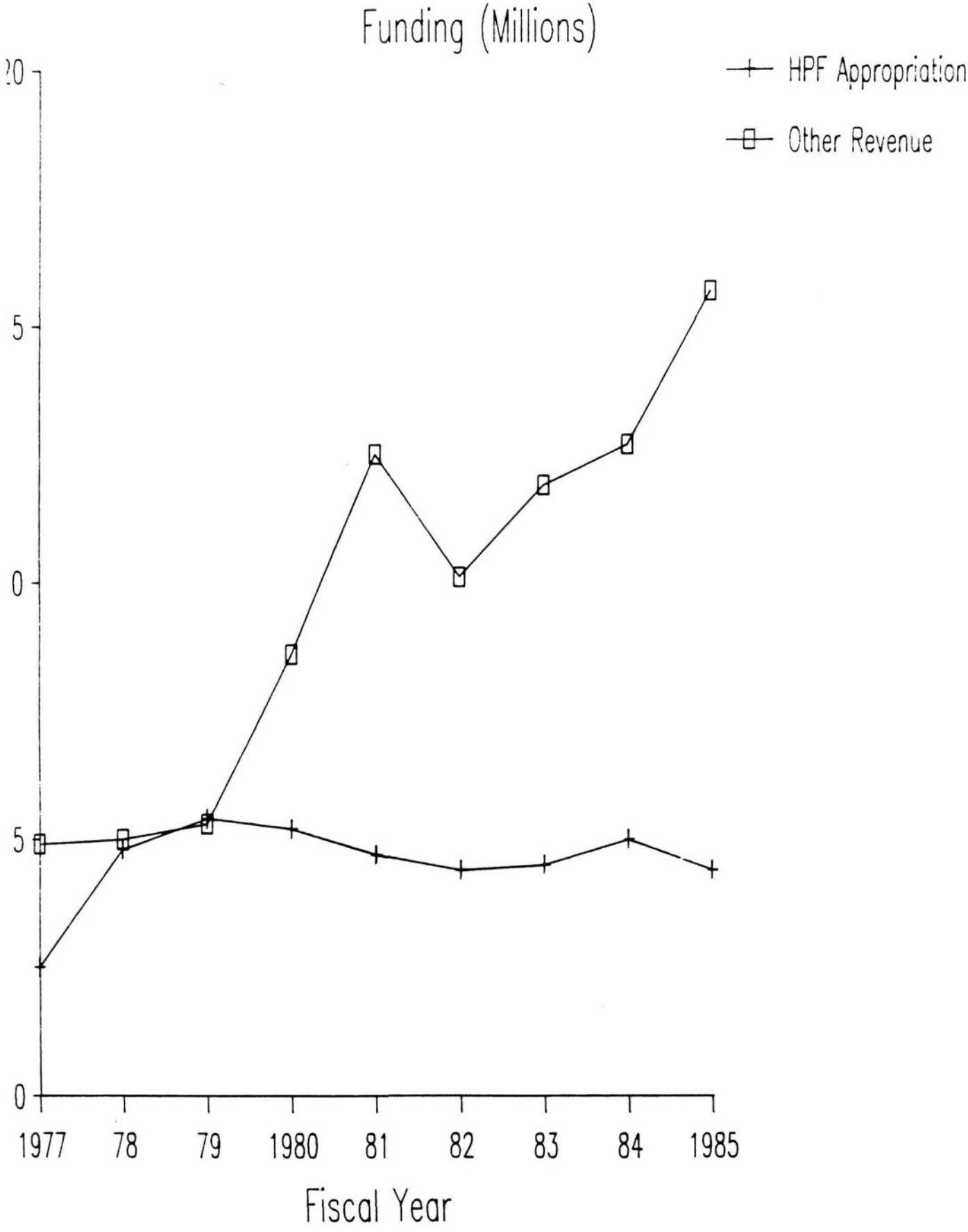
The National Register Programs Manual prescribes mandatory policies, requirements and procedures for operational, administrative and fiscal aspects of the grant program. It applies applicable laws and OMB uniform administrative requirements governing grants to historic preservation activities performed with financial grant assistance. The OMB requirements have been promulgated in Interior Department regulations, 43 CFR Part 12, dated February 14, 1985. 43 CFR Part 12 provides the administrative framework and basic elements of grant program accountability not covered by specific program regulations.

(2) National Trust for Historic Preservation. The National Trust has been assisted annually by Federal matching grants-in-aid from the Historic Preservation Fund in accordance with Section 101(d)(2) of the Act. Elements required by OMB uniform administrative requirements governing grants to non-profit organizations (Circular A-110) and cost principles (Circular A-121) were incorporated into the National Register Programs Manual. Funds for the National Trust are appropriated by a separate line item. Table 6 and Figure 4 present the amount of the HPF appropriation to the National Trust compared to revenues from other sources. The increase in revenues from other sources is evidence that the organization has become less reliant on Federal support.

Table 6: Funding for the National Trust for Historic Preservation

Fiscal Year	HPF Appropriation (millions)	Revenue from Other Sources (millions)
1977	$2.5	$4.9
1978	4.8	5.0
1979	5.4	5.3
1980	5.2	8.6
1981	4.7	12.5
1982	4.4	10.1
1983	4.5	11.9
1984	5.0	12.7
1985	4.4	15.7
Total	$40.9	$86.7

Figure 4: HPF Assistance to National Trust



No direct grants pursuant to Section 101(d)(3) have been made because the total funding available for grants to States since 1979 has significantly declined and Congress has not directed implementation of this section with earmarked appropriations.

Assessment and Conclusions

In the early 1960s, Federal and federally assisted projects were taking a grievous toll on historic properties. There were no specific legislative requirements for Federal agencies to take into account State and locally significant historic properties. At the urging of historic preservation activists and supporters, Congress adopted the National Historic Preservation Act of 1966 (and subsequent amendments), requiring that historic properties be considered by Federal agencies in planning and decisionmaking, and that each State should have a Historic Preservation Officer appointed by the Governor. This officer would represent the historic preservation interests of the State to Federal agencies. Such interests would be based upon an evaluated inventory and statewide plan for historic properties approved by the Secretary and done in accordance with the standards and guidelines developed by the Secretary. Nationwide, these inventories would constitute the National Register of Historic Places. Taking into account these inventories and statewide historic preservation plans, Federal agencies could better plan their activities to minimize adverse effects on historic resources and maximize historic preservation.

Each State Historic Preservation Officer performs several important functions for the State. These functions include, but are not limited to, the identification and nomination to the National Register of properties that represent significant aspects of the State's history; review and comment on projects using Federal historic preservation tax credits; and review and comment on Federal projects affecting historic properties. All of these functions are performed by the SHPO as the representative of the Governor. As such, the SHPO has a formal status in Federal decisionmaking, and his or her comments are respected and considered; these are significant functions performed by the SHPOs on behalf of their States.

Incentives were needed to implement and institutionalize this system. To this end, matching grants were given to States for the purpose of conducting inventories and developing statewide plans. Of the $314 million Historic Preservation Fund (HPF) appropriated to States since 1969 (see Table 4), $193 million has been used for State program operating costs, including survey and planning. This funding, as was intended, has been pivotal in institutionalizing State-based planning and survey systems.

Since 1981, the President's Budget has contained no funds for historic preservation matching grants to States. This continues to be an appropriate policy. In the twenty years since passage of the Act, the States have developed strong and sophisticated programs. Those programs primarily benefit the States by assuring that their interests and resources are properly considered by Federal agencies and by promoting sensitive redevelopment of older areas.

The Federal Government is not withdrawing, nor does it intend to withdraw, from its partnership with the States. Funding for historic preservation in the States is not being discontinued. Direct aid grants for State administration and planning from the HPF represent only one means of Federal historic preservation assistance to the States. For example, State agencies such as highway departments, community development agencies, and land and water resource agencies, which receive Federal grants and funds, spend up

to one percent of these funds for necessary historic preservation work. Federal agencies, such as Agriculture, Interior and Defense, conduct historic preservation activities within the States. All of these efforts are coordinated with the SHPO, and the various State and Federal agencies take into consideration the opinions and interests of SHPOs concerning State historic properties.

SHPOs are now an integral part of the national historic preservation program, and as such, are an important and valuable asset to their States. With further decentralization of National Register and tax certification program authorities and responsibilities to the SHPOs, the significance of that officer and the office within State government will measurably increase. Further, the SHPOs' expanded role in the tax certification program will ensure prompt decisionmaking so that program benefits can be efficiently realized. The national historic preservation program has realized a state of maturity that allows for more decisionmaking authority by States. The best insurance for a continuing vital national program is to recognize the professionalism of State and local government staffs, and, as appropriate, transfer substantive authorities from the Federal Government to the States.

Various parties have argued in favor of Federal matching grants to the States on the grounds that the States perform functions that benefit the National as a whole, such as reviewing National Register nominations and certification applications for tax credits. However, the results of those activities are also beneficial to the States. Initial funding to establish and support the State programs in the first 15 years was important to assure good programs nationwide. We are now in an era where the benefits accruing to the States in the form of Federal consideration of State and local resources, of State control of determining which resources are most important, and the value of redevelopment through historic preservation tax credits, are so valuable that States will fund their programs without matching grants.

Section 101(f)

Authorization

Section 101(f) requires the Secretary to promulgate guidelines, in consultation with the Advisory Council on Historic Preservation, for Federal Agency responsibilities under Section 110 of the Act. Section 110 prescribes general and specific responsibilities of Federal agencies in the preservation of historic properties.

Status of Implementation

Following extensive consultations with the Advisory Council, the Guidelines for Historic and Archeological Resource Management: Federal Agency Responsibilities Under Section 110 of the National Historic Preservation Act were proposed with a 60-day comment period on March 10, 1986. Following receipt and consideration of comments, the Department will publish the document in final.

The Section 110 Guidelines present a model process for use by Federal agencies as a reference standard when establishing, revising, and operating their programs for historic resource management. These guidelines assist agencies in carrying out their missions, programs, and projects in a manner consistent with the requirements and purposes of Section 110 of the Act, existing regulations, and the Secretary's Standards and Guidelines. As such, the Section 110 Guidelines are the "Federal handbook" for historic preservation.

The project and program standards and guidelines for implementing Section 110 are the Secretary's Standards and Guidelines, prepared pursuant to Section 101(h), and published in the Federal Register on September 29, 1983. They are the Secretary's performance standards for carrying out historic preservation activities, such as planning, identification, evaluation, documentation, and preservation, and are applicable to all users, public and private. Rather than repeat the information in the Secretary's Standards in the Section 110 Guidelines, the Secretary's Standards are frequently referenced. It is, therefore, important for Federal agencies to consult both documents in meeting the responsibilities stated in Section 110.

Assessment and Conclusions

Congress, in passing the 1966 Act, envisioned that the listing of properties in the National Register and subsequent planning and treatment of such properties would be done in accordance with uniform national standards. The publication of the Section 110 Guidelines and the Secretary's Standards and Guidelines satisfies this key program requirement.

Section 101(g)

Authorization

Section 101(g) requires the Secretary to establish "professional standards for the preservation of historic properties in Federal ownership or control." These standards were to be prepared within one year after enactment of the 1980 amendments to the NHPA, in consultation with the Secretaries of Agriculture and Defense, the Smithsonian Institution, and the General Services Administration.

Status of Implementation

The Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation were published in the Federal Register on September 29, 1983. Since that time, the standards and guidelines have been used under varying field and administrative circumstances by Federal, State and local agencies, private organizations and individuals. In FY 1985, the standards and guidelines were reassessed based on the comments and experiences of Federal, State and local agencies and private organizations and individuals. After careful consideration, the National Park Service determined that the standards and guidelines meet the requirements of the 1980 Amendments to the Act. They provide a sound philosophical framework for historic preservation decisionmaking.

It should be noted that one portion of the standards, the Secretary of the Interior's Standards for Historic Preservation Projects, were first published in the Federal Register in 1976, and the Rehabilitation Standards have been the basic program document for the administration of the Tax Incentives Program.

Assessment and Conclusions

During the period of time since the enactment of the 25 percent investment tax credit for certified rehabilitations in January 1982 until the end of FY 1985, over $7.7 billion worth of private rehabilitation (approximately 10,300) projects have been approved by the National Park Service. The high quality of the historic preservation work carried out utilizing the standards was recognized in 1984 when the program received a Presidential Design Award. The standards have also been strongly supported by State and local governments. The National Alliance of Preservation Commissions, for example, has encouraged their incorporation into local historic zoning ordinances, and hundreds of communities nationwide have adopted them. Because the standards represent the state-of-the-art in historic preservation guidance, they have influenced the development of standards in other countries.

Section 101(h)

Authorization

Section 101(h) directs the Secretary of the Interior to make training and information about historic preservation methods, techniques, and administrative procedures available to Federal agencies, State and local governments, private organizations and individuals, and other nations and international organizations. It specifically directs the Secretary to "develop mechanisms to provide information concerning historic preservation to the general public including students."

Status of Implementation

In addition to extensive in-house training for National Park Service cultural resource managers, the Service has developed and sponsored a wide variety of preservation training programs for Federal, State, and local officials as well as the private sector. In 1981-82, for example, the Service instigated and co-sponsored with the National Trust for Historic Preservation 12 workshops across the country on preservation tax incentives and rehabilitation issues. These workshops attracted over 3500 developers, architects, attorneys, and local, State, and Federal officials. Another series of workshops, "Successful Rehabilitation," co-sponsored with the Association for Preservation Technology between 1983 and 1985, provided training to 600 architects, contractors, developers, and city officials on appropriate preservation techniques and treatments. The Service has routinely participated in preservation workshops and conferences sponsored by such diverse organizations as the Defense Department (Air Force and Army Corps of Engineers), American Institute of Architects, National Conference of SHPOs, General Services Administration, and a number of university programs, including Boston University, University of Maryland, Howard University, University of Oregon, and University of Florida. National Park Service regional offices also provide regularly scheduled workshops for States within their jurisdictions.

The Secretary's Standards and Guidelines were explicitly designed to be explained, expanded, and kept up-to-date through supplementary technical information. Over the past 10 years, the National Park Service has developed over 50 technical publications on preserving and rehabilitating historic buildings, including 13 Preservation Briefs, 13 technical reports, 9 preservation case studies, and 15 Preservation Tech Notes. Seventy-five "Interpreting the Standards" bulletins on precedent-setting preservation projects have also been written and compiled by the Service for use by State and Federal officials. These publications receive broad distribution and are available through the Government Printing Office.

The National Park Service has encouraged the use of Historic Preservation Fund matching grants for training and public information purposes. Some States have made excellent use of this opportunity, developing programs for training and disseminating information to State agencies, local governments, and schools.

The National Park Service has conducted extensive workshops and training in addition to providing specialized technical assistance to Federal agencies and State governments in the National Register nomination process. In the past four years, staff have participated as speakers, panelists, and trainers in more than 31 State and seven Federal seminars or workshops. Meetings with State and local officials are also held on particular National

Register nomination problems. In addition, National Park Service staff often participate as speakers at professional seminars and meetings attended by Federal and/or State officials. Since 1980, the Service has produced a series of publications, including 16 publications which provide basic information on the National Register process. The "Directory of Technical Information," which was prepared in 1983 to support the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, provides bibliographic references for assistance in planning, identifying, evaluating, registering, and treating cultural resources.

The National Park Service provides technical preservation advice to owners of National Historic Landmarks (NHLs) through its Regional Offices. General inquiries concerning the preservation of Landmarks, general maintenance, deterioration, and financial assistance are routinely answered by the Service. In some cases, on-site consultations are performed by the Service.

Under the General Authorities Act of 1976, the Department of the Interior identifies endangered NHLs in an annual report to the Congress. As a result of this identification process, the Department is able to direct efforts to the custodians of those endangered NHLs most in need of technical assistance. Each year since 1977, the Department has identified approximately 3 percent of all NHLs as severely damaged or imminently threatened with such damage. An additional 8 percent of all NHLs exhibit threats or damage which may increase to this severe state within two to five years. Although technical assistance from a variety of public and private sources results in the protection of some of these NHLs, the status of the majority of them remains the same or deteriorates.

Physical deterioration and damage to building materials is the most common source of damage and threat to NHLs, accounting for 53 percent of those NHLs reported by the Secretary to Congress as threatened in 1985. Deferred maintenance and repair, rather than catastrophic events, causes damage, and generally occurs when properties are under-utilized or vacant, and when owners have insufficient funds for repair. Although the majority of these Landmarks are privately owned, State or locally owned Landmarks can suffer from the same problems. Most are ineligible for historic preservation tax credits because they are owner-occupied residences, owned by non-taxable entities, located in isolated, economically depressed areas where investment is lacking, or for other reasons. These conditions often make these properties unattractive for local or private preservation efforts.

Archeological Landmarks are threatened and damaged by agriculture, mining and by vandalism and unauthorized collecting of artifacts. These activities comprise 20 percent of the threats and damages to all Landmarks. Restrictions on these activities without adequate financial compensation would create economic hardships to the owners. Although there are national organizations that purchase easements on endangered archeological sites, these organizations lack sufficient financial resources to protect many endangered sites. Federally-owned archeological sites are often located in remote areas where adequate surveillance to protect against vandalism and unauthorized collection is difficult. Native American and Eskimo populations adjacent to sites in Alaska often depend upon the sale of ivory and bone artifacts from these sites as an important source of income.

Assessment and Conclusions

Because of the continued deterioration of many Landmarks, it is important that the Department, with the support of the Advisory Council on Historic Preservation, the National Conference of State Historic Preservation Officers, and the National Trust for Historic Preservation, reassess the adequacy of Federal efforts to provide technical assistance to the custodians of endangered National Historic Landmarks.

The "Preservation Briefs" series has been a key element in the high quality of projects done with the aid of Federal historic preservation tax incentives by producing important materials on technical subjects. This information would otherwise be virtually unavailable. Other National Park Service publications are also of considerable importance: a publication on cultural landscapes, for example, issued by the Service in 1984, is among the definitive works on this newly developing aspect of preservation.

The encouragement given to SHPOs to carry out training and information programs has also been very important and has led to Oakland, California's, award-winning "Rehab Right" handbook; a handbook on maintenance techniques published by the Texas Historical Commission; and a score of other preservation technology and planning manuals, such as the "Bellows Falls, Vermont Handbook," or the "Blasoma Handbook," several of which incorporate the Preservation Briefs.

The National Park Service has balanced its training efforts to focus on preservation needs both inside and outside the Service. Through use of videotapes, slide packages, and written materials, the Service has been able to expand its ability to provide training to satisfy demands from both the private and public sectors; for example, Preservation Briefs are routinely used in training courses by the Army Corps of Engineers, and slide talks on rehabilitation techniques have been loaned to the National Trust for Historic Preservation, the Army, and various State historic preservation offices.

The National Park Service is concentrating its efforts on improving technical assistance for identification, evaluation and registration through a series of workshops for State and Federal agencies and by responding to needs for guidance on specific topics with a series of National Register Bulletins to address difficult issues. Decentralization of property-specific decisions will enable the Service to place increased emphasis on issuing guidance. Technical information and guidelines are being indexed and consolidated, where appropriate. With further decentralization of decisionmaking, it becomes even more critical that high quality training and technical information be available to other Federal agencies, State and local governments, and the private sector. Continued Federal technical assistance is an important management tool to ensure predictability, stability, and professionalism within all preservation programs.

Section 104

Authorization

Section 104 directs the Secretary to establish and maintain a program of insured loans to finance preservation of a property listed in the National Register. The section outlines elements of the loan program.

Status of Implementation

The Congress has not appropriated money for this program, and the program has not been implemented.

Assessment and Conclusions

Loan insurance will represent an entirely new effort requiring additional positions and substantial cost outlay for hiring and training personnel. If the Congress deems it important to direct implementation of this program, it would be more cost effective to implement through an agency that has existing capability to administer federally insured loans.

Section 105

Authorization

Section 105 directs the Secretary to prescribe rules for recordkeeping by all recipients of Historic Preservation Fund grant assistance. The section states that recipients' records shall include, at a minimum, records which fully disclose the disposition by the beneficiary of the proceeds of such assistance; the total cost of the project or undertaking in connection with which such assistance is given or used; the amount and nature of that portion of the cost of project or undertaking supplied by other sources; and such other records as will facilitate an effective audit.

Status of Implementation

In 1979, the Service issued the Historic Preservation Fund Grants Management Manual. It provided guidance to the recipients of the Historic Preservation Fund Grants in fulfilling the terms and conditions of the grants. Included were detailed procedures on recordkeeping responsibilities, as required by Office of Management and Budget (OMB) Circular A-102, "Uniform Administrative Authorizations for Grants-in-Aid to State and Local Governments," and Circular A-110, "Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-profit Organizations." OMB Circulars A-102 and A-110 establish the requirements for both financial and program management.

In October 1984, the Service published a revision to the manual, renamed the National Register Programs Manual (NPS-49). This revised manual includes changes in government-wide financial requirements (occurring since 1979) and standardized program material (forms and instructions). The latter material had previously been issued separately and revised on an annual basis. Currently, changes to both program and financial management requirements are made through revisions to the Manual. The manual explains measures required to complete forms, report financial transactions, establish financial management systems, including procurement, report program performance, and resolve audited costs.

Assessment and Conclusions

Management of Historic Preservation Fund grants follows the uniform requirements applicable to Federal financial assistance provided to States, local governments, and non-profit organizations. The provisions of OMB Circulars A-102 and A-110 have enabled National Park Service to implement procedures that facilitate the tracking of all monies awarded through its grants and the documenting of funds used to match Federal grant funds. These financial records allow for audit of the financial management of the program. Audits are conducted independently by State auditors, with conclusions and findings forwarded to the Service through the Inspector General's Office and the Office of the Secretary. The Service either sustains the findings of the audits or requests additional information to resolve discrepancies. In those instances where the National Park Service has requested additional information or samples of financial records, the Service usually has found that the recordkeeping procedures were adequate and allowed the State offices to explain discrepancies fairly easily. In a few instances, costs have been disallowed for lack of supporting documentation, and repayment has been required.

The National Park Service supplements the independent (though not comprehensive)

financial audits through the State Program Approval Process (see summary of Section 101(b)). For both financial and program management areas, the Service uses State Program Reviews to ensure that adequate recordkeeping systems are in place, that the systems are used, that data can be replicated, and that the requirements of the Manual are met.

In accordance with the provisions of OMB Circulars A-102 and A-110, the Federal agency that awards the grant is allowed to develop formats for records needed to evaluate program performance. The requirements set forth in the Manual for maintaining records related to the various program areas are comprehensive, and State offices must maintain records for the most important activities that occur during the grant year.

In FY 1983, the National Park Service developed a single form to be used for both applications and end-of-year reports. The new form provides accurate information on planned and actual State output by program area, and, for the first time, requires States report on money and effort spent and major products achieved with the HPF and matching funds. This information is reported to Congress as part of the information collection process. Some of this data is also used in the performance-based portions of the apportionment formula.

All records kept by State Offices on the financial and program management of Historic Preservation Fund grants are maintained for a minimum of three years in original or on microfiche. They are available for public review in accordance with the provisions of "The Freedom of Information Act," unless exempted by the Service. Records retained by subgrantees can be kept by them, as long as the State Office has copies available for necessary audit requirements. The National Park Service, on behalf of the Secretary, has fully met the intent of Section 105.

Given the relatively low level of funding, however, some States find the recordkeeping requirements excessive. To address this concern, the Service has an on-going policy of re-evaluating those portions of the recordkeeping requirements which are discretionary. Additions, deletions, and corrections are made through revisions to the Manual.

Section 106

Authorization

Section 106 requires Federal agencies to consider the effects of undertakings on properties listed in or eligible for the National Register and provide the Advisory Council on Historic Preservation an opportunity to comment with regard to such undertakings.

Status of Implementation

Consistent with the authority under Section 101(a)(2)(E) to make determinations of eligibility for inclusion in the National Register, the National Park Service makes such determinations upon request by Federal agencies carrying out the requirements in Section 106.

Regulations, 36 CFR Part 63, provide for expedited review of documentation and determinations of eligibility within 10 days when the requesting Federal agency and the appropriate State Historic Preservation Officer agree that the property in question is eligible for inclusion in the National Register. Without such agreement, the National Park Service makes determinations within 45 days of receipt of adequate documentation. Proposed revisions to these regulations provide that, when the Federal agency and appropriate State Historic Preservation Officer agree that a property is eligible, such property may be considered eligible for the National Register for purposes of Section 106 without National Park Service review and a determination of eligibility. The Service will continue to review and make determinations for all other requests.

Assessment and Conclusions

The legislative history of the Act indicates that Congress intended that the Council ensure that State and local historic preservation interests be considered during Federal decisionmaking. The national historic preservation program has gained a level of professional maturity among States and local governments, and among Federal agencies, such that the Department of the Interior is moving to decentralize, to the extent practical, decisions concerning the identification of properties of State and local significance. The Department suggests that the Council commit itself to a parallel decentralization of decisionmaking. Where there is concurrence between Federal agencies and approved State programs on identified values, treatments, and mitigations, it is no longer necessary or appropriate to have Interior or Council involvement, except to ensure that Federal standards and guidelines are met on a programmatic basis.

For a summary of the role and responsibilities of the Advisory Council under Section 106 and other authorities, see the discussion under Section 211.

Section 107

Authorization

Section 107 exempts the White House, the Supreme Court, and the U.S. Capitol from the provisions of the Act.

Status of Implementation

Legal requirement is met.

Section 108

Authorization

Section 108 establishes the Historic Preservation Fund and stipulates the covering of set amounts of money into the fund for FY 1977 through 1987.

Status of Implementation

Legal requirement is met.

Assessment and Conclusions

Based on the appropriations history of the last several years (see the discussion of Sections 101(d), 102, and 103) and the $968 million unappropriated balance in the Historic Preservation Fund (HPF), the Secretary does not recommend extension of that provision of Section 108 that directs the covering of set amounts of monies into the HPF from revenues due and payable to the United States under the Outer Continental Shelf Lands Act.

Although Section 108 authorizes set amounts to be covered into the HPF for each fiscal year from 1977 through 1987, that section stipulates: "Such moneys shall be used only to carry out the purposes of this Act and shall be available for expenditure only when appropriated by the Congress. Any moneys not appropriated shall remain available in the fund until appropriated for said purposes: Provided, that appropriations made pursuant to this paragraph may be made without fiscal year limitation." Thus, as of January 1, 1986, $433.8 million has been appropriated by the Congress, and over $968 million of unappropriated amounts remain available for appropriation without additional monies being covered into the fund.

Sections 109 and 303

Authorization

Section 109 allows the Secretary to accept donations of funds to acquire, restore, preserve, or recover data on National Register properties, and establishes criteria for the expenditure of such donations. The Secretary is also authorized to transfer donated funds to the National Park Service for use in accordance with the Act.

Section 303 authorizes the Secretary to accept and expend donations and bequests for furthering the purposes of the Act. The Secretary is further authorized to accept donations of less than fee interests in historic properties where such interests will facilitate preservation.

Status of Implementation

Consistent with this authority, authorities in the Historic Sites Act of 1935, and other general legal authorities, the National Park Service has begun an effort to obtain private donations for historic preservation purposes. The Service has expanded donations through development of gift catalogues and public information and education efforts.

One specific program that is being implemented is the National Historic Landmark Fund. At the request of the Director of the National Park Service, the National Park Foundation has established the National Historic Landmark Fund for the purpose of obtaining private donations to assist damaged and threatened Landmarks that are either publicly or privately owned. The Service is providing technical support to the Foundation to ensure that funded work meets the Secretary of the Interior's Standards and Guidelines for Historic Preservation Projects. As part of its technical assistance activities, the Service is using appropriated funds to undertake in-depth condition assessments of damaged and threatened Landmarks; these reports identify the critical work needed and provide estimated costs. These reports will be made available to potential contributors to the National Historic Landmark Fund in an effort to promote contributions. The Service and the Foundation are currently developing printed information on the fund and other pertinent material which will be used in seeking contributions.

Assessment and Conclusions

The Service will continue to encourage donations through development of gift catalogues and public information and education efforts. Consistent with the placing of greater emphasis on the responsibility of the Federal Government to identify and protect properties of national significance, the Secretary will continue to explore ways to enhance the preservation of National Historic Landmarks using the authorities in these sections.

Section 110

Authorization

Section 110 prescribes general and specific responsibilities of Federal agencies in the identification, evaluation, registration, and protection of properties possessing historic, archeological, architectural, engineering, or cultural significance.

Status of Implementation

The discussion of subsections of Section 110 in this report addresses only those authorizations or requirements directed at the Secretary, and does not attempt to evaluate the performance of Federal agencies under Section 110, beyond providing basic data. Because there is no requirement in the Act whereby Federal agencies must report the status of their implementation of the provisions in Section 110 to the Secretary, information on agency compliance in not included here.

Section 101(f) of the Act requires the Secretary to promulgate guidelines, in consultation with the Advisory Council on Historic Preservation, for Federal agency responsibilities under Section 110. Following extensive consultations with the Advisory Council, the Guidelines for Historic and Archeological Resource Management: Federal Agency Responsibilities Under Section 110 of the National Historic Preservation Act were proposed with a 60-day comment period on March 10, 1986. Following receipt and consideration of comments, the document will be published in final.

The Section 110 Guidelines present a model process for use by Federal agencies as a reference standard when establishing, revising, and operating programs for historic resource management. In addition to providing guidance concerning the requirements in Section 110, these guidelines assist agencies in carrying out their missions, programs, and projects in a manner consistent with the requirements and purposes of the Act, existing regulations, and the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation. As such, the Section 110 Guidelines are a "Federal handbook" for historic preservation.

Assessment and Conclusions

Through implementing the Section 110 Guidelines, the Department expects improved and cost-effective performance by Federal agencies in meeting their historic preservation responsibilities. In addition, by following the guidelines, agencies can be confident that they have adequately complied with the requirements of Section 110.

Section 110(a)(2)

Authorization

Under section 110(a)(2), each Federal agency is required to establish a program to locate, inventory, and nominate all properties under its control that appear to qualify for inclusion on the National Register. Agencies are directed to exercise caution to assure that historic properties under their control or ownership that appear eligible for inclusion on the National Register are not inadvertently transferred, sold, demolished, substantially altered, or allowed to deteriorate significantly.

Status of Implementation

In the proposed guidelines for Federal agency responsibilities under Section 110 (see summary of Section 101(f)), the Secretary of the Interior provides guidance to agencies intended to ensure that identification, evaluation and consideration of historic properties is responsive to the scales and stages at which agency decisions are made about the management of land, buildings, or other resources. Although the guidelines are directed primarily to land-managing agencies, as is Section 110, they do address other non-land managing responsibilities of the agencies. The guidelines encourage agencies to address issues relative to the identification of general classes of historic properties, their likely distribution, and appropriate planning processes for their current and future disposition. Agencies are urged to develop meaningful preservation planning processes that are consistent with the Secretary's Standards and Guidelines in order to fully meet all of their preservation responsibilities under the Act.

In addition to nominating properties to the National Register, Federal agencies identify historic properties as part of the requirement under Section 106 to take into account the effects of Federal or federally assisted projects on properties eligible for the National Register. The Secretary determines the eligibility of properties at the request of Federal agencies. If a Federal agency, with the concurrence of the applicable State Historic Preservation Officer, decides that a property is eligible for the National Register, the Advisory Council will perform a review under Section 106 without requiring that the agency obtain a formal determination of eligibility from the Secretary. Proposed revisions to National Park Service regulations recognize that these agreements between agencies and States concerning the eligibility of properties are valid means by which to identify historic properties for purposes of Section 106 compliance so long as such decisions are made in accordance with standards and procedures established by the Secretary.

Assessment and Conclusions

Federal agencies have two major historic property identification responsibilities under the Act. One is a compliance responsibility whereby agencies have to identify historic properties in order to take them into account in Federal project planning. The other is the requirement to nominate historic properties under Federal control. Because of limited staff and money, agencies must place greater emphasis on the compliance responsibility so as to avoid delays in project activities.

It is common practice, as a first priority, for agencies to survey and inventory lands that are being or will be affected by undertakings. As a second priority, and as funds become available, lands planned for future undertakings are surveyed and inventoried. In general, the cost of meeting these two priorities leaves little or no funding available for survey on those lands which are not expected to be affected by Federal undertakings. For example, according to BLM estimates, even though more than 20,000 potentially eligible cultural properties have been identified on BLM lands, that figure represents survey and inventory on only about 3 percent of the Bureau's acreage.

The process of taking into account historic properties as part of Federal planning and decisionmaking is a logical investment of Federal effort and money. It ensures that the Federal Government is conscious of its actions and their impacts on historic properties. The requirement to nominate properties which may be eligible for the National Register is not framed within a meaningful Federal planning context, and yet Federal agencies are under considerable pressure to meet this requirement. In some cases where agencies do not expect to be affecting properties either immediately or in the distant future, there is no compelling reason for the agency to nominate such properties to the National Register. Often the effort and expenditure needed to prepare and process those nominations could be applied to other activities, including more immediate preservation needs.

The Department of the Interior generally supports the manner in which Federal agencies have chosen to set priorities for the identification of historic properties. The proposed revisions to National Park Service regulations which authorize Federal agencies, in consultation with States, to make eligibility decisions without formally requesting determinations by the Secretary will further enhance the ability of agencies to efficiently, and in a timely manner, identify historic properties during project planning. The expertise of Federal agencies and State staff, combined with the Secretary's maintenance of a programmatic review and oversight role, will ensure that decisions are made in a manner that is consistent with the standards and procedures established by the Secretary.

Section 110(b)

Authorization

Section 110(b) requires each Federal agency to record those historic properties that will be substantially altered by Federal action and to deposit such records in the Library of Congress or other appropriate place designated by the Secretary.

Status of Implementation

This section has been implemented both through agency actions and Advisory Council commenting procedures under Section 106. In the last ten years, agencies have adopted regulations establishing policy and practices for managing historic properties, and such regulations usually respond to this section by establishing the policy of documenting historic properties prior to their demolition or substantial alteration. The Advisory Council furthers the requirements of this section through the comments it renders under Section 106; when an agency's action causes demolition or substantial alteration of an historic property, the agency must obtain the comments of the Council. In such circumstances, it is Council policy to seek an agency's commitment to document historic properties that will be affected.

The standards of the Historic American Buildings Survey (HABS) and the Historic American Engineering Record (HAER) of the National Park Service are usually used by Federal agencies in documenting historic properties. The type and quantity of documentation will vary, particularly depending on the significance and characteristics of the structure; however all documentation must meet the Secretary of the Interior's Standards and Guidelines for Documentation.

Typically, HABS/HAER stipulates the type and quantity of documentation based on information from the Federal Agencies, SHPOs, Advisory Council Case Reports, National Register Forms or Determinations of Eligibility, local sources, and similar structures already in the HABS/HAER collections. Agencies, or their contractors, are provided with specific information on how to meet the Secretary's Standards, and HABS/HAER continues to consult with the agency as the documentation is prepared to assure its ultimate acceptance. Once accepted, the material is incorporated into the HABS/HAER collections in the Library of Congress.

When recording an archeological property, an agency uses the mechanism of a research design. This design identifies the research questions that can be investigated by excavating the site and describes precisely the field work that will take place. Typically, the research design is developed by an archeologist under contract to the agency. The research design is then reviewed by the agency, the SHPO, the Council (if Section 106 applies), and occasionally by outside peer panels. Once approved, the research design is implemented. Resulting documentation is filed with the agency, the SHPO, and occasionally with the National Technical Information Service, an agency of the Department of Commerce.

Assessment and Conclusions

The mitigative documentation program has changed over the years. In the early years, many agencies resisted the requirement to document properties, but most now cooperate

with the National Park Service in meeting HABS/HAER stipulations. Until 1980, one staff person had primary responsibility for mitigative documentation. Now one staff person in each of five National Park Service Regions work on the program.

HABS/HAER has traditionally sought ways to reduce the costs of documentation, particularly measured drawings. HABS/HAER will accept photocopies of historic or other suitable drawings of a structure instead of stipulating measured drawings. In order for photocopies to qualify for the collection, the original drawings are to be placed in a suitable repository for curation. HABS/HAER cannot accept original drawings into its collections because they do not meet HABS/HAER Standards and are not compatible with the rest of the collections. Finding suitable repositories has been made easier since the establishment of COPAR (Cooperative Preservation of Architectural Records) in the Library of Congress. COPAR can also be an aid to agencies in locating original records.

Another cost reducing effort, sometimes found to be successful, is the use of boilerplate stipulations for documentation of identical or very similar structures. The HABS Architectural Data Form has been successfully used for this purpose. It is a one-page fill-in-the-blank form that provides the minimum amount of historical data needed for a building. In many cases it replaces the traditional HABS data formats. Boilerplate stipulations of photographs are marginally successful, but measured drawings are not suitable for boilerplate stipulations. Their complexity and expense necessitates that they be carefully tailored to the significance of a structure.

A final way in which HABS/HAER is seeking to reduce costs is by assuming fewer mitigation project responsibilities from other Federal agencies. While this limits the National Park Service's costs, it does not reduce the cost to the Federal Government.

When this section was enacted, the Advisory Council's policy of requesting documentation on properties ensured its implementation in the absence of agency regulations. This has been an element of the Council's comment for so long that most recordation occurs in response to it rather than to Section 110(b).

A criticism of archeological recordation, summarized by the General Accounting Office, is that too much money has been spent on unimportant or redundant studies and that the program may not be cost effective. Although there are valid criticisms of existing recordation programs, such criticisms are generally aimed at management of the programs, not the products of those programs.

The recordation programs do a valuable service in preserving evidence of the historic properties that are lost as a result of Federal action. Section 110(b) is being actively implemented. Recordation standards for architectural properties have been streamlined eliminating time-consuming consultation with HABS/HAER on routine documentation projects. Many efforts have been undertaken in response to the GAO report that have improved the effectiveness of archeological investigations. These include the guidance issued by the Council in 1980 and 1983, peer review of major data recovery proposals, increased expertise on the part of agencies, the development of the Secretary's Standards and Guidelines, and the development of National Park Service historic and archeological data bases. These efforts should be encouraged and continued.

Section 110(c)

Authorization

Section 110(c) requires each Federal agency to designate a qualified official to serve as its preservation officer for purposes of carrying out the agency's responsibilities under the Act. Each Preservation Officer may, in order to be considered qualified, satisfactorily complete an appropriate training program established by the Secretary.

Status of Implementation

National Park Service records indicate that 57 Federal agencies have designated Federal Preservation Officers (FPOs) under this section.

Although the National Park Service has provided numerous training opportunities for Federal agency staff in the identification, evaluation and registration of historic properties, a program specifically designed to introduce FPOs to their responsibilities has not been developed. The greater need has been to train those who will actually conduct preservation activities for the agencies.

Assessment and Conclusions

Theoretically, the position of FPO should be held by someone who is well versed in both preservation and the agency's own procedures, programs, and structure. An agency FPO should be able to mesh existing agency programs with the preservation goals of the Act. The FPO position is the only one available that combines agency goals with those of the Act. An FPO cannot successfully operate without full agency support, including adequate staff support and access to a high level of management within the agency; specifically, the FPO should have direct access both to the agency head and knowledge of the agency's daily operations. These concerns are addressed by the Secretary's guidelines for agency responsibilities under Section 110 (see summary of 101(f)).

Now that the Secretary has proposed Guidelines for implementing the requirements of Section 110, the Service is in the process of developing a training program that will address the responsibilities of FPOs under Section 110 and within the framework of those Guidelines.

Section 110(e)

Authorization

Under Section 110(e), the Secretary of the Interior is directed to review and approve plans of Federal agencies for transfers of surplus federally-owned historic properties.

Status of Implementation

Regulations governing the transfer of federally-owned surplus historic property are found in 41 CFR Part 101-47.308-3. Under these procedures, the Secretary determines whether an applicant's proposed use of a property is compatible with its historic character, and approves the applicant's architectural and financial plans for rehabilitation, restoration, and maintenance of the property. The Secretary also ensures that the grantee complies with the terms of a conveyance in perpetuity.

Section 110(g)

Authorization

Section 110(g) authorizes each Federal agency to include the costs of preservation activities as eligible project costs in its undertakings. Such costs may include amounts transferred to States for carrying out preservation responsibilities, and reasonable costs may be charged to Federal licensees and permittees for meeting historic preservation needs as a condition of their permits or licenses (see discussion of second Section 208).

Status of Implementation

As the Secretary of the Interior's proposed guidelines for Federal agencies state, "Section 110(g) is intended to ensure that historic preservation activities may be eligible for agency support. It is not to be construed as otherwise conflicting with the cost-benefit ratio determined by the agency for a specific project. Where preservation activity is a condition of obtaining a Federal license or permit, the licensee/permittee may be charged for reasonable preservation costs. The term reasonable should be interpreted to mean at a rate commensurate with the extent of the licensee's or permittee's interest in or benefit from the undertaking that impacts the historic properties. It should also take into consideration the historic resource values of properties, i.e. there is a strong argument for a larger public investment in properties with greater historic resource values. Because it is difficult to establish fair standards that would be applicable in all cases, 'reasonable' project costs should not be determined using inflexible criteria, such as a flat fee or a standard percentage of a budget, but rather should be determined on a case-by-case basis."

Section 110(h)

Authorization

Section 110(h) authorizes the Secretary to establish an annual preservation awards program in recognition of outstanding contributions to the preservation of historic resources made by officers and employees of Federal, State, and certified local governments.

Status of Implementation

Contributions to the preservation of historic resources are recognized through several Department of the Interior and National Park Service awards programs. These include: the Conservation Service Award of the Department of the Interior; the Public Service Award of the Department of the Interior; the Honorary Park Ranger Award of the National Park Service; Special Commendation of the National Park Service; the Roy E. Appleman-Henry A. Judd Award; and the Charles E. Peterson Prize honoring the best sets of measured drawings donated to the Historic American Buildings Survey by students of architecture. Employee achievements in historic preservation can be recognized through the Department's Incentive Awards Program.

Other awards that recognize contributions to historic preservation include the Louise DuPont Crowninshield Award given by the National Trust for Historic Preservation, National Trust Honor Awards, the John Wesley Powell Award of the Society for History in the Federal Government, and the Design Achievement Awards and Presidential Design Awards of the National Endowment for the Arts.

In cooperation with the Advisory Council on Historic Preservation, and in conjunction with the Secretary's "Take Pride in America" initiative, the Secretary is implementing a comprehensive awards program recognizing historic preservation at the local, State and national levels. This program will be implemented during FY86.

Assessment and Conclusions

The awards programs cited above implement the requirements of Section 110 (h).

Section 110(j)

Authorization

Section 110(j) requires the Secretary to promulgate regulations under which the requirements of Section 110 may be waived in the event of a natural disaster or imminent threat to the national security.

Status of Implementation

Final regulations, 36 CFR Part 78, "Waiver of Federal Agency Responsibilities under Section 110 of the National Historic Preservation Act," were published for final effect on February 25, 1985.

Assessment and Conclusions

Consistent with the intent of the Act, waivers are used only in "extreme circumstances." It is expected that the circumstances that will necessitate emergency action and the use of the waiver will be of such extraordinary magnitude and short-term duration that normal administrative coordination and written communication between the Federal agency using the waiver and the Secretary of the Interior will not be feasible. Further, it is expected that, normally, the emergency period will have ended and the waiver expired within a few days of taking effect.

The regulations set forth a process whereby a waiver can be effected as soon as circumstances necessitate, but that normal coordination, consultation, and communication for cultural resource protection, as established in Section 110, shall resume as soon thereafter as reasonably feasible. The requirement that the Federal agency notify the Secretary of the use of the waiver and provide only that information that the Secretary needs to monitor the waiver does not create an unreasonable burden on the agency. In rare cases, where emergency situations necessitating a waiver have a duration of more than a few days, a consultation process between the Federal agency and the Secretary is established. Moreover, in the event the waiver is proposed to continue for an extended period, the Secretary reserves the right to terminate the waiver, if appropriate.

36 CFR Part 78 emphasizes that waiver procedures apply only to agency historic preservation responsibilities under Section 110 and not to those agency responsibilities prescribed in Section 106. So as to ensure that Federal agencies do not confuse the authority to waive the requirements in Section 110 with any waiver of Section 106, the regulations state, "Waiver of responsibilities under Section 110 does not affect an agency's Section 106 responsibilities for taking into account the effects of emergency activities on properties included in or eligible for the National Register of Historic Places and for affording the Advisory Council on Historic Preservation an opportunity to comment on such activities."

In addition, in the same publication of the Federal Register that contains the final regulation, the Advisory Council published a notice concerning the application of Section 106 in emergency situations. At the request of the Council, the National Park Service referenced this notice in the preamble to 36 CFR Part 78.

Section 111

Authorization

Section 111 allows Federal agencies to lease historic properties if such an action will adequately ensure the preservation of the property.

Status of Implementation

Although any Federal agency can implement a historic property leasing program under the Act, only the National Park Service has done so. The Coast Guard has developed a Progammatic Memorandum of Agreement with the Advisory Council concerning the leasing of lighthouses, however the program is in the early stages of implementation and no historic properties under the ownership or control of the Coast Guard have yet been protected through Section 111 leasing.

The National Park Service views the implementation of Section 111 as an opportunity to protect selected historic property while keeping direct Government expenses within reasonable limits. In order to employ leasing as a tool in managing historic property, the Service has promulgated regulations (36 CFR Part 18), procedural guidelines, and a Programmatic Memorandum of Agreement with the Advisory Council. Use of these documents, in concert with the professional participation and advice of historical architects, attorneys, historians, real estate specialists, ensures the proper protection of historic properties under lease.

As of October 1985, park Superintendents had identified 137 candidates for lease (90 historic structures and 47 parcels of agricultural land). Of these, 52 have been leased, resulting in an annual revenue of approximately $49,000. The combined estimated value of all lessees' rehabilitation and property improvement work is $4,338,000.

The National Park Service employs leasing to expand its ability to preserve historic property—the private sector provides rehabilitation and maintenance of often vacant and ill-maintained property at little or no cost to the Government. Leasing historic agricultural land allows for traditional use of the land while maintaining the historic scene.

In selecting appropriate candidates for lease, the first determination that is made is whether the property is "historic" as defined by Section 301 of the Act; prior to leasing, properties must either be included in, or eligible for inclusion in, the National Register. Historic properties selected for lease are then carefully screened to assure: 1) such properties are not appropriate or necessary for park administration, operations, interpretation, employee housing, concessions, and the like; 2) proposed use is compatible with the performance of the National Park Service's mission and the General Management Plan of the park; and 3) proposed preservation treatment and use is appropriate to the quality and significance of the property.

Prospective lessees are likewise screened to ensure that they have the financial resources to carry out the terms of the lease, the experience in rehabilitating and managing properties, and the ability to ensure the long-range success of the lease arrangements. All leases must be competitively offered and must be for at least fair market rental value based on an appraisal of the property which takes into consideration

special requirements such as the amortized costs of treating the property or the value of prescribed special maintenance by the lessee. Historic agricultural lands are normally leased for one to five years, and historic structures are normally leased for 20 to 55 years. All historic structure leases contain provisions for income participation by the Government, either through escalation clauses, percentages of gross revenues, re-evaluations after a period of years, or adjustments in rent in accord with the Consumer Price Index. In accordance with the Act, all revenues from the leases are used to maintain, repair, and preserve National Park Service historic property and to defray the costs of administering the program.

Assessment and Conclusions

Leasing is a new tool to manage historic properties under the jurisdiction of the National Park Service, and, as with any new idea or program, there are procedural and attitudinal problems to overcome. However, for the past two years, leasing has been a top National Park Service priority, and, as a result, program activity has greatly increased — both the number of candidates for lease and the number of executed leases have increased approximately 100 percent. The culmination of this interest and activity is beginning to show across the country in rehabilitated and well-maintained historic structures and historic agricultural land.

Section 201

Authorization

Section 201 establishes the Advisory Council on Historic Preservation and specifies its membership.

Status of Implementation

Advisory Council membership is bestowed either by Presidential appointment or by ex officio status. Appointments have been carried out in accordance with the law. All aspects of Section 201, save one, have required no implementing regulations or guidance. The one exception is the provision that allows Federal agency heads to delegate their representation to another employee in the agency. The Advisory Council has adopted a policy statement to guide these designations. The statement is not, however, legally binding.

Assessment and Conclusions

For a summary of the role and responsibilities of the Advisory Council under Section 201 and other authorities, see the summary under Section 211.

Section 202

Authorization

The following duties of the Advisory Council are included in Section 202:

(1) advise the President and the Congress on matters relating to historic preservation, recommend measures to coordinate activities of Federal, State and local agencies and private institutions and individuals relating to historic preservation; and advise on the dissemination of information pertaining to such activities;

(2) encourage, in cooperation with the National Trust for Historic Preservation and appropriate private agencies, public interest and participation;

(3) recommend the conduct of studies in such areas as the adequacy of legislative and administrative statutes and regulations pertaining to historic preservation activities of State and local governments and the effects of tax policies at all levels of government on historic preservation;

(4) advise as to guidelines for the assistance of State and local governments in drafting legislation relating to historic preservation;

(5) encourage, in cooperation with appropriate public and private agencies and institutions, training and education in the field of historic preservation;

(6) review the policies and programs of Federal agencies and recommend to such agencies methods to improve the effectiveness, coordination, and consistency of those policies and programs with the policies and programs carried out under the Act; and,

(7) inform and educate Federal agencies, State and local governments, Indian tribes, other nations and international organizations and private groups and individuals as to the Council's authorized activities.

The other section of this provision of the Act, Section 202(b), directs the Council to submit an annual report of its activities and the results of its studies to the President and the Congress and submit from time-to-time additional and special reports as deemed advisable. Section 202(b) also directs the Council to include in its reports proposed legislative enactments and other actions that are necessary and appropriate to carry out recommendations made. Finally, Section 202(b) instructs the Council to provide an assessment of current and emerging problems in the field of historic preservation and an evaluation of the effectiveness of the programs of Federal agencies, State and local governments, and the private sector in carrying out the purposes of the National Historic Preservation Act.

Status of Implementation

The Council has implemented Section 202 by working directly with Federal agencies to encourage the efficient use of historic properties and by developing methods to improve agencies' capabilities to deal with special kinds of historic resources. The Council has recommended legislative action to improve the national historic preservation program, conducted studies to point out the practical values of rehabilitation and restoration,

prepared studies of the effects of Federal tax policies on historic preservation, and developed training courses for Federal, State, and local officials involved in reviews under Section 106 of the Act. The Council meets its information and education responsibilities by regularly issuing information to agencies to assist them in planning their projects to minimize damage to historic properties and educating the historic preservation community on the Council's authorized activities through the issuance of the annual Report to the President and the Congress.

Section 203

Authorization

Under Section 203, the Advisory Council is authorized to secure from Federal agencies information, suggestions, estimates, and statistics for the purpose of the Act, and agencies are required, within certain limits, to furnish same.

Status of Implementation

The Council exercises this authority. The Secretary of the Interior does not have the authority to obtain reports from Federal agencies on the implementation of the provisions of the Act (as discussed in the summary under Section 110). Without such authority, the Secretary cannot adequately monitor agency compliance with the provisions of Section 110 and conformance to standards and guidelines issued by the Secretary.

Section 204

Authorization

Section 204 authorizes per diem compensation for Advisory Council members and payment of travel and subsistence expenses.

Status of Implementation

Legal requirement is met.

Section 205

Authorization

Section 205 establishes administrative and operating requirements for the Advisory Council. Section 205(f) requires the Department of the Interior to provide financial and administrative services to the Advisory Council.

Status of Implementation

Section 205(f) has been implemented.

Section 206

Authorization

Section 206 authorizes U.S. membership in the International Centre for the Study of the Preservation and Restoration of Cultural Property and stipulates conditions of that membership.

Status of Implementation

Legal requirement is met.

Assessment and Conclusions

The Secretary supports continued membership in the Centre.

Section 207

Authorization

Section 207 requires the Secretary to transfer property, personnel and funds of the Advisory Council, as it existed in the Department of the Interior, to the Council as an independent agency.

Status of Implementation

Legal requirement has been met.

Section 208

Authorization

Section 208 provides for retention of employee Civil Service rights by certain Advisory Council employees.

Status of Implementation

Legal requirement has been met.

Section 208 (This is part of the 1980 Amendments, P.L. 96-515, but was not codified in the National Historic Preservation Act.)

Authorization

Subsection 208(1) states that Federal agencies may treat costs for surveys and the identification and evaluation of historic properties within project areas as planning costs of the project, rather than as mitigation costs. Subsection 208(2) states that Federal agencies may charge licensees and permittees with reasonable costs for those surveys, identification, evaluation and data recovery of historic properties within project areas as a condition to the issuance of licenses and permits. Subsection 208(3) states that, in appropriate situations, Federal agencies, having the concurrence of the Secretary of the Interior and after notifying certain Congressional committees, are authorized to waive the 1 percentum limitation contained in the Reservoir Salvage Act of 1960, as amended.

Status of Implementation

The Reservoir Salvage Act of 1960, as amended by the Archeological and Historic Preservation Act of 1974, authorizes Federal agencies to spend project monies to undertake the recovery, protection and preservation of significant scientific, prehistoric, historic or archeological data that may be lost or destroyed as a result of its undertakings, projects and programs. To carry out the purposes of the Act, Section 7(a) of the 1974 Act authorizes agencies to spend not more than 1 percentum of the total amount authorized to be appropriated for the project. The limitation does not apply in those instances where the project involves $50,000 or less.

In regard to Federal agencies distinguishing between planning costs and mitigation costs, on January 28, 1977, the National Park Service published proposed guidelines (36 CFR Part 66) implementing provisions of the 1974 Act. The guidelines describe the relationship of the 1974 Act to the National Historic Preservation Act, the National Environmental Policy Act of 1969, and Executive Order 11593, issued in 1971. They clearly state that the 1974 Act deals with data recovery activities while the other Acts and the Executive Order deal with planning activities which should preceed data recovery activities.

The Heritage Conservation and Recreation Service issued additional guidance in March 1979 in a Statement of Program Approach to further explain the meaning of the 1974 Act and to indicate the manner in which it would be implemented. The Statement of Program Approach contains a guideline instructing Federal agencies to consider whether data recovery responsibilities could reasonably be made a condition for issuance of licenses or permits. It also reiterates that the 1 percentum limitation was for salvage (mitigation) purposes.

Over the past 10 years, several permitting and licensing agencies have, on occasion, asked that the Secretary of the Interior fund and conduct any necessary survey and data recovery activities prior to issuance of the permit or license. The National Park Service conducted such activities when funds were available. When funds were not available, the Service informed agencies that they still had a responsibility to protect important resources and that agencies could refuse to issue permits or licenses, or condition issuance by requiring permittees or licensees to conduct the necessary studies. Since the National Historic Preservation Act was amended in 1980 to include Section 208(2) on

conditioning permits and licenses, there have been fewer instances of permitting and licensing agencies approaching the Secretary for assistance.

Until the 1980 Amendments, an agency was able to exceed the 1 percentum limitation in one of two ways; an agency could request additional funds from the Secretary of the Interior or from the Congress. Both alternatives often delayed projects while monies were authorized and appropriated.

During the period from 1974 through 1979, monies were appropriated to the Secretary of the Interior to assist Federal agencies in funding data recovery activities. However, since 1980 no monies have been appropriated for this purpose. The result is that agencies have had to budget for such activities and/or request appropriations to cover such costs.

Examples of projects where agencies went directly to the Congress for additional monies include the Dolores Reservoir project in Arizona and the New Melones Reservoir project in California. At the Dolores project, the Bureau of Reclamation received Congressional approval to spend 4 percent of the total project costs on cultural resources activities. At the New Melones project, the Bureau of Reclamation received approval to spend one-and-one-half percent. However, in both instances survey and evaluation costs were included with mitigation costs when calculating the 1 percentum limitation.

Section 208(3) responded to the need to waive the 1 percentum limitation in a more expeditious manner. On June 16, 1982, the Department of the Interior issued a Fact Sheet on the Department's program approach on evaluating requests from Federal agencies for waiver of the 1 percentum limitation. Copies were distributed to all Federal agency historic preservation officers. The Fact Sheet reiterates that activities to survey, test and evaluate archeological resources are project planning activities, not data recovery activities. It also states that these costs, as well as data recovery costs may be charged to Federal permittees and licensees. Finally, the Fact Sheet provides guidance to agencies on calculating the 1 percentum limitation and on the kinds of documentation needed by the Department of the Interior when reviewing requests for waivers.

Since 1980, the Department of the Interior has received and concurred in three requests for waiver, all from the Army Corps of Engineers' Civil Works. One was for the Aquilla Lake project in Texas and another was for a project at Prairie du Chein in Wisconsin. The third was a generic waiver for data recovery work needed under the Corps' operation of water resource projects.

Assessment and Conclusions

It is difficult for the Department of the Interior to evaluate whether Federal agencies routinely are treating costs for surveys and the identification and evaluation of historic properties as planning costs rather than as mitigation costs since the majority of agencies' budgets do not include a line item for historic preservation activities. Even when the Department requested information for inclusion in annual reports to Congress from agencies on their archeological and historical project expenditures for fiscal years 1976 through 1982, the information provided was largely incomplete. Expenditure reports were incomplete and unreliable because (1) some agencies claimed that their historic preservation work was conducted under authorities other than the 1974 Act; (2) some agencies said that their records management systems included preservation

expenditures within general planning or construction budgets rather than listing them separately; and (3) most agencies did not report expenditures incurred by their own staff who conducted projects in-house rather than by contracting. Because of these problems, the Department intends, in the future, to rely on information on Federal preservation activities contained in the national archeological database currently being implemented. Through promulgation of regulations (36 CFR Part 66), the Department also intends to require agencies, in as much as the law will allow, to report the information on an annual basis.

According to the House Committee report on H.R. 5496, the Congress intended that licensees and permittees be charged reasonable costs "...commensurate with the licensee's or permittee's interest in or benefits from the undertaking that affects an historic property." In its December 1985 fact sheet to Representative John F. Seiberling, the General Accounting Office reported that little more than half of the regulatory agencies charge applicants for historic preservation costs. As far as we are aware, for some of those regulatory agencies that do condition permits or licenses, conditions are not always placed in any uniform, consistent manner. For example, in the Army Corps of Engineers, some District Engineers routinely place conditions on certain kinds of permits while other District Engineers place conditions only on the order of a court of law.

Another problem faced by land managing regulatory agencies is when to place conditions on pipeline or other rights-of-way permits when the proposed project will occur on both Federal and non-Federal lands. It is the policy of the Department of the Interior that the National Historic Preservation Act applies in these situations, subject to rules of reason as to the scope of the lands to be inventoried and the degree of effort required.

Agencies which provide financial assistance are faced with the question of whether to condition grants by charging reasonable costs to grantees. Many granting agencies do. For example, the Department of Transportation places preservation requirements on States under its Federal highways and urban mass transit programs. In the past, some States "segmented" highway projects, and carried out preservation activities only on those portions being funded with Federal monies. As a result of a number of court decisions, States are forbidden from "segmenting" highway projects; and preservation requirements are placed on Federal as well as non-Federal portions of highway projects. The Department of Housing and Urban Development also reimburses grantees for project-eligible preservation costs under the Community Development Block Grant and Urban Development Action Grant programs, as does the National Park Service under the Land and Water Conservation Fund and Historic Preservation Fund grant programs.

Section 209

Authorization

Section 209 exempts the Advisory Council from Federal Advisory Committee Act and makes it subject to the Administrative Procedures Act.

Status of Implementation

Legal requirement has been met.

Section 210

Authorization

Section 210 prohibits anyone in the Executive Branch from reviewing or approving Advisory Council legislative recommendations, testimony or comments on legislation and requires the Council to report when it voluntarily seeks comments or review on such actions by another office or agency of the Executive Branch.

Status of Implementation

In keeping with the requirements of this section, the Council responds directly to Congressional requests for legislative recommendations, comments, and testimony without going through the executive branch clearance process administered by the Legislative Reference Branch at the Office of Management and Budget (OMB). Usually OMB is provided with information copies of the material transmitted to the Congress, but not for prior approval or review. No effort has been made by OMB to require the Council to submit legislative matters for review or approval. The Council on one or two occasions has sought OMB views voluntarily and advised the Congress of this action as required by law.

Assessment and Conclusions

This provision has had two results, one anticipated and one not. As expected, the advice rendered to the Congress has been free of the OMB clearance process, permitting the Council to develop and transmit its positions on legislation based on its own policy decisions and unmodified by any requirement to conform to an Administration policy that might conflict with the Council's views. In addition, the provision has removed the need for compromising Council policies to meet objections of other Federal agencies. On the other hand, the provision has had the unanticipated result of reducing the ability of the Council to influence the Administration's position on various historic and cultural resource issues.

Section 211

Authorization

Section 211 authorizes the Advisory Council to promulgate regulations to govern the implementation of Section 106 of the Act.

Status of Implementation

The following analysis of the evolution of the Advisory Council's procedures for the protection of historic properties illustrates the attempt on the Council's part to ensure that historic properties received due consideration by Federal agencies during project planning and development. The Council occupies a unique and difficult position within the Federal decisionmaking apparatus; it often is the Federal administrative device through which non-Federal historic preservation interests are represented in consideration of historic properties by Federal agencies.

The Advisory Council published procedures to protect historic properties on the following dates: February 28, 1973; January 25, 1974; and January 30, 1979. Each of these documents is summarized below.

February 28, 1973 (38 FR 5388) "Protection of Properties; Procedures for Compliance"

The purpose of this document was "to apprise the public, as well as governmental agencies, associations, and all other organizations and individuals interested in historic preservation, of the implementing actions that have been taken in order that the historic preservation responsibilities of Federal agencies and the Advisory Council may be met." These procedures were not promulgated as regulations until 1974. In its introduction to the document, the Council stated that "normally the Council anticipates that its comments will be required in only the most complex situations...." Consequently, as can be seen in the analysis below, formal requests for comments are treated as a "last resort," after other avenues of resolving problems concerning historic properties are exhausted.

The procedures established by this document were relatively straightforward. They included a definition of the National Register, National Register criteria, and a list of properties then included in the Register.

Definitions. "Undertaking" was defined as "any Federal action, activity, or program, or the approval, sanction, assistance, or support of any other action, activity, or program, such as the issuance of a license or permit, the granting of funds, or the development or funding of master or regional plans." Historic properties were not defined separately from National Register properties. Criteria of effect were discussed as follows:

A federally financed or licensed undertaking shall be considered to have an effect on a National Register listing when any condition of the undertaking causes or may cause any change in the quality(ies of the property) that qualify the property under the National Register criteria.... Generally, adverse effects occur under conditions which include but are not limited to: 1) destruction or alteration of all or part of a property; 2) isolation from or alteration of its surrounding environment; and 3)

introduction of visible, audible, or atmospheric elements that are out of character with the property and its setting.

Agency Procedures. The process suggested for protection of historic properties was relatively simple. Early in the planning process, agency officials were to consult the National Register to determine whether a National Register property was present. If such a property was present, the agency official was to apply the criteria of effect. If there was no effect, the undertaking could proceed. If there was an effect, the agency official was to notify the State Liaison Officer and the Executive Director of the Council, and to consult with them to determine whether the effect was adverse. If the effect was not adverse, a joint memorandum between the agency and the Council was to be executed, acknowledging no adversity, and forwarded to the Chairman of the Council for review. If the effect was adverse, the agency official, State Liaison Officer, and Executive Director of the Council were to consult to determine whether there was a feasible alternative. If there was unanimous agreement on an alternative which would remove the adversity, a joint memorandum acknowledging this was to be executed and forwarded to the Chairman of the Council. If there was not unanimous agreement on an alternative which would remove the adversity, the agency official was to consult with the State Liaison Officer and the Executive Director to determine whether there was an alternative which would mitigate the adversity. If such an alternative was found, a joint memorandum acknowledging this was to be executed and forwarded to the Chairman of the Council. If no agreement to remove or mitigate the adversity was reached, the agency official was to delay further processing of the undertaking and provide written notice affording the Council an opportunity to comment.

Council Procedures. Upon receipt of a joint agreement, the Chairman was to review the document. Unless the agency official was notified by the Chairman or a citizen member of the Council that the Council was going to review the undertaking, the joint memorandum would become final 30 days after receipt by the Council, and the undertaking could proceed. The Chairman could waive all or part of the 30 day review period so the undertaking could proceed at once.

If there was a written notice from an agency affording the Council an opportunity to comment, the notice would be acknowledged and a 30-day review period would begin. During that period, the Council would determine whether it would comment. If it decided not to comment, the undertaking could proceed. If it decided to comment, it would do so within 60 days of receipt of the initial notice from the agency. It would also authorize preparation of a Section 106 report.

Section 106 Report. The procedures discussed elements of the Section 106 report, required when the Council decided to comment on an undertaking. It would include a report from the Executive Director on the status of the undertaking and National Register properties present, a report from the affected agency requesting comment and an account of actions taken to comply with the National Environmental Policy Act and with Section 106, a report from any other involved Federal agency, a report from the State Liaison Officer on the significance of the property and State participation in the matter, and any other pertinent reports.

Comments by the Council. Council comments were to be forwarded to the agency, and immediately thereafter to the President and the Congress, and published in the

Federal Register.

Final Agency Report. When a final decision on the undertaking was reached by the Federal Agency, the agency official was to submit a written report to the Council.

Other Provisions. The Council noted that when it commented on an undertaking that was part of a larger action, its comments applied only to the specific undertaking before it, and agencies, needed to seek separate comments for subsequent actions. The Council also noted that it would exercise its broader advisory powers, vested by Section 202(a)(1) of the Act, and comment or report on non-Federal undertakings that would adversely affect a National Register property. It would also, in special circumstances, exercise its broader powers to comment to Federal agencies in the absence of a written notice that an undertaking would have an effect, such as when there was an objection to an agency's finding of no effect. The procedures also addressed reports by recipients of Federal assistance or licenses, Council meetings, oral statements to the Council, and Council records. The document concluded with a list of properties on the National Register.

January 25, 1975 (39 FR 3366) "Procedures for The Protection of Historic and Cultural Properties."

In 1974, the Council developed 36 CFR Part 800, to formalize its procedures as regulations. According to the Council, the decision to publish the document as regulations was based on the fact that "they affect State and local governmental agencies, private organizations, and individuals, in addition to Federal agencies,..." and, therefore, needed to be "widely and readily available."

The basic provisions of these regulations were clearly drawn from the earlier 1973 document; however, several new elements were introduced. The Council advised Federal agencies that the procedures set forth steps for agencies to fulfill their obligations pursuant to Section 1(3) of EO 11593 and to use as a guide in the development of their required internal procedures (to implement the EO) in consultation with the Council. The regulations were intended to implement Section 106 of the Act, as well as Sections 1(3) and 2(b) of EO 11593.

These regulations included a number of new or revised definitions; definitions of "decision" and "eligible properties" appear for the first time. More significantly, the definition of undertaking was revised and expanded, as follows: "Undertaking" means any Federal action, activity, or program, or the approval, sanction, assistance, or support of any other action, activity or program, including but not limited to:

(a) Recommendations or favorable reports relating to legislation, including requests for appropriations. The requirement for following these procedures applies to both: Agency recommendations on their own proposals for legislation and agency reports on legislation initiated elsewhere. In the latter case only the agency which has primary responsibility for the subject matter involved will comply with these procedures;

(b) New and continuing projects and program activities, directly undertaken by Federal agencies, or supported in whole or in part through Federal contracts, grants, subsidies, loans, or other forms of funding assistance; or involving a

Federal lease, permit, license, certificate, or other entitlement for use; and,

(c) The making, modification, or establishment of regulations, rules, procedures, and policy.

The discussion of effect was also expanded, and the definition of adverse effect was expanded from the original three elements to include: (4) transfer or sale of a federally-owned property without adequate conditions or restrictions regarding preservation, maintenance, or use; and, (5) neglect of a property resulting in its deterioration or destruction.

Agency Procedures. The discussion of agency procedures was expanded slightly, and a discussion of agency responsibilities to identify properties was introduced. Revisions necessitated agency requests for Council comments in all cases where an adverse effect was present, in contrast to the former procedures where even an adverse effect could be resolved without an official request for comments. Findings of adverse effect necessitated (1) a formal request for Council comments; (2) a notice of the request for comment be sent to the SHPO (formerly the "State Liaison"); (3) a preliminary case report from the agency; and (4) consultation among the involved parties.

On the other hand, references to "agreements" among SHPO, Council and agency officials were deleted from this version, except during the full commenting process.

Consultation Process. A major new section on consultation was introduced. This covered part of the material formerly covered in the section on Agency Procedures. The basic outline of the procedures - consideration of alternatives, avoidance of adverse effects, mitigation of adverse effects, etc. - remained the same as in the previous version. However, this version introduced provisions for the Council or the SHPO to request an on-site conference and/or a public meeting on a specific case. The section provided that failure to agree would result in a case going to the full Council for comment. The concept of a Memorandum of Agreement (MOA) as the official outcome of the consultation process appeared. Agencies were to delay further processing of an undertaking where there was a request for comments until receiving Council comments.

Council Procedures. This section was similar to the same section in the previous version. The addition of the MOA concept was accompanied by the provision that an MOA would be reviewed for up to 30 days by the Chairman of the Council, who could waive all or part of the 30-day period, allowing the undertaking to proceed at once. The Executive Director could request full Council review; the Chairman would determine whether such a review would take place. Any member of the Council could object to the Chairman's decision not to review a case, in which situation the case would be reviewed. Reviews were to take place within 60 days of the Council's original receipt of the request from the Executive Director.

When the Chairman decided to consider a case, the Executive Director would prepare a case report. The regulations state that "the Advisory Council prescribes that certain reports be made available to it...." The regulations specified elements of the case report. In general, these requirements are similar to the "106 Report" discussed in the 1973 document.

Other Provisions. Remaining provisions of this version are essentially similar to the 1973 version. However, the list of National Register properties was not repeated.

January 30, 1979 (44 FR 6068) "Protection of Historic and Cultural Properties"

In 1979, the Council promulgated a considerably expanded version of its regulations. A variety of new concepts were introduced; the Council reinterpreted Section 106 and its own function in what it called, for the first time, the "106 process." The Council stated in the background of the regulations that the purpose of Section 106 is to "protect properties included in or eligible for inclusion in the National Register of Historic Places through review and comment by the Council...." In the purpose section of the regulation, the Council further stated that "the Council protects properties of historical, architectural, archeological, and cultural significance at the national, State, and local level by reviewing and commenting on Federal actions...." At the time the regulations were available for public comment, the Department of the Interior objected by letter to the above language regarding the function of the Council. The Council said that the purpose of amending the regulations was to reduce procedural delay, encourage agencies to develop their own internal regulations, and implement the directives in the President's Memorandum on Environmental Quality and Water Resources Management.

The Council included a list of major changes in this version. Some of the changes identified in this list were:

A new section defining the function of the SHPO;
Authorization for a panel of five members of the Council to review cases;
A new section dealing with resources discovered during construction;
Introduction of the concept of Programmatic Memoranda of Agreement (PMOA).
Authorization for other agencies to prepare counterpart regulations;
A new section on public participation;
Inclusion of "Supplementary Guidance"; and,
Introduction of time limits in different parts of the process.

A number of other changes occur which were not included in the Council's list, but which had the potential to make a significant impact on the overall process:

New definition of undertaking;
New definition of area of the undertaking's potential environmental impact;
New definition of effect;
The Executive Director can specify conditions to remove the Council's Objection to a no adverse effect determination;
Possibility for accepting adverse effect determinations in the public interest;
Allow agencies to prepare draft Memoranda of Agreement (MOA); and,
Any consulting party may declare a failure of the consultation process.

Definitions. The definition of "undertaking" was expanded considerably. In particular, the discussion of non-site specific undertakings was enlarged.

The new term "area of the undertaking's potential environmental impact" was defined as including "that geographical area within which direct and indirect effects generated by the undertaking could reasonably be expected to occur and thus cause a change in the ... National Register property."

The definition of effect was changed to that "used by the Council on Environmental Quality for purposes of the National Environmental Policy Act." The concept of evaluating effect in "the context of the historical ... significance possessed by the property" was introduced, as were the concepts of indirect and beneficial effects. The definition of adverse effect was essentially the same as in the previous version of the regulations.

Agency Responsibilities. The discussion of agency procedures was revised to introduce the idea that agency compliance with Section 106 was to occur before "taking any action that would foreclose alternatives or the Council's ability to comment." The agency was also responsible for conducting the appropriate studies and providing the information necessary for an adequate review of the effect a proposed undertaking may have on a property, the eligibility of the property, and adquate consideration of alternatives. The discussion of identification of resources was expanded to authorize the SHPO to provide the agency with a recommendation as to the need for a survey of historic and cultural properties, and recommendations as to the type of survey and/or survey methods should a survey be recommended, and recommendations on the boundaries of such surveys. The regulations required official determinations of eligibility on properties prior to a request for Council comments.

The discussion of agency procedures treated more explicitly the possibility of SHPO or other objections to an agency's determination of no adverse effect during the process. Allowance was made for the Executive Director to review such determinations and advise agencies of the outcome of this review.

In cases of adverse effect, the process in this version was essentially the same as that in the 1974 version. A new section was introduced discussing in considerable detail the documentation required of Federal agencies in preliminary case reports to be submitted to the Council when formal Council comments were sought.

Language in the 1974 version concerning an agency's responsibility to delay processing an undertaking until Council comments were received was expanded to state that good faith should preclude a Federal agency from taking or sanctioning any action or making any irreversible commitment that could result in an adverse effect on a National Register property or that would foreclose the consideration of alternatives to the proposed undertaking.

State Historic Preservation Officer. This new section discussed the responsibilities of the SHPO in the review and consultation process. The SHPO was to have 30 days to review agency undertakings.

Council Comments. This section included portions of two old sections: the Consultation Process and Council Procedures. A new subsection detailed the Council's response to determinations of no adverse effect, including its decision to

object to such a determination. This discussion included provisions for the Executive Director to advise agencies of what conditions could be met to remove the Council's objection to a no adverse effect determination.

The discussion of the consultation process made explicit that representatives of national, State, or local units of government and public and private organizations could be invited to participate. Provisions for on-site inspection, public information meetings, consideration of alternatives, etc., remained essentially unchanged. A provision for accepting adverse effects, in the event that this would be in the public interest, was added, as was a provision that any party could determine that the consultation process was failing. In the case of such a failure, the Executive Director would decide whether to recommend to the Chairman that a case be reviewed by the Council.

In the 1974 version, the Executive Director could request that an agency prepare a report for inclusion in a MOA. In this new version, the agency was required to prepare such a report, unless informed otherwise by the Executive Director. Also, the SHPO's concurrence now had to be included in MOAs. Provisions were made to amend MOAs. Agencies were required to report to all signatories within 90 days of carrying out the terms of the agreement.

Provisions for the Executive Director to recommend Council consideration of a case, and the Chairman to decide to review a case, remained essentially unchanged. This version required three members, compared to one in the 1974 version, to object to the Chairman's decision not to review a case before the case would indeed be reviewed by the Council. Provision for a panel of five members to review a case, rather than the full Council, was introduced, as were provisions for the full Council to review panel decisions. The introduction to the regulations noted that the provision for a panel was to "increase the number of cases referred for Council consideration and expedite those cases."

Resources Discovered During Construction. A new section was introduced to discuss resources discovered during construction. Essentially, the Council agreed to view agency compliance with the provisions of P.L. 93-291 as compliance with Section 106 under such circumstances, unless the Secretary of the Interior determined that Council review was necessary.

Federal Program Coordination. A major new section consolidated several provisions of Federal agency coordination. This section introduced the concept of the PMOA to expedite review of similar types of undertakings; situations under which PMOAs might be used; and how they would be reviewed and approved. Procedures for coordinating compliance with the National Environmental Policy Act and compliance with Section 106, discussed briefly in previous versions, were discussed in detail in this version. Agencies were to initiate compliance with Section 106 no later than during the preparation of the draft environmental impact statement. A new section under Federal Program Coordination authorized individual Federal agencies to adopt counterpart regulations related to their specific programs to assist in meeting their responsibilities under Section 106. Such counterpart regulations were to be jointly drafted by the agencies and the Executive Director.

Other Provisions. Ths Council reaffirmed its authority to investigate reports that a

National Register property was threatened by Federal agency action, in the absence of a formal request for Council comments. Considerable additional detail was given on documentation requirements for reports to the Council. A new section authorized the Executive Director to issue further guidance to interpret the Council's regulations.

Provisions for public participation were expanded and emphasized by being placed in a separate section.

Assessment and Conclusions

The Council continues to search for a balance between its advisory authorities and its advocacy spirit. As the preceeding analysis illustrates, there has been a consistent trend in the development of Council regulations away from an advisory role, toward a prescriptive, regulatory role.

The Department of the Interior and the Council perform interdependent and parallel historic preservation functions. To perform these functions as authorized and mandated by the Act, the Department and the Council must often work in close coordination. It is the Department's role to define what is historic, and to establish National standards and guidelines for historic preservation planning, practice, and technique. It is the Council's role to review and comment on Federal undertakings that are likely to affect historic properties. The basis for the Council's comments are the standards and guidelines developed by the Department. Before the implementation of the National Historic Preservation Act of 1966, State and local governments had little means of participating in Federal decisionmaking as it affected historic properties. The Department's National Register program defined the methods for evaluating the significance of historic properties, and the Council, through its commenting responsibility, ensured that State and local historic preservation interests were taken into account.

Over the years, the Council has had difficulty performing its functions in part because of the need for preservation standards and guidelines. Before Interior developed the Section 110 guidelines and the implementing standards, Federal agencies often relied on the Council for guidance on a project-by-project basis. The results of this are predictable; the Council has been accused of being arbitrary, making decisions on an ad-hoc basis, delaying projects, and requiring agencies to do too much or too little preservation.

The 1966 Act articulated a National concern for historic properties and authorized the implementation of a Federal program that would address these concerns. What was not clearly understood at that time was the magnitude and complexity of such a program. The National Register was based upon certain core concepts: historic significance, integrity of the property, and archeologically significant information. These have been the qualifying terms for listing in the National Register. Federal agencies have been struggling with the issue of historic significance to sort out those properties that they should be concerned with from those that they should not be concerned with. Agencies, States and local governments all have limited financial resources to expend on historic properties. How can the many historically significant properties be evaluated so that public investment reasonably and predictably corresponds to the level of significance and the resource value of the property? The Department and the Council have been working toward a resolution of this issue since the inception of the Act. In essence, a methodology had to be devised that would categorize, differentiate, and rank historic

property values. The Department's Guidelines for Historic and Archeological Resource Management: Federal Agency Responsibilities Under Section 110 of the National Historic Preservation Act accomplish this objective (see summary under Section 101(f)).

Cultural resource management is the process of making informed and selective decisions about the use and treatment of historic properties. With the publication of the Section 110 guidelines, supported by the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, the Federal Government is moving from a historic preservation management predicament to cultural resource management predictability.

To further the purposes of the Act, the Department and the Council should afford Federal agencies and the State Historic Preservation Officers, with accountability provided through appropriate policies and regulations, the privilege of independent decisionmaking without project oversight and review when they agree on the value, treatment, and use of cultural resources, and are operating in accordance with the Section 110 guidelines and the Secretary's Standards.

The Department is currently revising its policies and regulations in support of this objective. Current procedures technically require the Council to be involved in all agency undertakings, regardless of whether the Federal agency and the State have arrived at an agreement on what actions are appropriate. This results in Council involvement in many cases where no substantive problems or controversy exist. Historic resources would benefit more if the Council were to concentrate its efforts in dealing with difficult or controversial cases, on which the Federal agency and the State failed to agree.

In the introduction to their initial set of procedures (1973), the Council noted that it expected its comments would be required only in unusual cases. The procedures themselves called for most situations to be resolved by consultation between agency officials and the State, with cases going to the Council only in the event that agreement could not be reached to remove or mitigate an adverse effect. The States have all developed programs approved by the Secretary of the Interior, staffed by professionals meeting the qualifications prescribed by the Department. The States have all developed, or are developing, preservation plans which reflect their priorities in protecting, acquiring, and developing historic properties. The States are all capable of deciding what protection activities are appropriate for properties of State and local significance.

The Council should comment only on cases where agreement cannot be reached between the SHPO and the Federal agency on removal or mitigation of adverse effect, and on cases involving properties of national significance. The Council could also provide comments in cases involving properties of State or local significance when requested to do so by the Secretary of the Interior, the Governor of the State in which the property is located, or a member of Congress.

Section 212

Authorization

Section 212 concerns the Advisory Council's budget appropriation.

Status of Implementation

Legal requirement is met.

Section 213

Authorization

Section 213 requires the Secretary to provide the Advisory Council upon request information on the significance of historic properties and the effects of proposed undertakings on historic properties and recommending measures to avoid, minimize, or mitigate adverse effects.

Status of Implementation

Reports on the significance of historic properties are submitted, and will continue to be submitted, to the Council when appropriate. The Department has not generally recommended measures to avoid, minimize, or mitigate adverse effects because the Council has a staff to perform this function. No money or staff for this purpose has been provided to the Department of the Interior by the Congress and none has been administratively transferred by the Council. Under these circumstances, it was judged inappropriate for Interior to assume a workload being handled by the Council staff.

Section 214

Authorization

Section 214 provides for the issuance of regulations by the Advisory Council exempting specific Federal programs or undertakings from the requirements of the Act.

Status of Implementation

Legal requirement is met.

Section 302

Authorization

Section 302 authorizes Federal agencies to expend appropriated funds to carry out activities under the Act, unless appropriation's legislation expressly provides otherwise.

Status of Implementation

This Section was included in the Act to encourage agencies to incorporate historic preservation into their ongoing programs by recognizing that historic preservation has an important role in their multiple resource management responsibilities.

Few agencies designate historic preservation as a line item in their budgets. Only three of 49 agencies responding to the House Interior and Insular Affairs Committee's questionnaire indicated that they so budget for historic preservation. It is also difficult for most agencies to provide a specific figure on their agency's historic preservation costs. Many agency activities (e.g. rehabilitation of housing or facilities on defense bases or VA medical centers) may benefit buildings, but they are funded for other reasons and under other programs. Evaluation of environmental consequences of project actions, which may include historic and archeological surveys and analysis, are not often segregated into specific component costs. Some agencies are reluctant to identify historic preservation as the sole determinant in project costs and pointed to other goals that were achieved, e.g. quality design or cost-effectiveness. Still other agencies regard historic preservation as a routine cost of doing business and were thus unable to identify a specific cost to their budget. Of the 49 agencies responding to the Committee's questionnaire, 21 did provide an estimate of their historic preservation costs, totalling $198 million in FY 1984.

Assessment and Conclusions

The value of an agency designating historic preservation as a line item in its budget can be debated. To the extent that the budget establishes an agency's priorities, it is clearly beneficial to have funds earmarked for historic preservation activities and the agency's responsibilities affirmed. On the other hand, treating historic preservation as a line item may isolate it and prevent it from being fully integrated into an agency's overall responsibilities. It can also lead to an agency adopting too narrow a view of what constitutes historic preservation. Perhaps most persuasive, this approach to budgeting can lead to historic preservation funds being too vulnerable to budget cuts. In such instances an agency may wrongly assume that it has been relieved of its historic preservation obligations by the loss of designated funds to carry out such purposes.

Therefore, it is felt that this section of the Act needs no adjustment. It contributes to the Act and needs only be re-affirmed.

Section 304

Authorization

Section 304 requires Federal agencies, in consultation with the Secretary, to withhold from disclosure to the public information relating to the location or character of historic resources when disclosure of such information creates a substantial risk of harm, theft, or destruction to such resources or to the area or place where such resources are located.

Status of Implementation

The National Park Service has taken several steps to help ensure that the intent of Section 304 is met. Because the vast majority of properties on the National Register are nominated by States, the National Park Service has stipulated in regulations governing the National Register, 36 CFR Part 60.6(x), that "the State Historic Preservation Officer in the nomination notification process or otherwise need not make available to any person or entity (except a Federal agency planning a project, the property owner, the chief elected local official of the political jurisdiction in which the property is located, and the local historic preservation commission for certified local governments) specific information relating to the location of properties proposed to be nominated to, or listed in, the National Register if he or she determines that the disclosure of specific information would create a risk of destruction or harm to such properties." Furthermore, proposed revisions to National Register regulations include stronger language requiring the withholding of location information by all nominating authorities under certain circumstances. The proposed revision reads, "Neither the Keeper nor the nominating authority shall disclose to the public information relating to the location or character of historic or archeological properties when the Keeper or the nominating authority determines that the disclosure of such information may create a substantial risk of harm, theft, or destruction to such properties or to the area or place where such properties are located."

In addition, the National Park Service withholds location information from the public when necessary to protect historic properties including maintaining control on public access to National Register files in Washington. The design of the automated National Register Information System now underway in the Service provides for restricted access to specific location information when appropriate.

Section 305

Authorization

Section 305 provides for the awarding of attorneys' fees and other costs associated with legal actions brought in any United States district court to enforce the provisions of this Act as the court deems reasonable.

Status of Implementation

Legal requirement is met.

Section 306

Authorization

Section 306 requires the Secretary to enter into a cooperative agreement with the Committee for a National Museum of the Building Arts for the operation of a National Museum for the Building Arts in the Pension Building, and authorizes and directs the Secretary to provide matching grants-in-aid to the Committee for its programs.

Status of Implementation

The cooperative agreement was completed in June 1982. While no matching grants-in-aid have been made from the Historic Preservation Fund, the National Museum received line-item funding through the National Park Service in FY 1984 and 1985.

Section 307

Authorization

Section 307 requires the Secretary to transmit to Congress any proposed regulations developed under the Act at least 30 days prior to publication in the Federal Register, and stipulates, with an exception for emergencies, that regulations of the Department developed under the Act will become effective 30 days after publication. Section 307 also provides a means by which Congress can disapprove any regulations and automatic approval if Congress does not act within 60 days.

Status of Implementation

All regulations prepared by the Secretary under authorizations in the Act have been forwarded to the appropriate committees of the Congress under Section 307.

Section 401

Authorization

Section 401 requires the Secretary to direct and coordinate United States participation in the International Convention on Cultural and Natural Heritage, and to periodically nominate properties to the World Heritage Committee on behalf of the United States Government.

Status of Implementation

Procedures pertaining to United States participation in the World Heritage Convention, 36 CFR Part 73, took effect on May 7, 1982. As of April 1986, fourteen United States properties had been nominated and designated as World Heritage Sites. They are:

Cahokia Mounds State Historic Site, IL
Everglades National Park, FL
Grand Canyon National Park, AZ
Great Smoky Mountains National Park, NC/TN
Independence Hall, PA
Mammoth Cave National Park, KY
Mesa Verde National Park, NM
Olympic National Park, WA
Redwood National Park, CA
San Juan National Historic Site and La Fortaleza, PR
Statue of Liberty, NY/NJ
Wrangell-St. Elias, AK/Kluane (Canada)
Yellowstone National Park, WY, ID, and MT
Yosemite National Park, CA

The following have been nominated and are pending designation:

Chaco Culture National Historical Park, NM
Glacier National Park, MT (Part of Waterton-Glacier International Peace Park, Canada/US)

The following have been recommended to the Secretary for nomination by the Federal Interagency Panel:

Hawaii Volcanoes National Park, HI
Nan Madol, Federated States of Micronesia

Section 402

Authorization

Section 402 requires Federal agencies to take into account the effects of undertakings for purposes of avoiding or mitigating adverse effects on properties outside the United States that are on the World Heritage List or on the applicable country's equivalent of the National Register.

Status of Implementation

Federal agencies implement this requirement as they deem appropriate.

Assessment and Conclusions

The responsibility of Federal agencies to take into account the effects of undertakings is best met by considering the advice of the host nation.

Section 502

Authorization

Section 502 requires the Secretary, in cooperation with the American Folklife Center of the Library of Congress, to prepare a report, including recommendations for Federal legislative and administrative action, on preserving and conserving the intangible elements of our cultural heritage.

Status of Implementation

On June 1, 1983, the Secretary, in cooperation with the American Folklife Center of the Library of Congress, submitted recommendations to the President and Congress on preserving and conserving the intangible elements of our cultural heritage. The recommendations were derived from the study report, Cultural Conservation: The Protection of Cultural Heritage in the United States. The report determined that the Federal efforts with regard to protection of intangible resources should respect the primary role of State and local initiatives, recognize the necessary nurturing and supportive role of existing governmental entities, and provide Federal level leadership through standards and guidelines. Two principal recommendations were made that required administrative action: 1) the National Park Service should coordinate development of national policies and guidelines for protecting the full array of cultural resources; and, 2) the Advisory Council's role as a mediating authority in the resolution of conflicts relative to cultural conservation should be clarified.

Responding to the report's findings, the National Park Service has taken the following administrative steps:

(1) implemented two interagency agreements with the American Folklife Center for the purposes of (a) identifying ways to respond to the Secretary's findings and recommendations; and, (b) seeking ways to incorporate the documentation of folklife in State and local surveys that are assisted by the Historic Preservation Fund when such documentation can be used to fill information gaps concerning properties determined eligible for nomination to the National Register;

(2) incorporated cultural conservation concerns into National Park Service administrative documents, such as the National Register Programs Manual (NPS-49), and the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation; and,

(3) organized a Departmental task force that will prepare the Secretary of the Interior's Standards and Guidelines for the Identification, Evaluation and Protection of Intangible Cultural Values associated with properties listed in, or eligible for, the National Register of Historic Places. The Standards and Guidelines are intended to have Department, Federal-wide, State and local application.

Assessment and Conclusions

The Department recognizes that there are many divergent groups of Americans who participate in a broad range of cultural practices. Often these cultural practices constitute the identifying characteristics of a particular group or population. It is

further recognized that properties, sites, skills, crafts, music, the arts, and traditions are associated with the cultural practices of these groups. Even though associative relationships can be drawn between such phenomena and the cultural practices and identifying characteristics of a group or population, it does not follow that such associations lead to or constitute historic significance under the provisions of the Act. Indeed, very few properties have been listed or determined eligible because of their association with cultural phenomena. Those properties because of association with intangible resources have been done so only after considerable scrutiny, and with the recognition that conditions warranting such designation are extermely rare. However, to assist Federal agencies, the States and others engaged in National Register documentation activities, a pilot study report by the American Folklife Center is being prepared which will recommend the most workable survey field methods to use to gain selective insights into intangible cultural values when they may provide key background information for National Register nomination statements of significance.

The primary mitigative role in intangible cultural value identification and documentation rests with the adherence to the National Environmental Policy Act (NEPA). At the present time, agencies and governmental entities may consider protection measures for intangible resources within the "scoping" process provided for in Environmental Impact Statements (EISs) under NEPA as a possible social impact concern where such concerns are considered appropriate to the particular project or activity proposed. To extend intangible cultural value concerns into the realm of the Section 106 process would unnecessarily broaden the range of statutory authority and policy now available in the EIS process. It would also jeopardize the general acceptance by the public of the National Register and the Section 106 process by making them seem vague and indefinite.

Section 503

Authorization

Section 503 directs the Secretary, in cooperation with the Advisory Council and the Secretary of the Treasury, to submit a report to the President and Congress on Federal tax laws relating to historic preservation.

Status of Implementation

The report was transmitted to the President and Congress in November 1983.

Section 504

Authorization

Section 504 directs the Secretary to submit a report to the President and Congress on the operation of the Historic Preservation Fund and the national historic preservation program since 1980.

Status of Implementation

The present report responds to Section 504.

Section 505

Authorization

Section 505 directs the Pennsylvania Avenue Development Corporation ("Corporation") to "review the development plan for those parts of the development area which are not under development or committed for development" in order to determine means of preserving the historic sites on those parcels lying within the boundaries of the Pennsylvania Avenue National Historic Site. The results of this review were to be reported to Congress within one year of the date of the Act. The report was to contain a summary of the findings of the review, recommended legislative measures or funding needs to fulfill the intent of this section, and activities proposed by the Corporation in order to fulfill the intent of the section.

Status of Implementation

In 1982, the Corporation completed the review of its development plan and submitted its report, "Preservation and Enhancement of Historic Values in Uncommitted Development Areas of the Pennsylvania Avenue Development," to Congress. The report describes the Corporation's methodology and findings. The Corporation has implemented a number of actions that incorporate the findings and recommendations contained in the report. The following is a summary of those actions:

1. In 1982, the Corporation amended the Pennsylvania Avenue Plan to include the changes in historic preservation requirements proposed for the Eastern Sector of the area. The effect of this amendment increased the number of historic buildings that will be available for preservation.

2. In 1984, the Corporation adopted a "Policy Statement on Historic Preservation" primarily geared for developers and area property owners, that described the Corporation's historic preservation objectives. These preservation objectives describe the organization's intention to channel rehabilitation efforts through the private market mechanism. The statement reinforces the Corporation's policy that private developers are expected to generate the commitment of capital necessary for rehabilitation. At the same time developers and owners are encouraged to take advantage of the investment tax credits and other benefits available for certified rehabilitation of historic properties. The Corporation also supports limited financial assistance to developers in order to achieve the original Pennsylvania Avenue Plan's preservation objectives. The process for providing such assistance for rehabilitation projects is described in the Corporation's "Development Policies and Procedures."

The policy statement reinforces the Corporation's intention to continue the support of preservation projects of exceptional importance which may include the reconstruction of salvaged facades that would not otherwise be prudent to retain without the Corporation's financial intervention.

Assessment and Conclusions

The Corporation's actions and policies have provided the framework for owners and developers in the rehabilitation of additional uncommitted parcels in the Pennsylvania Avenue Plan area. Furthermore, the Corporation's policy to expand the access to its

financial resources for large and small-scale projects provides the kind of commitment required of a public entity in implementing the redevelopment and preservation of this nationally significant avenue.

To strengthen the preservation of historic structures on uncommitted parcels, the Secretary suggests that the Corporation's "Development Policies and Procedures" be amended to include a policy that requires developers' adherence to the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation for preservation-related projects in the Plan area. As part of its management responsibilities, the Corporation should actively monitor developers' implementation of the Standards and Guidelines.

Section 506

Authorization

Section 506 directs the Secretary to undertake a comprehensive study and formulate recommendations for a coordinated system of cultural parks and historic conservation districts.

Status of Implementation

This and related matters are now under review by the President's Commission on Americans Outdoors. Based on the Commission's recommendations and subsequent actions by the President, the Department will proceed with the implementation of Section 506, as appropriate.

Section 507

Authorization

Requires the Secretary, in cooperation with other parties, to report to the President and Congress on fire and historic properties.

Status of Implementation

In 1982, the National Trust for Historic Preservation co-sponsored the project History Threatened: Arson -- An Anti-Arson Resource Guide under a grant from the United States Fire Administration. The Arson Resource Center of the Federal Emergency Management Agency also contributed to the report which was prepared by The Conservancy Group, a Washington, D.C. private consultant. Additional funds were also provided by AETNA Life Insurance Company, Connecticut General Corporation, Factory Mutual Systems, and Travelers Insurance Companies.

The guide is a compilation of materials that explores the arson problem and its effect on historic properties and neighborhoods. It suggests steps that groups can take to combat arson in their communities, suggest strategies for stabilizing neighborhoods to protect housing and commercial development, and includes information germane to historic districts.

Produced in coordination with a slide presentation by the same name and a special issue of the National Trust's "Conserve Neighborhoods," the kit identifies proven techniques which seek to stabilize neighborhoods, an essential first step in preventing arson. The kit also provides practical information on what community groups may do following an arson incident.

The Secretary reported to the President and Congress on arson and historic properties in April 1982.

Assessment and Conclusions

The Secretary's report and the activities of the National Trust have enhanced public awareness of the considerable danger that fire poses to historic properties.

*U. S. GOVERNMENT PRINTING OFFICE 1986; 624-149/679