Chapter 7: Built-Environment Cultural Resources Evaluation and Treatment

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Chapter 7: Built-Environment Cultural Resources Evaluation and Treatment

7.1 Introduction

This chapter outlines Caltrans policies and procedures under federal and state laws and regulations for identifying and evaluating the built environment, which includes buildings, structures, objects, certain sites, and districts, that may be affected by Caltrans projects. It also discusses findings of effect for built-environment properties, options for mitigation measures, and Caltrans' stewardship responsibilities for historic properties and historical resources under its ownership or control. Built-environment issues that have been challenging for Caltrans projects also receive specific attention in this chapter.

The primary applicable laws and regulations discussed in this chapter are Section 106 of the National Historic Preservation Act (Section 106), the California Environmental Quality Act (CEQA), the California Public Resources Code 5024 (PRC 5024), and the California Historical Building Code (CHBC). The State Historic Preservation Officer (SHPO) and Caltrans as delegated by the Federal Highway Administration (FHWA) have primary review responsibilities for cultural resources studies conducted under federal laws and regulations; the SHPO and Caltrans Division of Environmental Analysis Cultural Studies Office (CS) are the primary review agencies for PRC 5024 and Governor's Executive Order W-26-92 compliance for state-only projects and activities that involve state-owned cultural resources. Caltrans has review responsibilities under CEQA when Caltrans is the lead agency.

As used in this chapter and in Caltrans cultural resources guidance and studies, the terms "cultural resource," "historic property," "historical resource," and "significant cultural resource" have precise meanings. See Chapter 4 and Exhibit 1.3: *Definitions of Terms* for definitions.

7.2 The Disciplines of Architectural History and History

Architectural history addresses the social and aesthetic aspects of culture through the study of style, form, and design and their historical development, as well as changes in technology through analysis of the evolution of engineering practice and the use of materials in construction. The discipline of architectural history attempts to

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understand the past through the perspective of the existing architectural and vernacular heritage. By analyzing buildings, structures, and objects, either singly or in groupings, both architect-designed and vernacular, one seeks to explain how culture, economics, demography, technology, politics, and artistic expression in the past are reflected in the built environment. In addition, architectural history helps to demonstrate that the design and spatial arrangement of the structures in which previous generations lived, worked, played, studied, and worshipped reflect how such generations felt about those activities and how their artistic, cultural, and ethnic heritage were expressed in physical form.

History addresses the broad themes that help explain why events in a particular locality took the turn they did and how a particular cultural resource fits into the larger picture. The knowledge of dominant themes in American history is an essential component of the historian's education, but only a part. Combined with this specialized understanding of the history of the United States and California is an ability to think critically about the veracity of the data collected and to apply broader historical theory to commonplace research problems. Basic to the discipline is the historian's special way of looking at people and places over time. Almost automatically, the historian poses certain questions, such as: How did this evolve over time? What are its origins? Why did it develop when it did? Who were the people involved, and what were the reasons for their decisions? Summations regarding cause and effect and conclusions made in evaluating a particular historic resource are actually comprehensive generalizations of a very high order. And the ability to make these generalizations is the ability to think historically.

> Over one-third of California's National Register listed and determined eligible historic properties qualified under Criteria A, or their association with events or developments significant in our past, and more rarely, B, for their association with important individuals.

Thus, architectural historians and historians also are prepared to address a wide variety of built environment features, such as irrigation systems, vernacular landscapes, industrial complexes, ranches, free-standing commercial signs, transportation systems, and sites where major historic events took place. Besides considering the culturally based esthetic dimensions underlying the design and materials of a structure, architectural historians are attuned to the way in which a structure fits into national and regional historical developments.

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7.3 Professional Qualifications

In this handbook, the term "architectural historian" refers to all cultural resources specialists who meet the Caltrans Professional Qualifications Standards as Architectural Historian (AH) or Principal Architectural Historian (PAH), regardless of civil service classification or job title; the term includes Caltrans staff and other professionals, except as noted. For Caltrans purposes, the title of architectural historian is applied to both architectural historians and historians, conforming to the existing Environmental Planner (Architectural History) series classification, but it encompasses the work of both disciplines.

See Chapter 1 Section 1.3.5 and the Section 106 Programmatic Agreement (106 PA[1]) Attachment 1, and for state-only projects, the 2015 *Memorandum of Understanding Between the California Department of Transportation and the California State Historic Preservation Officer Regarding Compliance with Public Resources Code Section 5024 and Governor's Executive Order W-26-92* (5024 MOU[2]) *Attachment 1* for a discussion of professional qualifications, minimum standards, and certification levels under the 106 PA. Caltrans staff who meet these Professional Qualifications Standards, have completed specific training, and have received approval of their qualifications will be certified by Headquarters Cultural Studies Office (CSO) as Professionally Qualified Staff (PQS), as Architectural Historian (AH) or Principal Architectural Historian (PAH). Professional historians and architectural historians outside of Caltrans who meet the Caltrans Professional Qualifications Standards for Architectural Historian or Principal Architectural Historian may prepare technical studies for submittal under the 106 PA, but they are not designated as PQS under the 106 PA.

Under the 106 PA and the 5024 MOU, Caltrans PQS have responsibilities beyond preparing technical studies, including the review and approval of Section 106, CEQA and PRC 5024 cultural resources documents. Although consultants are not certified as PQS, are not delegated the review role under the 106 PA or the 5024 MOU as PQS, and may not approve documents, those professionals who meet the same

[1] First Amended Programmatic Agreement Among the Federal Highway Administration, the Advisory Council on Historic Preservation, the California State Historic Preservation Officer, and the California Department of Transportation Regarding Compliance with Section 106 of the National Historic Preservation Act as it Pertains to the Administration of the Federal-Aid High-way Program in California The 106 PA is Exhibit 1.1 of the Standard Environmental Reference Volume 2.

[2] The 5024 MOU is Exhibit 1.2 of the Standard Environmental Reference Volume 2.

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standards are qualified to prepare the same level of technical studies for the built environment.

Caltrans uses these same professional qualifications standards in fulfilling its cultural resources compliance for the built environment under other federal and state laws and regulations.

Projects that include maintenance, repairs, rehabilitation, relocation, ownership transfer or demolition of state-owned historic buildings and structures (such as historic roadways, bridges, retaining walls, pumping stations, etc.) need to be reviewed and, if appropriate monitored, by PQS who meet the Caltrans Professional Qualifications Standards as Principal Architectural Historian (PAH) and who also need to have the requisite training and experience in order to ensure that the *Secretary of the Interiors Standards for the Treatment of Historic Properties (SOIS)* are met. Appropriately qualified Caltrans Principal Architectural Historians need to review these projects prior to consulting with SHPO. See Chapter 2 Section 2.8 for guidance on the appropriate procedures to follow. Section 7.14.3 explains Caltrans policy on using the *SOIS*.

7.4 Built-Environment Resources

Architectural historians identify and evaluate buildings, structures, districts, sites, and objects, ranging from single-family residences, stores, schools, and factories, to downtown commercial districts, ranches, military bases, roads, railroads, bridges, tunnels, gardens, and statues. Guidelines on documenting and evaluating these resources include the *National Register Bulletins* series, among them, *National Register Bulletin 15* and *National Register Bulletin 16A*, which provide basic guidance and define categories of historic properties. The definitions and discussions of these categories, below, are excerpted from *National Register Bulletin 15*.

7.4.1 Buildings

A building, such as a house, barn, church, hotel, or similar construction, is created principally to shelter any form of human activity. "Building" may also be used to refer to a historically and functionally related unit, such as a courthouse and jail or a house and barn. Buildings eligible for inclusion in the National Register must include all of their basic structural elements. Parts of buildings, such as interiors, facades, or wings, are not eligible independent of the rest of the existing building. The whole building must be considered, and its significant character-defining features must be identified. “If a building has lost any of its basic structural elements, it is usually

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considered a ruin and categorized as [an archaeological] site"[3] and, if warranted, will require evaluation by an archaeologist. Coordination between a qualified historian and a qualified historical archaeologist is strongly recommended.

7.4.2 Structures

The term structure is used to distinguish from buildings those functional constructions made usually for purposes other than creating human shelter. Structures include roads, railroads, trails, bridges, dams, canals, ditches, and retaining walls. If a structure has lost its historic configuration or pattern of organization through deterioration or demolition, it is usually considered a ruin and categorized as a site.

7.4.3 Districts

A district possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development. A district derives its importance from being a unified entity, even though it often is composed of a wide variety of resources. The identity of a district results from the interrelationship of its resources, which can convey a visual sense of the overall historic environment or be an arrangement of historically or functionally related properties. For example, a district can reflect one principal activity, such as a mill or a ranch, or it can encompass several interrelated activities, such as an area that includes industrial, residential, or commercial buildings, sites, structures, or objects. A district can also be a grouping of archaeological sites related primarily by their common components; these types of districts often will not visually represent a specific historic environment. Large-scale cultural landscapes are usually classified as districts.

7.4.4 Sites

A site is the location of a significant event, a prehistoric or historic occupation or activity, a small-scale cultural landscape, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archaeological value regardless of the value of any existing structure. A site can possess associative significance or information potential or both, and can be significant under any or all of the four criteria. While it is unusual, physical remains need not mark a site if it is the location of a prehistoric or historic event or pattern of events and if no buildings, structures, or objects marked it at the time of the events (see National Register Bulletin 15, Section IV). However, when the location of a prehistoric or historic event cannot conclusively be determined because no other

[3] National Register Bulletin 15, Section IV.

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cultural materials were present or survive, documentation must be carefully evaluated to determine whether the traditionally recognized or identified site is accurate.

A site may be a natural landmark strongly associated with significant prehistoric or historic events or patterns of events, if the significance of the natural feature is well documented through scholarly research. Generally, though, the National Register excludes from the definition of "site" natural waterways or bodies of water that served as determinants in the location of communities or were significant in the locality's subsequent economic development. While they may have been "avenues of exploration," the features most appropriate to document this significance are the properties built in association with the waterways.

In rare cases, if evaluation is warranted, the architectural historian may be requested to evaluate built-environment resources under Criterion D, for their potential to yield significant information about the historical past.

7.4.5 Objects

The term "object" is used to distinguish from buildings and structures those constructions that are primarily artistic in nature or are relatively small in scale and simply constructed. Although it may be movable by nature or design, an object is associated with a specific setting or environment. Small objects not designed for a specific location, or that have been moved from the original location for which they were designed, rarely require study. Such works include transportable sculpture, furniture, and other decorative arts, that unlike a fixed outdoor sculpture, do not possess association with a specific place. Examples of objects include boundary markers, monuments, fountains, sculptures, statuary, boats and locomotives.

7.5 Scope of Survey

Chapter 4 contains a detailed discussion regarding how to scope built environment surveys and the use of the 106 PA. Chapter 4 Section 4.2.1 discusses screened undertakings and those requiring studies; Section 4.3 contains guidance on defining areas of potential effects and study areas; Sections 4.4 and 4.5, respectively, discuss initial identification efforts and background research, while Sections 4.6 and 4.7 provide guidance on initial surveys and cultural resources evaluations.

7.5.1 Section 106 Programmatic Agreement

The 106 PA governs all undertakings under the Federal-aid Highway Program in California. This means that all Caltrans projects with FHWA involvement need to comply with the 106 PA instead of 36 CFR 800, except where the 106 PA itself

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directs otherwise. The attachments to the 106 PA also provide general guidance that Caltrans follows on non-federal projects. Chapter 2, particularly Section 2.3, discusses the 106 PA, provides a detailed discussion of this document and the procedures to follow.

7.5.2 Local Bridge Seismic Retrofit Program

The 1995 Seismic Retrofit Programmatic Agreement (Seismic Retrofit PA) was terminated with the first amendment of the 106 PA, effective January 1, 2014. It was terminated because it refers to a version of the regulations at 36 CFR Part 800 prior to their amendment and the State-owned bridges and toll bridges have been retrofitted. But, since the Local Bridge Seismic Retrofit Program (LBSRP) is still in effect and considered an emergency program, there still is a need for the relevant provisions of the Seismic Retrofit PA that provide for expedited compliance with Section 106. The 106 PA Stipulation XVII and Attachment 7 (see Exhibit 1.1) updated and incorporated certain of these provisions to comply with the current regulations in 36 CFR Part 800. Caltrans shall follow applicable stipulations in this Agreement to determine the seismic retrofit project's potential to affect historic properties.

106 PA Stipulation XVII and Attachment 7 apply *only* to seismic retrofit work on a local bridge that is federally funded and that involves either structural modification of an existing bridge or the replacement of a bridge by a newly constructed structure, including any associated activities within the Area of Potential Effects (APE) of the project. Note that if a project involves any upgrades, enhancements or other activities that are not specified in the 106 PA Stipulation XVII and Attachment 7, the provisions in the stipulation and the attachment may not be used to streamline Section 106 compliance.

Under the Seismic Retrofit PA, seismic retrofit projects are exempt from review under Section 106 when the project's activities are

- Restricted to the bridge itself, or
- Limited to one of the nine types of activities listed in Attachment 7.

Seismic retrofit work on local bridges that are part of the LBSRP is exempt from CEQA because it is a statutory exemption.

7.5.3 5024 MOU

The 5024 MOU between Caltrans and the SHPO governs all projects and activities for state-owned historical resources within Caltrans jurisdiction. This means that all Caltrans projects and activities that include state-owned resources within the Project

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Area Limits (PAL) now need to comply with the 5024 MOU. The attachments to the 5024 MOU also provide general guidance that Caltrans follows on non-federal projects and activities. Chapter 2, particularly Section 2.8, discusses the 5024 MOU, provides a detailed discussion of this document and the procedures to follow. When a federal undertaking includes state-owned historical resources, cite Stipulation III of the 5024 MOU that allows Caltrans to

- Use the 106 PA for PRC 5024 compliance;
- notify NHPO that there are state-owned historical resources within the APE for the federal undertaking; and
- Request SHPO's concurrence under PRC 5024 in addition to concurrence under Section 106.

See the 5024 MOU Stipulation III and Chapter 2 Section 2.5.3 Types of Finding of Effects Documents, Processing the FAE, and Section 2.8 5024 MOU Features and Streamlining Measures.

7.6 Preliminary research

Preliminary research and surveys, which are similar in methodology among many types of resources, are discussed in detail in Chapter 4, Sections 4.4 and 4.5. Refer to Chapter 4 for greater detail on general processes.

7.6.1 Primary and Secondary Sources

Documents used in historical research generally are classified as either primary or secondary sources. Secondary sources are those works that present or interpret historical information, that is, works that discuss the historic period but are not, themselves, of the period. They may include textbooks, journal articles, local histories, scholarly studies, reference works, and survey documents. Secondary sources usually are investigated first, and they are the main resource for preliminary research.

Primary sources are those works that are first-hand accounts of historic events or that are contemporaneous with the historic period. They may include letters, diaries, maps, public records, and newspapers of the time. Primary sources usually are investigated only *after* an examination of secondary sources and a field survey have narrowed the focus to specific properties and themes that warrant more intensive research.

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Repositories for both primary and secondary sources include libraries, archives, government agencies, universities, historical societies, and private holdings. Exhibit 4.2: *Standard Sources of Information* describes both primary and secondary documents and provides information on standard sources.

7.6.2 Historical Themes and Context

The National Register states, "The significance of a historic property can be judged and explained only when it is evaluated within its historic context." It defines historic contexts as "those patterns or trends in history by which a specific occurrence, property, or site is understood and its meaning (and ultimately its significance) within history or prehistory is made clear."

Developing a historical context generally begins with compiling information from secondary sources on relevant historical themes. *National Register Bulletin 15* defines a theme as "a means of organizing properties into coherent patterns based on elements such as environment, social/ethnic groups, transportation networks, technology, or political developments that have influenced the development of an area during one or more periods of prehistory or history. A theme is considered significant if it can be demonstrated, through scholarly research, to be important in American history."

Adequate historical research should be conducted to identify and develop the appropriate themes to determine whether those themes are significant and to establish the context within which to assess significance of the built environment. It is acceptable to use previously written historical contexts from other reports, so long as the excerpts are appropriately credited and cited. Understanding the connection between historical context and themes (or areas of significance) and the properties being evaluated is crucial in determining National Register eligibility. Also, it is essential to include the geographic and temporal extent of the relevant context (e.g., citrus growing in Riverside County 1880 to 1900; commercial development in Marysville's central business district 1860-1890) to provide the context's limits.

7.7 Field Surveys

Because pre-field surveys and background research are similar in methodology to many types of resources, please see Chapter 4 Section 4.6.3 for details on conducting field surveys.

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7.7.1 Safety Considerations on Field Surveys

Caltrans staff and consultants conducting field surveys on Caltrans and local assistance projects must be familiar with Caltrans safety policies and procedures for field trips, visiting construction and maintenance sites, and field surveys. See Chapter 4 Section 4.6.3.4 Field Safety for additional information. When documenting properties within the right of way, it is necessary to pay special attention to safety. When recording properties, such as roads, railroads or bridges, in or near the traveled way, it is necessary to follow safe field practices.

The Caltrans Safety Manual requires that protective clothing always be worn, and it is strongly recommended that one have a "buddy" standing lookout for hazardous conditions. In addition, Caltrans staff must provide this information to others visiting in the field, such as staff from partner agencies, consulting parties, and others who need to visit construction, maintenance and field survey sites.

To avoid becoming distracted by potential traffic dangers, it is important to be particularly alert while taking photographs. If photographs of a property cannot safely be obtained, do not pursue the effort or attempt any unsafe behavior. Instead, explain the situation as described in Section 7.7.5 below. Trespassing is not permitted. Permission must be obtained from owners or tenants to safely and legally enter private property, as explained in Chapter 4 Section 4.6.3.4 Field Safety.

7.7.2 Reconnaissance Surveys

When a project covers a large area and there are numerous properties that might require evaluation, if time constraints and the travel budget allow, a quick reconnaissance (windshield) survey is advisable prior to a formal field survey. The windshield survey can reveal the quantity, quality, and distribution of resources that might require evaluation, allowing the architectural historian to be better prepared for the full field survey. When an early field visit is not feasible, preliminary information might be gathered through use of the Caltrans Photolog and Digital Highway Inventory Photography Program (DHPP) accessible only to Caltrans staff, satellite photography such as Google Earth, existing aerial photographs and maps, previous studies, or contact with knowledgeable locals.

7.7.3 Properties Exempt from Evaluation

For federal undertakings the 106 PA identifies certain categories of properties that inherently lack potential for historic significance, and following review by appropriately qualified PQS or by consultants meeting the same standards, typically

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do not warrant any further consideration. Attachment 4 of the106 PA defines these categories of properties, specifies the level of professional qualifications needed to exempt them, and describes exceptions to the exemptions. Historical Property Types 4, 5, 6 and 7 may only be exempt from evaluation *after review* by a Caltrans Architectural Historian or Principal Architectural Historian, or a consultant who meets the PQS standards for architectural history.

No written documentation or mapping of exempted resources is necessary. It is sufficient to state in the Historical Resources Evaluation Report (HRER) that, "*Consistent with Section 106 Programmatic Agreement Attachment 4, no [other] properties in the APE required evaluation*." It is helpful to add the applicable property type(s) for future reference and projects. See Chapter 4 and Exhibit 2.6: *Historic Property Survey Report (HPSR) Format and Content Guide* for information on addressing exempted resources in the Historic Property Survey Report (HPSR).

Consultants are not required to document their exempted properties for Caltrans PQS who are reviewing consultant-prepared documents. Caltrans PQS are responsible for ensuring only that the consultants are professionally qualified to exempt properties under 106 PA Attachment 4; they are not responsible for the consultants' conclusions.

Property Type 7: Post-World War II builders' houses and housing tracts

The 106 PA Attachment 4 Property Type 7 includes Post-World War II builders' houses and tracts that are not unique, architect-designed houses as an exempt property type when sufficient historical research and reconnaissance survey have been conducted to determine that:

1) The tract as a whole has no demonstrable potential to meet any of the National Register criteria as a historic district, and
2) No portion of the tract has demonstrable potential to meet any of the National Register criteria as a historic district, and
3) The individual houses have no demonstrable potential to meet any of the National Register criteria.

Follow the guidance in *Tract Housing in California, 1945-1973: A Context for National Register Evaluation* (Caltrans 2011) when considering the potential for significance.

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Exempting Properties When the 106 PA Does Not Apply

For federal undertakings wholly or partly on, or that could affect, tribal lands, and for other federal undertakings for which the 106 PA does *not* apply, Caltrans uses the Cultural Resources Letter Report (Letter Report) format to consider cultural resources that normally would be exempted under 106 PA Attachment 4. Letter Reports are used *only* to exempt properties from evaluation and not for other purposes. See Exhibit 6.1: *Cultural Resources Letter Report Format and Content Guide* for guidance when and how to use the Letter Report. District environmental staff may contact the Section 106/PA Coordination Branch (Section 106 Branch) Chief in CSO regarding appropriate use of the Letter Report.

Properties Exempt from Evaluation under CEQA

For state-only project use 5024 MOU Attachment 4 as the procedures for exempting cultural resources from evaluation. This attachment defines these categories of resources, specifies the level of professional qualifications needed to exempt them, and describes exceptions to the exemptions. Historical Resource Types 4, 5, 6 and 7 may only be exempt from evaluation *after review* by a Caltrans Architectural Historian or Principal Architectural Historian, or a consultant who meets the PQS standards for architectural history.

No written documentation or mapping of exempted resources is necessary. It is sufficient to state in the Historical Resources Evaluation Report (HRER) that, "*Consistent with PRC 5024 Memorandum of Understanding, no [other] cultural resources in the PAL required evaluation*." It is helpful to add the applicable resource type(s) for future reference and projects. See Chapter 4 and Exhibit 2.14: *Historical Resources Compliance Report (HRCR) Format and Content Guide* for information on addressing exempted resources in the HRCR.

Minimal Recordation for State-Owned Resources Exempt from Evaluation

Certain state-owned resources that are normally exempt from evaluation still require minimal recordation and require citations in a project HPSR or HRCR. Exhibit 4.4: *Minimal Recordation for Certain Exempted State-owned Resources* describes the procedure to be used and how to complete minimal recordation on a DPR523A Primary Record form. Chapter 4 Section 4.4.1.2 also contains a brief discussion on the need to identify state-owned resources exempt from evaluation.

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7.7.4 Dates of Construction

National Register and California Register criteria state that usually, a property must be at least 50 years old to be considered for historical significance, in order to ensure that sufficient time has passed to gain an adequate historical perspective for its evaluation. On the field survey, visual inspection generally will be adequate to sort out properties that may require evaluation based on their age. In order to conduct cultural resources surveys efficiently and not have to re-survey the same APE, it is Caltrans policy to treat as 50 years old all cultural resources that will become 50 years old by the time a project is scheduled to be completed.

Because Caltrans projects often have long lead times from environmental studies to project delivery, typically three to five years, it is necessary to take into consideration whether properties might become 50 years old during the life of a project.

If visual inspection alone does not clearly indicate a property's age, the following resources may be useful in verifying the construction date:

- Caltrans Right-of-Way database
- Caltrans Cultural Resources Database (CCRD)
- Sanborn Fire Insurance Company maps
- United States Geological Survey (USGS) topographical maps
- Historical maps and photographs
- Reclamation district maps
- Aerial photographs
- Land ownership atlases
- Subdivision plat maps
- Tax assessment and appraiser's records
- Building permit files
- Utility records (date of first water or sewer service)
- City or county directories
- Census records

7.7.5 Limits on Survey Coverage

Each property evaluated must be considered as a whole; however, that does not necessarily require physical access to, or recordation of, private spaces, restricted areas, or distant elements. Most built-environment properties can be adequately surveyed from public sidewalks or other public right of way. When physical access is restricted, unsafe, or infeasible, properties can be evaluated based solely on

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information that is reasonably obtainable. In those circumstances the survey document should explain why the coverage was limited.

Built-environment surveys do *not* require consideration of residential interiors, suburban backyards, or similar spaces lacking public access. In rare cases, buildings may have accessible interior spaces with *demonstrable* potential for historical or architectural significance, e.g., an intact classic movie theatre interior, the ornate public lobby of a train station, or an early manufacturing plant with intact original equipment.

While large properties, such as ranches, military bases, irrigation systems, or industrial complexes, must be considered as a whole, the survey should focus on those elements that are subject to project effects, not on recording distant components that will not be affected. When buildings or other features in the APE may contribute to a larger potentially historic district, however, the district limits and its significance may require evaluation.

7.8 Evaluation of Built-Environment Resources

Resources that require evaluation are examined to determine their potential eligibility for inclusion in the National Register in accordance with Section 106, and to determine whether they are historical resources for the purposes of CEQA. For state-only projects, properties are evaluated under CEQA only. However, state-owned buildings and structures also may need to be evaluated for PRC 5024 compliance using the National Register criteria. See Section 7.13 below for further guidance on the state process.

Historical research is an ongoing process throughout the identification and evaluation phases. It generally evolves from a general overview history of a large geographical area to a concentrated analysis of each property requiring evaluation. The level of research effort undertaken must be commensurate with the property's potential for significance and the ease or difficulty of reaching a conclusion and of providing supporting evidence for that finding.

Section 106 requires a "reasonable and good faith effort" to identify historic properties (36 CFR 800.4[b][1]). It is Caltrans policy to conduct research sufficient to establish whether or not a property is eligible and to support that finding, but not to carry the research further. Workloads, standards of efficiency, and good public service prohibit doing otherwise.

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7.8.1 Property-Specific Research

When resources require evaluation, research must focus on whether those properties are eligible for inclusion in the National Register or are historical resources for purposes of CEQA. Research should be as efficient as possible, identifying only those areas of significance that apply to the resources in the APE. Unrelated areas or extraneous information should not be in the HRER, however interesting they may be.

Most properties encountered during survey work will lack significance. They will be ordinary or modest in character and will not be associated with important events, individuals, styles, or property types. It is always possible that such a property, unremarkable on the surface, could contain hidden values, but it is more likely that any potential significance will be known locally or will quickly be discovered through preliminary research. For the vast majority of properties, what appears to be ordinary, in fact is so, and it is not good public policy to expend major effort exploring unlikely avenues and pursuing diminishing returns. At the same time, experience has shown that researchers may need to do extensive research for properties on the borderline of eligibility, and as much effort may go into properties that ultimately prove to be not eligible as those that are found eligible.

It is not expected that every survey will uncover eligible properties, and the "best" property in a survey area does not equate to eligibility. The context for evaluation is the established historic context, not the project area.

A Queen Anne cottage with some, but not all, of the essential physical features of the Queen Anne style and a fair degree of integrity may be eligible for its architecture in a town with very few buildings of that type or period, while the same building might *not* be eligible in a large city where there may be dozens of Queen Anne style houses that retain most of their essential Queen Anne features *and* a high degree of integrity. Likewise, the same Queen Anne cottage might be eligible, regardless of its architecture, if it has significant historical associations with an event or a person important in the history of that particular community.

7.8.2 National Register Criteria

National Register Bulletin 15: How to Apply the National Register Criteria for Evaluation specifies that in order to qualify for the National Register, "a property must be significant; that is, it must represent a significant part of the history, architecture, archaeology, engineering, or culture of an area, and it must have the characteristics that make it a good representative of properties associated with that aspect of the past." The property must also possess the physical features necessary to convey that history.

In National Register evaluations, significance must be viewed within the local historical and architectural context, which is the interpretive and comparative

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framework, composed of similar resources in an area. This framework provides the basis for assessing the historical or architectural significance of a property. For example, a property determined eligible for its architectural style in one community might not be eligible in another community that had a richer stock of similar historic properties.

The criteria for evaluation are as follows:

- Criterion A. *Properties that are associated with events that have made a significant contribution to the broad patterns of our history.* Criterion A recognizes single historic events or patterns of events, when both the event itself and the property's association with it can be proven to be significant.
- Criterion B. *Properties that are associated with the lives of persons significant in our past.* Criterion B applies to the single property best associated with an important individual, such as the individual's home, office, or studio, and usually during the time of that individual's greatest achievements. More than one property can be associated with an individual, however, when each property represents a different important aspect of that individual's significance. Criterion B often is misapplied to a person's works, which are more appropriately evaluated under Criterion C.
- Criterion C. *Properties that embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction.* Criterion C addresses architectural, engineering, and artistic values, and it applies to historic districts, which may or may not contain individually eligible components.
- Criterion D. *Properties that have yielded or may be likely to yield information important in prehistory or history*. Criterion D generally applies to archaeological resources rather than to the built environment, but in extremely rare circumstances, built-environment properties can have Criterion D values, such as when an unusual rammed-earth building could possess important construction information that was otherwise unknown.

Of these four criteria, Criteria A and C are the ones that typically apply most frequently to built-environment properties.

For CEQA purposes, evaluate resources using the California Register of Historical Resources criteria codified in PRC 5024.1(c). See Exhibit 4.3: *National Register and*

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California Register Comparison to see the similarities and differences of the National and California Registers both in the statutes and in the regulations.

Consult *National Register Bulletin 15* for additional guidance in applying the criteria. This bulletin also identifies several types of properties that are normally excluded from National Register eligibility (under Criteria Considerations; see Section 7.8.4 below).

7.8.3 Integrity

In addition to significance under one or more of the criteria, a resource must retain historical integrity. *National Register Bulletin 16A* defines integrity as *"authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's historic or prehistoric period."* It is through its integrity of physical character that a property conveys its history, and its sense of time and place. It is the physical manifestation of the historic themes and context.

The principal test in assessing whether a property retains integrity is:

Does the resource still retain the historical *identity* for which it is significant (i.e., the essential physical features that convey its historical character)?

Would it be recognizable to a person from the property's period of significance?

National Register Bulletin 15 (Section VIII) characterizes historic integrity as "*....the ability of a property to convey its significance…The evaluation of integrity is sometimes a subjective judgment, but it must always be grounded in an understanding of a property's physical features and how they relate to its significance…Historic properties either retain their integrity or they do not."*

There are seven aspects of integrity (see Table 1). All seven aspects of integrity and every essential physical feature from its period of significance do not need to be present, but the property must retain enough essential physical features to convey its past identity and, thus, its significance.

Table 1: Aspects of integrity:

1. Location	5. Workmanship
2. Design	6. Feeling
3. Setting	7. Association
4. Materials	

Essential physical features define:

1) *Why* a property is significant (the applicable National Register Criteria and Areas of Significance).

2) *When* it was significant (Period of Significance).

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The eligibility criteria and areas/ periods of significance determine which aspects of integrity are most critical to conveying significance. For example, if a property is important because it exemplifies a particular engineering type (Criterion C), the integrity of the property's design, materials, and workmanship are vital. Integrity of feeling and association may be more meaningful to properties eligible for their association with persons or an event, such as citrus growing the late 19th century (Criterion A).

The steps necessary in assessing integrity are outlined in *National Register Bulletin 15* Section VIII as

1) Define the *essential physical features [*also called character-defining features] that must be present to represent the property's significance.
2) Determine if the *essential physical features are visible enough* to convey their significance.
3) Determine if the property needs to be compared to similar properties.
4) Determine *which aspects of integrity* are particularly important to the property and *if they are present*.

Historic setting is a factor in determining the boundaries of a historic property. It is mentioned here to emphasize its importance in determining historic integrity. The term setting "refers to the *character* of the place in which the property played its historic role" (*National Register Bulletin 15*). Thus, if a property retains its integrity of setting along with other essential physical features, it would convey sense of time and place from its period of significance.

7.8.4 Criteria Considerations

The National Register Criteria and the California Register both identify several types of properties that normally are excluded from eligibility or listing (see table below). However, there are National Register Criteria Considerations and California Register Special Considerations that specify the conditions under which these property types may be eligible for the National Register or considered historical resources under CEQA.

See Exhibit 4.3, for an explanation of the considerations in Table 2 below.

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TABLE 2

NATIONAL REGISTER CRITERIA CONSIDERATIONS FOR EXCLUDED PROPERTIES	CALIFORNIA REGISTER SPECIAL CONSIDERATIONS FOR EXCLUDED RESOURCES
a) Religious properties b) Moved properties c) Birthplaces and graves d) Cemeteries e) Reconstructed properties f) Commemorative properties g) Properties that have achieved significance within the past 50 years	1) Moved buildings, structures or objects. 2) Resources that have achieved significance within the past 50 years 3) Reconstructed buildings

These normally excluded properties do not need to go through formal evaluation, but they should be acknowledged in the HRER and their status explained. No further effort is needed for properties that meet the criteria considerations, unless they qualify as exceptions.

7.8.5 Complex Property Types

7.8.5.1 Linear Resources

Linear resources such as trails, roads, railroads, transmission lines, flumes, and canals that cross or border a project area and may extend far beyond it can be challenging to survey, record, and evaluate. The first step is to determine whether they are subject to potential effect by the proposed project, and whether they should be included within the project APE. The second step is to consider whether they require evaluation, or if they are exempt under 106 PA Attachment 4 or for state-owned resources 5024 MOU Attachment 4. The third step is to consider whether the linear resource should be documented as a "structure" using the DPR 523 building, structure, and object form, or its historic context and physical characteristics; it is better suited for recordation as an archaeological resource.

Some types of projects have little or no potential to affect a linear resource, either directly or indirectly, and thus the resource does not need to be included in the project APE. In these types of projects the linear resource is located adjacent to the project APE without any direct contact, or the linear resource crosses through or bisects the project APE, but has been dramatically altered or in many cases entirely destroyed. For example, if a project to replace a bridge over a canal does not involve any physical impacts to the canal, and the bridge has no historical associations with the canal (e.g., postdates the period of significance for the canal), the canal can be

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excluded from the project APE. The HRER would specify that the canal was not included in the project APE *because the project has no potential to affect it*. Depending upon the project, the jurisdictional lands it lies within, comments from stakeholders and other government agencies, there may be no need to delineate an ESA for the linear resource as described above. This decision will need to be made on a project-by-project basis, although the justification for this decision needs to be described in the accompanying report.

Even linear resources within a project APE may be found exempt from evaluation under 106 PA/5024 MOU Attachment 4. Such exempt properties include contemporary (i.e., post-date the period of significance) canals, pipelines, ditches, and levees; converted or contemporary railroad grades; short segments of bypassed or abandoned roads; city streets and sidewalks; transmission lines; and fences and walls. Linear resources can be determined exempt in accordance with 106 PA/5024 MOU Attachment 4, because such properties generally are subject to routine maintenance and improvement projects, and consequently they are often substantially altered and can thus be found exempt by appropriately qualified PQS or consultants.

If a project does have potential to affect a linear resource that is not exempt from evaluation, the resource as a whole must be considered. Formal recordation and evaluation along the entire length of a linear property, however, rarely is necessary. The level of effort will depend on the nature and scope of the project and its potential to affect the property as a whole. If a project has the potential to affect only a short segment of a long linear resource, the property as a whole at minimum should be briefly described or examined, its potential eligibility assessed (e.g., National Register criteria, approximate boundaries, level and period of significance), and, with CSO's approval, it may be considered eligible for the purposes of the project only, pursuant to 106 PA Stipulation VII.C.4 or 5024 MOU Stipulation VIII.C.4. The segment subject to potential effect then is evaluated in the context of the larger property as to whether it would be a contributor, and whether that segment would be considered eligible or ineligible for the purposes of the project only. Include a statement in the HRER that the segment(s) is/is not a contributor to the larger property should the property ever be determined eligible for inclusion in the National or California Registers.

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7.8.5.2 Trails

California contains traces of numerous eighteenth- and nineteenth-century emigrant trails, such as segments of the Old Spanish Trail in southern California, and segments of the California Overland Emigrant Trails in northern California, that have potential for historical significance in local, regional, state, or national history. If any traces of these early trails are located within the APE, the trail will require evaluation.

> Caltrans is in the process of finalizing a historic context and evaluation procedures for roads and trails in California. When complete, this guidance should be followed whenever there are trails roads or highways requiring evaluation. This document will provide historical contexts for trails, roads and highways in California, as well as guidance for recognizing, classifying, and describing these systems and their individual components, determining appropriate level of documentation, and determining significance and integrity. The guidelines also will contain an extensive bibliography and suggestions on organizing the information in a report format.

It cannot be expected that all early trails will be clearly visible on the ground today. Many have vanished through natural erosion, modern highway construction, and other forms of development. The rarity of these trails themselves is an important factor in assessing their potential significance. Evaluation of these resources may require an interdisciplinary approach with historical archaeologists. In addition, the evaluations should be conducted in cooperation with trail organizations, such as Oregon-California Trails Association (OCTA), and the federal agencies, such as the Bureau of Land Management (BLM), U.S. Forest Service (USFS), and the National Park Service (NPS), since many trails cross political boundaries and varying jurisdictions. Many historic trails in California have been designated under other federal laws that have their own criteria, such as the National Historic Trails Systems Act. Regardless of any such other designation a trail may possess or have the potential to possess, Caltrans evaluates trails in accordance with the National Register and California Register eligibility and integrity criteria.

7.8.5.3 Streets and Roads

For the most part, streets and roads and their associated features form an important part of this nation's infrastructure, and as such generally require some level of study. City streets, isolated segments of bypassed or abandoned roads, sidewalks, retaining walls, and fragments of bypassed or demolished bridges may be exempt from evaluation under 106 PA Attachment 4, or for state-owned resources 5024 MOU Attachment 4.

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Short, isolated segments of abandoned or bypassed roads may be exempt from recordation or evaluation, even when they are part of an old road that possesses historical associations. Such a property, however, is *not* exempt if it is long enough to convey a sense of the road's historic context or potential significance, or if there are multiple (discontiguous) segments that collectively could convey potential significance. Because there is no definition of how short is too short a segment or roads that have historic significance, one may want to consult with the Section 106 Branch Chief or the BEPS Branch Chief in CSO.

In most cases, if roads and related features are not associated with significant themes, or if their significance cannot be conveyed because of loss of integrity, neither recordation nor evaluation is warranted.

7.8.5.4 Highways and Freeways

A number of California highways either have been listed in or determined eligible for inclusion in the National Register. The Old Ridge Route in Castaic, Los Angeles County, and the original route of the Old Redwood Highway (U.S. 101) in Del Norte County are listed on the National Register. Other sections of highway have been determined eligible for inclusion in the National Register as a result of Caltrans projects, including the Arroyo Seco Parkway (Pasadena Freeway) and segments of the Cahuenga Freeway in Los Angeles County, the Cabrillo Freeway in San Diego, Route 66 in San Bernardino County, Highway 50 over Echo Summit in El Dorado County, and the Feather River Highway in Plumas and Butte counties.

The Interstate Highway System is exempt from Section 106, except for individual elements that the U.S. Secretary of Transportation determined have national or exceptional historic significance and are considered historic properties for Section106 and Section 4(f) purposes. Most of Interstate Highway system is exempt from consideration as a historic property under Section 4(f) of the U.S. Transportation Act. The individual Interstate elements that are historically significant are enumerated in the list of Nationally and Exceptionally Significant Features of the Interstate Highway System. The Interstate Highway system exemption does *not* apply to these individual elements. Refer to Chapter 2 Section 2.2.7 for guidance on this exemption.

The Interstate Highway exemption does not apply to freeways and highways that are *not* officially part of the Interstate system.

While segments of the Interstate could be subject to review under state laws and regulations, the majority of the Interstate in California would meet the conditions

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outlined in 106 PA Attachment 4. This is the guidance Caltrans also uses to exempt resources from evaluation under CEQA and PRC 5024. See Chapter 2 Section 2.7 (State-only Projects) and Section 2.8 (State-owned Cultural Resources) for further guidance.

In recent years, the state and federal governments officially have recognized the historical significance of several twentieth-century highways. At the federal level, Congress has passed an Act to Preserve the Route 66 Corridor and the Lincoln Highway Study Act. At the state level, the California Legislature has recognized the historical significance of U.S. Highway 99, Historic U.S. Highway Route 101, U.S. Highway Route 40, alternate U.S. Highway Route 40, and U.S. Highway Route 395. Note, however, that legislative recognition is commemorative and does not equate to eligibility for the National Register. There are historic highway associations that focus on specific routes and the public has showed an interest in designating certain routes as scenic and/or historic. While it does not translate directly into National Register or California Register eligibility, it is important to be sensitive to the public and legislative interest in these routes.

7.8.5.5 Railroads

Because railroads are almost invariably over fifty years old and have the potential to possess significance for their role in California's history and economy, they generally require evaluation when a transportation project has the potential to affect them, unless contemporary systems. Railroads are private property, are extremely dangerous, and should not be entered by field crews without first obtaining permits to enter, as explained in Chapter 4 Section 4.6.3.4 Field Safety, and Chapter 5 Section 5-11.2.

However, projects on a highway that merely parallels a railroad or that intersects it at an existing grade crossing, or construction of a new over- or undercrossing that does not physically touch the railroad, have limited potential to affect it. In such cases, the railroad need not be included in the project APE. Physical proximity of one transportation facility to another does not necessarily introduce an effect.

Because modern railroad grade crossing already constitute alterations that postdate any potential historical significance, a project that modifies such grade crossings is unlikely to affect any National Register significance a railroad might possess.

Rather, this would amount to changing a noncontributing segment of the railroad, should the property as a whole be significant.

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It is sufficient in such cases to state in the HRER that the railroad was not included in the project APE because the project *has no potential to affect it.* No further discussion of the railroad is necessary; do not mention it in the HPSR.

When an evaluation is warranted, it is conducted in a focused manner that concentrates on the segment within the APE. If the railroad as a whole appears to possess significance, then that segment in the project APE is assessed within the context of the property *as a whole* to determine whether the segment retains sufficient integrity to convey a sense of the railroad's significance.

Loss of original rails, ties, and ballast does not necessarily indicate loss of integrity for a railroad, because those elements are subject to frequent replacement on working lines. Railroads in use for many years are no more likely to retain those original materials than are houses of the same age, for example, to possess an original roof. If materials are less than fifty years of age, the evaluation should clearly state that fact, and that they post date the period of significance. Railroads that have lost important associated buildings and structures, such as depots, maintenance sheds, roundhouses, watchman's towers and signal bridges, may not eligible for inclusion in the National Register because of the loss of integrity of materials and association.

When a railroad is abandoned, rails and ties are typically removed for reuse, thus an abandoned railroad cannot be expected to possess those elements of materials and workmanship. The property then would need to possess a high degree of the other aspects of integrity (location, setting, design, feeling, and association) in order to retain sufficient integrity for eligibility.

Railroad grades that have been converted to uses such as roads, levees, or bike paths, may have lost historic integrity, and therefore, would not meet National or California Register criteria; they will be exempt from evaluation, provided they are not part of a larger historic property requiring evaluation (see 106 PA Attachment 4 or 5024 MOU Attachment 4).

7.8.5.6 Water Conveyance Systems (Ditches and Canals)

Not all water conveyance properties encountered in the course of a project require study. No studies are required when the project has little or no potential for effect on the property and it can be excluded from the project APE, or when the property is exempt from evaluation. Any work on a noncontributing bridge that merely crosses over a canal has little potential to affect any National Register significance that the canal might possess. Work on or in the approximate footprint of a bridge that

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postdates the canal, including full replacement of the bridge, will be considered an alteration to a noncontributing segment of the canal, should the property, as a whole, be significant.

It is sufficient in such cases to state in the HRER that the canal was not included in the project APE because the project *has no potential to affect it.* No further discussion of the canal is necessary, and it is not necessary to discuss the water conveyance feature in the HPSR.

Even when the project APE includes canals and related features, these resources may be exempt from evaluation. 106 PA Attachment 4, and for state-owned resources the 5024 MOU Attachment 4, contain a list of water conveyance and control features that typically are exempt. Additional water conveyance properties that are substantially altered also may be determined exempt by Caltrans PQS or consultants who are appropriately qualified to make this exemption.

A bridge that was constructed as part of a canal system, however, could be a contributing element to that larger property. If the bridge may be a contributor to a larger system or if a project otherwise has the potential to affect a canal or other water conveyance feature, the property would be included in the project APE. Unless exempt from evaluation, the canal, and possibly the system of which it is a part, will require evaluation.

Depending on the project's potential for effect and on the characteristics of the resource itself, the evaluation may concentrate on just the affected segment of the canal. But in any case, the study should examine the segment within the context of the property as a whole.

Follow the guidance in Caltrans' "Water Conveyance Systems in California, Historic Context Development and Evaluation Procedures" whenever there are water conveyance resources requiring evaluation. This document provides an historic context for water conveyance systems in California, as well as guidance for recognizing, classifying, and describing these systems and their individual components, determining appropriate level of documentation, and determining significance and integrity. The guidelines also contain an extensive bibliography and suggestions on organizing the information in a report format.

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7.8.5.7 Bridges

California Historic Bridge Inventory

Unlike other types of resources, most bridges on both state highways and local roads already have been evaluated for National Register eligibility in the California Historic Bridge Inventory (first completed in 1986 and updated in 2006, 2010 and 2015). The 2015 update includes bridges built between 1965 and 1974. Therefore, few highway or road bridges will require formal evaluation for Caltrans projects. The findings of the California Historic Bridge Inventory, or subsequent amendments to those findings, typically is the only documentation required, and is referenced the HRER and HPSR/HRCR, as appropriate. Exhibit 7.2: *Bridge Numbering and Historic Status Codes* contains an explanation and listing of the five "Historical significance" categories assigned to bridges in the inventory.

Bridge Evaluations

While formal bridge re-evaluations rarely are necessary, new information, subsequent alterations, passage of time, changing perceptions of significance or loss of similar properties may be cause for reconsideration. Caltrans projects also may involve railroad bridges, privately owned bridges, or other bridges that were not included in the Historic Bridge Inventory and that consequently must be evaluated. Please contact the BEPS Branch Chief in CSO for assistance and further guidance if it appears that a bridge evaluation is warranted.

Note that culverts not assigned Caltrans bridge numbers are identified in the 106 PA Attachment 4 and the 5024 MOU Attachment 4 as a property type typically exempt from evaluation.

For any bridges that are evaluated, copies of any evaluations, whether or not the bridge is National Register eligible, and the SHPO's subsequent concurrence letters need to be sent to the CSO BEPS Chief for inclusion in Caltrans' master bridge inventory.

7.8.5.8 Historic Districts

As defined by *National Register Bulletin 15*, a district "possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development."

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Typically, significant historic districts are found eligible under Criterion C because they "represent a significant and distinguishable entity whose components may lack individual distinction." Districts may also be found eligible under Criterion A should they also possess important historical associations with significant events. Criterion D also might be applicable if there is a historical archaeological component. Otherwise, Criteria B and D rarely apply to districts.

The Highland Historic District in Riverside County embraces the entire original town-site of Highland, which was an important citrus growing area in the early twentieth century. Its period of significance spanned from the late 1890s to the 1930s, when citrus production declined. It was determined eligible under Criteria A and C.

The Bay Terrace District in Vallejo, represents an important event that occurred over a relatively short period of time. It contains a cohesive group of dwellings built during World War I by the federal government to house Mare Island Naval Shipyard workers. It was part of a national plan that used progressive designs for worker housing and innovative concepts of site planning. As a well-preserved example this nation-wide wartime construction program, it was determined eligible under Criteria A and C at a national level of significance.

The buildings, sites, structures, or objects that compose a district form a significant and distinguishable entity, but they may lack sufficient integrity or significance to be eligible as individual properties. The interrelationship of resources creates the character of a district and can project a visual sense of the historic environment, as well as represent "an arrangement of historically or functionally related properties."

While a district may contain buildings, structures, objects and features that are not individually eligible for inclusion in the National Register, the resources that do make up the historic character of the district must have sufficient historic integrity to convey a sense of time and place from the period of significance. Contributing elements of the district must reflect its historic theme or area of significance, evoke a sense of that time and place, and retain a sufficient degree of integrity from the period of significance.

A historic district must have substantially more contributing elements than noncontributing elements. Numbers do not tell the whole story, however, as some features will have a more substantial presence than others or have a greater effect on the overall appearance of the district. Keep in mind that an eligible district should appear much the same as it did during its period of significance. This can be done only if the preponderance of resources, or their effect, within the district boundaries clearly reflects the physical appearance of the area during the period of significance.

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A generally accepted rule of thumb: contributing elements should constitute roughly two-thirds or more of the total number of features of substance within the historic district boundaries

A formal evaluation of an entire large district on the periphery of a project area is not always necessary, depending on the nature and scope of the project and its potential to affect the property as a whole. If a project has the potential to affect only a small component of a large district, the district may be briefly examined, its potential eligibility described (e.g., National Register criteria, approximate boundaries, period of significance), and it can be considered eligible for the purposes of the project only. The individual properties subject to effect then may be evaluated as to whether they are contributors to that district.

7.8.5.9 Mobile Home Parks and Manufactured Housing

Mobile home parks should be evaluated unless they are exempt due to their age or substantial alteration. They should be treated as complexes or districts. Mobile home parks are therefore not a property to write off automatically. The permanent features of a mobile home park – the street layout, plot layout (e.g., homes that are perpendicular, parallel to street or slanted along the street), main entrance, carports or parking pads, landscaping, offices and other permanent buildings, playgrounds, etc. are the significant features that would need to retain integrity from the era in which the parks would be significant. The homes themselves are less permanent, and there often is no good way to determine how long a given mobile home has been at its current location within the park. Exempting a mobile home park from evaluation based on "substantial alteration" should be based on changes to the permanent features, acknowledging the impermanent nature of the individual homes.

Evaluating a mobile home park as a single property is similar to a postwar housing tract. It is not necessary to document or evaluate individual mobile homes as separate properties, unless there is some indication that a particular mobile home might meet one of the National Register criteria. This, however, would be a very rare occurrence.

In most cases, the documentation and evaluation can be brief, since most mobile home parks will have little potential to meet the National Register criteria. Although mobile homes can be moved, in practice they are often moved only once – from the factory to the mobile home park. When the residents leave, they typically sell the home to a new owner who moves in – the house itself is not moved. An analogy was made to "temporary" classroom buildings on school properties.

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There is an important distinction between mostly early 20th-century trailer courts/trailer parks, used as an alternative to motels or tent camping, and the later era mobile home parks, used as permanent residences. The contemporary recreational vehicle (RV) park would be the modern analogy to the earlier trailer park.

Some time references in the evolution of trailers to mobile homes to manufactured homes should be kept in mind:

- World War II: The big boom in mobile homes as permanent housing came with the onset of World War II when mobile homes could be set up in a short period of time to house military personnel on bases and factory workers engaged in the build-up of the war industry. These were intended to be temporary housing and the parks themselves were rudimentary.

- Early 1940s: Trailers get longer and wider. "By 1943, trailers averaged a width of 8ft and were over 20 ft in length, they had up to 3 to 4 separate sleeping sections but no bathrooms. By 1948, lengths had reached up to 30 ft and bathrooms were introduced. Mobile homes continued to grow in length and widths such as doublewide.[4]" These longer and wider trailers lent themselves to use as permanent homes more easily than as vacation trailers; these much larger trailers made navigating often narrow and windy roads and highway more difficult to navigate.

- 1950s to early 1960s: Purchasing mobile homes without having to purchase land upon which to place the home provided an affordable alternative to the traditional model of buying a parcel of land upon which a permanent house was built. Many vacation trailer parks began their transition to permanent housing at this time by offering plots for rent on a monthly or longer-term basis.

  Scant construction standards and zoning: The construction of mobile homes was unregulated and units were sold—with varying warranties—in the same manner as automobiles, through dealerships. The parks also were not well regulated and generally were built on the outskirts of towns on cheap land.

- 1960s to 1970s: During these decades mobile home parks were deliberately planned subdivisions, with lots laid out in a variety of patterns, and offered

[4] Mary Bellis, "Mobile Homes," About.com, accessed July 6, 2015, http://inventors.about.com/library/inventors/blmobilehome.htm

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amenities such as utility hookups and parking pads, an office, and laundry facilities. There were approximately 50 mobile home park subdivisions nationwide in 1960,[5] but zoning and subdivisions regulations had not caught up. This is an era when lots began to be sold instead of rented.

- 1974: Congress passed the "National Manufactured Housing Construction and Safety Standards Act of 1974," which included standards for the "construction, design, and performance of a manufactured home, which meets the needs of the public, including the need for quality, durability and safety." Because of the permanency of mobile homes, the Mobile Home Manufacturers Association pushed for a change in name for their product from mobile home to manufactured home.

- 1976: This is a watershed year because the regulations promulgated to implement the 1974 act, the Federal Manufactured Home Construction and Safety Standards, were codified at 24 CFR Part 3280. The standards cover "all equipment and installations in the design, construction, transportation, fire safety, plumbing, heat-producing and electrical systems of manufactured homes which are designed to be used as dwelling units." (24 CFR 3280.1) It requires that all manufactured homes built June 15, 1976 and after have a permanent data plaque that lists the manufacturer, serial number, model and date of manufacture. These plaques appear not only on homes in mobile home parks, but also modular homes that are assembled on-site on typical residential parcels; this is one way to tell whether a "single-family home" was built on-site or was fabricated elsewhere and assembled on site.

  As a result of these regulations, the term "mobile home" refers to any unit built prior to June 15, 1976, and "manufactured home" refers to any unit built after that date and used as permanent housing.

Manufactured housing companies also had an upsurge in modular units, from single-family houses to whole apartment complexes in the 1970s, in which prospective buyers could purchase a specific model home that was built in a factory in sections, with all the appliances, cabinets, counters and closets installed, then transported by trucks to a parcel of land in units and assembled on site. Apartment complexes and

[5] Frederick H. Bair Jr. "Regulation of Mobile Home Subdivisions," Information Report No. 145, April 1961. American Society of Planning Officials, Historic PAS Report Series, accessed July 6, 2015, https://www.planning.org/pas/at60/report145.htm

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motels were assembled in the same way. One of the largest companies in the 1970s was Cardinal Industries out of Columbus Ohio, which assembled "apartment communities," in addition to starting the Knights Inn "modular" motel chain, whose first location opened in 1974 in Columbus. With the surge in manufactured housing in the early 1970s, one should keep in mind that there may be some early examples in California that may need to be evaluated.

In addition to the resources listed below that other Caltrans architectural historians have used, there is a plethora of online resources that contain information about mobile homes, mobile home parks and manufactured housing

- Adkins, Crystal, "The History of Manufactured Homes," About.com, (http://manufacturedhomes.about.com/od/Manufactured-Home-History/fl/The-History-of-Manufactured-Homes.htm.
- "America Takes to the Motor Court," *Business Week,* June 14, 1940, p. 21.
- Bair, Frederick H. Jr. "Regulation of Mobile Home Subdivisions," Information Report No. 145, April 1961. American Society of Planning Officials, Historic PAS Report Series, https://www.planning.org/pas/at60/report145.htm
- Belasco, Warren, *Americans on the Road: From Autocamp to Motel, 1910-1945*. Cambridge: The MIT Press, 1979. Bellis, Mary, "Mobile Homes," About.com, http://inventors.about.com/library/inventors/blmobilehome.htm)
- Brimmer, Frank E. "Fundamentals of Motor Camping," Official AAA Camp Directory. Washington, D.C.: AAA, 1928, p. 16.
- Chittenden, Newton H. *Health Seekers', Tourists', and Sportsmen's Guide to the Sea-side, Lake-side, Foothill, Mountain and Mineral Spring Health and Pleasure Resorts of the Pacific Coast*. San Francisco: C.A. Murdock & Co., 1884.
- Drury, Margaret J. *Mobile Homes: The Unrecognized Revolution in American Housing*. New York, NY: Praeger Publishers, 1972.
- Elwood, P.H. "The Trailer: Liberator or Menace?" *The American City*. December, 1936.
- Fogarty, Frank. "Trailer Parks: The Wheeled Suburbs." *Architectural Forum*. July, 1959.

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- Hart, John Fraser, Michelle J. Rhodes, and John T. Morgan, The Unknown World of the Mobile Home. Johns Hopkins University Press, 2002.
- Johnson, Maura. *From Tents to Triple Wides*. Master's Thesis, Cornell University, 1986.
- Morris, Earl W. and Margaret E. Woods, editors. *Housing Crisis and Response: The Place of Mobile Homes in American Life*. Ithaca, NY: Cornell University, 1971.
- Rockland, Michael Aaron. *Homes on Wheels*. New Brunswick, NJ: Rutgers University Press, 1980.
- Wallis, Alan D. "House Trailer: Innovation and Accommodation in Vernacular Housing," in Perspectives in Vernacular Architecture III. Thomas Carter and Bernard L. Herman, editors. University of Missouri Press, 1989.
- ____. *Wheel Estate: The Rise and Decline of Mobile Homes*. New York, NY: Oxford University Press, 1991.

7.8.5.10 Historic Landscapes

Historic landscapes generally are categorized either as sites or districts, and specifically defined as either vernacular or designed landscapes.

Vernacular landscapes (sometimes called cultural landscapes) are the result of past human activities, land uses, and choices. They may display a particular arrangement of resources reflecting a significant land use, rather than a conscious design. These landscapes often are rural. An example could be an important dairy-farming region in which the farms display a consistent pattern and style from an earlier time.

Designed landscapes are conscious works in a recognized style or tradition. They may be associated with significant developments, persons, or events in landscape architecture. Aesthetic values often play an important role. An example could be a park or the grounds of a college campus designed by an important landscape architect.

For additional guidance on landscapes see:
National Register Bulletin #18
Designed historic landscapes
National Register Bulletin 30
Rural Historic Landscapes
National Register Bulletin #41
Cemeteries and Burial Places
National Register Bulletin #42
Historic Mining Properties.

Generally, historic landscapes that are categorized as sites are recorded and evaluated in the same manner as other sites, while historic landscape districts are treated in accordance with the same basic principles as other historic districts.

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As with other historic districts, formal evaluation of a large landscape district on the edge of a project area may not be necessary. If there is little potential to affect the landscape as a whole, it may be briefly discussed, outlining the qualities of its potential eligibility, and the landscape can be considered eligible for the purposes of the project only. Individual components subject to effect then would be evaluated to determine whether they are contributors to that historic landscape.

Caltrans has developed the "General Guidelines for Identifying and Evaluating Historic Landscapes," which should be followed when potential landscapes are encountered. The guidelines include recognition, classification, and description of landscapes; determination of the appropriate levels of documentation; and determinations of significance and integrity. The guidelines also contain an extensive bibliography and suggestions for organizing the information in a report format.

7.8.5.11 Traditional Cultural Properties

Although Traditional Cultural Properties (TCPs) usually are associated with Native American values, on rare occasions built-environment resources also may qualify as TCPs. Consult *National Register Bulletin 38: Guidelines for Evaluating and Documenting Traditional Cultural Properties*, for guidance in evaluating any potential TCPs.

National Register Bulletin 38 states that a traditional cultural property can be "defined generally as one that is eligible for inclusion in the National Register because of its association with cultural practices or beliefs of a living community that (a) are rooted in that community's history, and (b) are important in maintaining the continuing cultural identity of the community." Such associations must be traditional, important, and continuing, playing the same role in the community today as in the past. Just as with any other property, *a TCP must meet National Register criteria for significance and integrity*.

Developing a compelling argument for eligibility as TCPs of built-environment properties such as ethnic neighborhoods can be difficult and time-consuming. It should be pursued *only* after careful consideration. Sometimes properties that might appear to have potential TCP values could be better recognized and more easily and appropriately documented as National Register property types (buildings, structures, objects, historic districts, etc.) under the "area of significance" categories outlined in *National Register Bulletins 15 Part V* and *16A Part III.8*. However, when built-

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environment properties do have values that best can be addressed as a TCP, they should be evaluated as such, following the guidance in *National Register Bulletin 38*.

It must be emphasized that eligibility of historic-era TCPs should be based on scholarly historical research and that the resource or traditional activities must be based in the past and, in continuing use for at least 50 years, and the TCP must have integrity. When supporting documentary evidence can be expected to exist, historical research must be conducted, and the findings examined with intellectual rigor. The associated community also must be clearly identified, and the full range of its members' opinions noted, including opposing viewpoints.

Because of the potential for objections to such a finding, the argument for eligibility of a historic-era TCP should be especially careful to present an objective view and to address any controversies regarding the finding.

7.9 Eligibility Determinations

All built-environment properties within the APE, other than those determined to be exempt from evaluation, must be evaluated for eligibility for the National Register and clearly presented as either eligible or ineligible. For borderline properties where the conclusion is not clear, it may be helpful to: 1) consult peers for guidance, and 2) draft arguments both for and against, to see which is the stronger. It is not allowable, however, to defer evaluation to a future time or to offer an "indeterminate" finding.

7.9.1 Ineligible Properties

Properties are determined to be not eligible for inclusion in the National Register when they either lack significance under any of the National Register criteria, or they lack the integrity necessary to convey any significance they might possess.

A reasonable level of effort must be made to identify possible significance, "reasonable" depending on the particular circumstances for each property. If research fails to reveal any potential for important associations under criteria A or B, and the property displays no apparent values under Criterion C, or if it lacks integrity because of substantial alterations, and there is no potential for archaeological deposits (see Chapter 6), the property can be determined to be not eligible for inclusion in the National Register.

An adequate argument has to be constructed for ineligibility, as well as for eligibility, and the determination must convey the rationale and present the evidence in support

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of the conclusion. Generally, the more obvious the conclusion, the less effort needs to go into the argument.

7.9.2 Eligible Properties

Properties are determined to be eligible for inclusion in the National Register when they possess significance under any of the National Register criteria, *and* they possess the integrity necessary to convey that significance. The guidance also is used for determining boundaries for historical resources under CEQA and compliance with PRC 5024.

A determination of eligibility must convey specific findings, the rationale for those findings, and supporting evidence. It is a professional obligation also to reveal any evidence or argument for a contrary conclusion, which should be discussed objectively, and the reason for the final judgment explained.

In order for the State Historic Preservation Officer to concur in a determination of eligibility, it is necessary to identify and provide justification for the following specifics the:

- *Applicable National Register criteria.* Only one criterion is needed for eligibility, but any other criteria that may apply should also be mentioned.
- *National Register property boundaries.* (See Section 7.9.3, below.)
- *Period of significance.* More than one period can apply when a property has different phases of significance. A property significant for its architecture will generally have the date of construction as its period of significance, although the period can be extended to include the date of later alterations that have also acquired significance.
- *Level of significance.* National, state, or local.
- *Contributing and noncontributing elements.* Any substantial components that add to or detract from the property's significance, such as buildings, fences, or vegetation.

7.9.3 Historic Property Boundaries

Boundaries of a historic property must be delineated clearly and carefully, as they are a critical factor in the subsequent assessment of project effects on the property. The *National Register Bulletin, Defining Boundaries for National Register Properties,* provides substantial guidance on establishing boundaries, including the following summary:

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Selection of boundaries is a judgment based on the nature of the property's significance, integrity, and physical setting…Select boundaries that define the limits of the eligible resources. Such resources usually include the immediate surroundings and encompass the appropriate setting. However, exclude additional, peripheral areas that do not directly contribute to the property's significance as buffer or as open space to separate the property from surrounding areas. Areas that have lost integrity because of changes in cultural features or setting should be excluded when they are at the periphery of the eligible resources.

Current property lines (assessor's parcels) often are the appropriate boundaries for built-environment properties in urban or suburban areas, and sometimes for rural properties as well. When a historic property does not correspond with the current legal parcel, other kinds of boundaries may be used. Historic ownership maps may be used to show the original property lines from the period of significance; landscape features such as tree rows, stone walls, or roads may provide logical limits; or adjacent modern intrusions can represent appropriate boundaries for the limit of the eligible resource. Whatever boundaries are chosen, it is important that they be described in relation to other features in a manner that will clearly distinguish the eligible property from its surroundings.

The boundaries of a historic property *must be depicted* clearly on a map that accompanies the DPR 523 Building Structure and Object (BSO) Record or District Record (as appropriate), *and on the APE Map*. Include a narrative boundary description on the BSO or District Record.

Boundary lines need to be delineated on a map of appropriate scale and detail. For large properties, the boundaries may be drawn on a USGS quad sheet. If the boundaries are straight lines that form a polygon, Universal Transverse Mercator (UTM) coordinates can be used to designate the vertices of the property. If used, mark and label the UTM references on the map. See *National Register Bulletin #28: Using the UTM Grid System to Record Historic Sites*.

In unusual cases where the property is a historic district composed of discontinuous elements, boundaries for each of the separate parcels of land comprising the district should be selected according to the guidelines presented in *National Register Bulletin 16A*. This situation is limited to situations in which

- Visual continuity is not a factor of historic significance
- Resources are geographically separate

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- Intervening space lacks significance.

A good example is a canal system, in which human-made elements are interconnected by natural components that are excluded from the National Register. Another example is where a portion of a historic district was separated from the rest of the district by intervening development or highway construction and the separated portion has sufficient significance and integrity on its own to meet the National Register criteria.

It is important to make careful, thoughtful judgments regarding boundaries, especially when including land outside the legal parcel within the historic property's boundaries. Boundaries must be defensible in terms of the intrinsic historical or architectural values they contain. The boundary description needs to provide a clear rationale, particularly when the boundary does not correspond to the current legal parcel, based upon historical significance and historic integrity.

7.9.4 Essential Physical Features

Essential physical features are those distinctive tangible elements and physical features that convey a property's historic appearance and that are indispensable to conveying its historic significance. Essential physical features (also referred to as contributing elements or character-defining features) are directly related to the criteria under which a property qualifies for the National Register of Historic Places. Identifying a property's essential physical features is critical in assessing its integrity for the evaluation, and in determining a project's effects on that property. If the various materials, features and spaces that give a property its visual character are not recognized and preserved, then essential aspects of its character may be damaged through project effects, mitigation, rehabilitation, and other activities.

Essential physical features may include such elements as materials, craftsmanship, construction details, overall shape and size, spatial relationships, and contributing setting. In general, only exterior, publicly accessible features of built-environment properties require consideration on a survey. For most Caltrans projects, the exterior essential physical features of buildings, structures, objects, sites and districts are the most critical because they are the features that are most likely to be affected.

There are situations, however, when Caltrans projects have the potential to affect interior features, such as maintenance activities and repairs to Caltrans-owned historic buildings, or when appropriate mitigation measures include interior work on affected historic buildings or structures. *Careful consideration needs to be given as to*

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whether identifying interior character-defining features is necessary. Understanding what essential physical features a historic property possesses becomes critical in during the effects phase of the Section 106, CEQA and PRC 5024 processes, and guide the development of mitigation measures.

Character refers to the *visual* aspects and physical features that comprise the appearance of every historic built-environment resource. Essential physical features include overall shape and size of a resource, its materials, craftsmanship, decorative details, spatial relationships, various aspects of its site and environment, and, in limited circumstances, interior spaces and features.

When determining whether a property meets National Register criteria or is a historical resource under CEQA, discussion of these features in the evaluation tends to be generalized, a summary of the overall features the property possess that conveys its significance under the applicable eligibility criteria. If a historic property will be adversely affected, or the *Secretary of the Interior's Standards for the Treatment of Historic Properties (SOIS)* are used to achieve a finding of No Adverse Effect with Special Conditions, to develop mitigation measures, or to obtain a Categorical Exemption under CEQA, a more detailed and ranked list of specific character-defining features may be necessary. See Exhibit 7.1: *Ranking Character-Defining Features* for further guidance on describing and listing these features.

The discussion of essential physical features for individually eligible buildings, structures, objects and districts is fairly straightforward, as described previously. Contributing buildings and structures within historic districts, however, require more thought when considering effects and mitigation measures. If these contributing properties are not individually, eligible their features must be linked to the features of the historic district in which they are located and must convey the significance of the district.

With few exceptions, *interior features rarely convey the essential physical features of the district*. For each affected contributor, how it relates to the historic district's essential physical features, the integrity of the contributor itself, and its own essential physical features also would need to be summarized and noted.

7.9.5 Setting

A property's historic setting often is a factor in determining a project's indirect effects. "Setting," as defined by *National Register Bulletin 15* "is the physical

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environment of a historic property." See *National Register Bulletin 15* for more information.

For National Register evaluation purposes, buildings and structures are counted as contributing and noncontributing elements. Setting is not considered a "countable entity" in the same way one would tally the number of contributing buildings, structures or objects.

Open cropland and hills surrounding a farmstead set in a valley may be a visual part of the farmstead's setting "whose expression extends beyond the boundaries of the property." (*National Register Bulletin 38*) A concise description of the setting and its limits is critical information for those who must consider the impacts of a transportation project that may affect a historic property whose setting is important.

As noted in Section 7.8.3, each of the seven aspects of integrity could be less or more important (a sliding scale) depending on why a property is eligible for the National Register. Setting is one component of integrity. For instance, integrity of location, setting, and association might be more important for a property that is significant because of an event (e.g., scientific discovery or signing of a treaty) that occurred at the property than integrity of design, workmanship and materials.

A discussion of setting and whether it is an aspect of integrity and/or an essential character-defining feature is necessary for completing a later step in the Section 106 process: assessing effects.

A greatly detailed discussion of setting generally is not required in National Register determinations of eligibility since integrity as a whole is what is important in the evaluation. However, there are cases in which setting is an important character-defining feature of a property, rather than just one aspect of integrity. Setting that conveys the significance of a historic property does not necessarily have to be confined within the historic property boundaries of the property; it can extend beyond them. In this instance, the setting is a contributing element and the researcher must define, as explicitly as possible, how those visual, auditory and atmospheric elements of setting are essential physical features for the historic property, and how the setting conveys significance.

7.10 Inventory Forms

To record and evaluate built-environment resources, Caltrans uses the Department of Parks and Recreation (DPR) 523 forms, as adapted by Caltrans to add County, Route, and Postmile information. For the built environment, inventory forms shall always include the DPR 523 Primary Record form *and* the DPR 523 BSO form. Other forms

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may be used as appropriate, including the Continuation Record, Historic District Record, Linear Record (optional, but in addition to, not in place of, the BSO), Location Map, and Sketch Map. Electronic templates for use on Caltrans projects are available on the Caltrans Division of Environmental Analysis CSO website.

7.10.1 Physical Descriptions

In preparing a property's physical description, focus on recording the essential physical elements (also called character-defining features) that would be important to the resource's significance, should the property be eligible: that is, the elements that define the resource's important historical, architectural, design, or engineering values (see Section 7.9.4 and Exhibit 7.1) and would contribute to the property's integrity. To assist in the assessment of character-defining features (CDF), Caltrans has developed a historic district CDF Summary form, district contributor CDF Summary form and an individually eligible property CDF Summary form for use on Caltrans projects. They are available on the Caltrans Standard Environmental Reference Volume 2-Cultural Resources (SERv2) website under Templates.

For large numbers of homogeneous (by style or period) property types, such as residential housing tracts, a *single* form may be prepared with representative examples, describing those buildings' shared characteristics and any design modifications. Include photographs of typical examples and streetscapes. Each homogenous grouping receives a single Map Reference Number in the document and on the APE map (See Section 7.10.4).

7.10.2 Historic Districts

A potential historic district is recorded and evaluated on the appropriate DPR 523 forms, including the District Record. On the Primary Record, the physical description should provide an overall perspective on the character of the district and its components. The District Record should include a listing of all contributing and noncontributing elements, if the property is found eligible, and describe the specific qualities that give the district its significance, based on the historic context established in the HRER.

Tip: When evaluation of housing tracts is warranted, it is not necessary to complete individual DPR 523 Primary Records and BSO forms for every single property within a large postwar housing tract. Complete one DPR 523 Primary Record, Location Map and District Record for the tract as a whole. Representative Primary Records would be completed for buildings with shared characteristics (such as for each model home plan).

For a statement of significance, clearly state whether the property is significant under the National Register criteria, explain the reasons for the finding, assess the property's integrity, and conclude whether the property

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is eligible or ineligible for inclusion in the National Register. Do not use boilerplate statements or simply repeat the property's history, but instead, present a cogent and compelling argument in support of the evaluation. Also address any likely objections, or any evidence contrary to the findings, in a direct, straightforward manner.

7.10.3 Primary Numbers

Primary numbers from the Regional Information Centers of the California Historical Resources Information System (CHRIS) are *not required* for submission of built-environment resources forms to SHPO for review. After completing review and accepting the survey findings, SHPO staff will send the data to the appropriate CHRIS Information Center. When the Information Center receives the HPSR and supporting documentation, it assigns primary numbers to the DPR 523 forms.

7.10.4 Map Reference Numbers

Assign a Map Reference Number to each evaluated resource. This number is used to cross-reference the Primary, BSO and other DPR records with the APE Map.

If possible, assign numbers in a sequence that is logical for the particular nature of the project. For example, because most Caltrans projects are linear in character it often is most useful to assign the map reference numbers in sequence from one end of the project to the other. Most often project plans designate a beginning point and ending point of the construction area, so it would be practical to start the map reference numbers at the beginning point and continue in sequence from there. This practice is particularly useful when large numbers of resources are involved. Another option is to assign map reference numbers to properties alpha-numerically by street and number for historic districts or large surveys.

If the resources are contained on a large number of map sheets, provide a map page key or indicate the map page depicting the resource on the Primary and BSO records.

The boundaries of each historic property must be depicted clearly on the BSO Record's Sketch Map or on an equivalent map attached to the District Record, as appropriate, *and* on the APE Map.

7.10.5 Photographs

Photographs either may be in color or black and white, and either as 35 mm prints or in high-resolution digital images. Regardless of format, it is essential that the images are clear and sharp and that they provide sufficient detail to enable a reviewer to confirm that they match the written description. Prints should be no smaller than 3½

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by 5 inches. Scanned images on DPR 523 forms should approximate the 3½-by-5 inch size.

Photographic documentation must include the principal elevation (main façade) of each evaluated building, structure, or object. Photographs of secondary elevations (sides and back of a property) may be taken as needed to record alterations or distinctive features. When recording districts or complex properties, photograph the largest area possible, such as streetscapes or rows of structures, to document spatial relationships.

Having aerial photographs taken for a project area that previously has not been photographed is usually too expensive for most survey projects. However, under special circumstances this method might be justified for recording the spatial patterns of a large district or a complicated historic property. Satellite photographs or photographs taken from elevated vista points can also provide aerial views. There are a number on sources on the Internet that might be useful, such as Terraserver, Maps.Google, and others.

See *National Register Bulletin #23: How to Improve the Quality of Photographs for National Register Nominations* for more guidance.

7.11 The Historical Resources Evaluation Report (HRER)

The HRER documents the identification and evaluation of buildings, structures, objects, districts, cultural landscapes, all other built-environment resources, sites of historic events, and historical archaeological sites within the APE (see Chapter 6). Ideally, these resources all will be documented in a single HRER, but if studies are conducted at different times or by different entities, separate HRERs can be prepared as needed (see Chapter 6 Section 6.10.3).

Three previous Caltrans built-environment report formats—the Historic Architectural Survey Report, Historic Study Report, and Historical Resources Evaluation Report—are now combined in the HRER. Exhibit 6.2: *Historical Resources Evaluation Report (HRER) Format and Content Guide* describes the required format and content of the HRER.

7.11.1 Determinations of Eligibility in HRERs

For both federal undertakings and state-only projects, Caltrans uses the HRER and accompanying DPR 523 forms to document a property's National Register eligibility and to determine whether it is a historical resource under CEQA. For FHWA-assisted

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projects, the determinations are consensus determinations: the Caltrans district makes the determination and SHPO concurs. Under the 106 PA, the Caltrans district makes these determinations, includes them in the HRER that is attached to the HPSR, and forwards the documentation to SHPO, as explained in Chapter 2. For state-only projects where Caltrans makes the determination whether cultural resources are historical resources under CEQA, the documentation is not forwarded to SHPO unless there are state-owned properties included in the HRER for which consultation under the PRC 5024 MOU is required (see Chapter 2 Section 2.7 and for state-owned resources Section 2.8 and the 5024 MOU itself, Exhibit 1.2 of the SERv2).

Note that under the 106 PA and the 5024 MOU, when SHPO does not provide comments on eligibility findings within 30 days of receipt, Caltrans may proceed to the next step of the process upon notifying SHPO via email. However, this does not mean that Caltrans can "assume concurrence" with its determinations of eligibility.

In the absence of formal SHPO comments, there is no "consensus determination" on the eligibility of the evaluated properties, and therefore Caltrans' findings are valid *for the purposes of that project only. Caltrans must resubmit eligibility determinations to SHPO on any future project involving those properties.*

In rare situations, such as when a disagreement on eligibility cannot be resolved in accordance with 106 PA Stipulation VIII.C.5b, CSO will forward the HRER to the Keeper of the National Register to determine whether a property is eligible. When the Keeper makes a determination, it is called a formal determination of eligibility, as opposed to a consensus determination. Every attempt should be made to resolve eligibility though consensus negotiations without involving the Keeper, as the process is time-consuming and Keeper's determination will be final. It also is important to remember that if the Keeper made the original determination of eligibility, any re-determination also must be submitted to the Keeper for reconsideration.

For state-only projects involving state-owned resources, follow the 5024 MOU Stipulation VIII.6.b in which the SHPO's determination is final. When Caltrans is the lead agency, however, the Caltrans determination is final for those resources that are not state-owned cultural resources.

7.11.2 Specialists Responsible for Preparing HRERs

Either architectural historians or historical archaeologists, or both working together, can prepare HRERs, depending on the nature of the resources involved. For projects that require an interdisciplinary approach, a team of qualified cultural resources

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specialists jointly prepares the HRER. When there is a preponderance of resources that are non-archaeological in nature the team architectural historian is ultimately responsible for preparing the HRER, with input from the other team members.

For combined work, the citation and reference style shall be determined by the principal author and the preponderance of resources; e.g., if resources are primarily built environment resources and, therefore, the architectural historian is the principal author, the historical archaeologist's portion of a combined document should conform to the *Chicago Manual of Style*, as revised. However, if historical archaeologists and historians or architectural historians separately prepare two HRERs that then are merged, the HRERs do not need to conform to the same citation and reference style. Chapter 4 Section 4.8.2 contains information about combined documentation, as well as Chapter 6, Section 6.10.3.

7.11.3 Statement of Significance

The statement of significance in the Conclusions section of the HRER and in Section B10 of the BSO form should encapsulate the eligibility findings for the evaluated properties. It is sufficient to summarize this information in the HRER and to refer to the BSO forms for greater detail. *For state-owned resources, all evaluations must go to SHPO for review pursuant to the 5024 MOU Stipulation VIII.C.6, even when the resource is found to be ineligible for the National Register or as a California Historical Landmark (CHL). See Chapter 2 Section 2.8.3 for additional guidance.*

The significance statement must provide a clear and concise conclusion that states whether each evaluated property is eligible for inclusion in the National Register and also whether it is a historical resource under CEQA, based on criteria outlined in PRC 5024.1. For both eligible and ineligible resources, the significance statement must explain how and why the significance criteria were or were not met, including an assessment of historic integrity.

A good statement of significance is critical to understanding the property's essential physical features and thus appropriately assessing project effects. Therefore, for eligible properties, the statement of significance must

- Explain which National Register criteria apply, why, and within what historic context;
- Provide the period(s) and level (local, state, and/or national) of significance;
- Identify the historic property boundaries;
- List all substantial contributing and non-contributing elements; and

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- Address the property's integrity.

The Conclusions section must also identify any resources that are locally designated, identified as significant in a local survey, listed as a CHL, or listed as a California Point of Historical Interest. Properties that have been determined eligible for inclusion in the National Register or listed as a CHL from number #770 on are automatically listed in the California Register.

In addition, under CEQA, any resource that has been designated as a landmark under a local government ordinance, was found significant in a local historical resources survey, or is a CHL numbered from #1 through #770 will require consideration as to whether or not it is a historical resource for purposes of CEQA. If there is a preponderance of evidence that the resource does not meet the criteria outlined in PRC 5024.1, it will be determined that it is not a historical resource under CEQA.

Under state law, only the State Historical Resources Commission can make determinations of eligibility for the California Register. Caltrans is not permitted to make such determinations. Instead, Caltrans documents must state that a resource "*is (or is not) a historical resource for the purposes of CEQA because it does (or does not) meet the criteria outlined in PRC 5024.1.*"

7.11.4 Reviews and Approval

Prior to the distribution of the built environment studies, reports and documents, there need to be *three* reviews:

1) District or CSO PQS must peer review the Caltrans staff- and consultant-prepared draft documents. The District or CSO staff who perform the peer review is someone other than the author(s) of the documents and who is certified at the appropriate PQS level(s) of Principal Investigator for historical archeology or Principal Architectural Historian for the built environment.
2) District PQS must review and *approve* the final document for the DEBC's signature.
3) DEBC must review, approve and sign the final document to certify that it is complete for compliance purposes. Only one DEBC approves and signs the final document.

See Exhibit 2.11: *Required Copies and Required Reviews of Cultural Resources Documents* Table C for additional information.

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7.11.4.1 Peer Reviews

Peer reviews are part of the report preparation process. Peer reviewers may be identified in the acknowledgement section of the HRER or in a table of personnel working on the environmental studies. That is separate from PQS approval of final documents prior to the DEBC's signature certifying the document is complete. This is required under the 106 PA, under the 5024 MOU and as a matter of Caltrans policy.

Draft HRERs must be peer reviewed either by a Principal Architectural Historian or a Historical Archaeologist certified at the Principal Investigator level, depending on the nature of the resources under evaluation. Appropriately qualified PQS at the Principal level in any district or in CSO may conduct peer reviews. Upon DEBC request to the appropriate CSO Branch Chief, CSO has appropriately qualified staff who are available to conduct peer reviews for districts. (See Chapter 1 Section 1.3.2 for a description of CSO Branch Chiefs' responsibilities.) CSO will complete such reviews within 15 working days or less of receipt of request. Preferably, the review would be completed in 10 working days or less.

Peer reviews are conducted to ensure that the:

- Document follows the format and content guidelines provided in Exhibit 6.2.
- Project APE is depicted appropriately.
- Identification efforts are adequate.
- Eligibility determinations are logical and well supported.

7.11.4.2 Approvals

Following peer review (whether by district or CSO PQS), and any necessary revisions based on comments received, the Caltrans PQS report preparer(s) signs the title page of the final HRER. Consultants' names must appear on the final HRCRs they prepare and they have the option to sign the final report. The Caltrans-prepared or the consultant-prepared HRER must be reviewed and *approved* either by a Caltrans PQS certified as a Principal Architectural Historian or a Historical Archaeologist at the Principal Investigator level, depending on the nature of the resources under evaluation. If a Caltrans PQS at the appropriate Principal level has not prepared the document, then the responsible Caltrans PQS at the appropriate Principal level indicates review and *approval* by signing the title page. The DEBC finally reviews and formally approves the document by signing the title page. While more than one DEBC may approve the technical studies, such as an HRER, only one DEBC approves and signs the cover document, such as the HPSR, HRER or Finding(s) of Effect.

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Chapter 2, Section 2.5.5, further discusses Caltrans internal review guidelines; the process for resolving any disagreements or differences of opinion is outlined in Chapter 2, Section 2.11.

7.11.5 Supplemental and Updated Studies

Supplemental HRERs are studies completed subsequent to SHPO review of an earlier HRER for the same project. A supplemental study is required when a project APE shifts or enlarges to include resources not previously studied. In accordance with the 106 PA, Caltrans PQS and the Project Manager jointly determine when project changes require modifying an APE, and the Caltrans PQS then makes the determination as to whether a supplemental study is necessary.

Supplemental reports either may be stand-alone documents, incorporating relevant data from the original study, or they can present the new material backed by the original study as an attachment. If the latter, the supplemental report should still briefly summarize information from the original document and reference the attachment for more details. It is highly unlikely that the SHPO is familiar with the earlier study or retains a copy of it at hand, so the submittal should include all necessary material, including dates of any previous findings and copies of relevant correspondence.

Additional background research may be necessary if a new APE contains resources with a different historical use or development. New information should be of the same nature and thoroughness as the original document and should follow the same format, if appropriate.

An updated study is a new version of the original study, a redo rather than an addition. An update might be necessary because of the passage of time. When five or more years have elapsed since the preparation of the original document, it should be examined to determine whether the findings still hold. The study is likely to require updating when resources in the APE have since reached 50 years of age, or when resource characteristics have changed (e.g., loss of integrity or restoration of original fabric). Changing perceptions of significance, reduction in the stock of comparable properties, new information, changes in cultural resources laws and regulations, or incomplete or erroneous prior evaluations may also indicate that an updated study is warranted.

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7.12 Effects

Screened Undertakings

106 PA Attachment 2: *Classes of Screened Undertakings,* and for state-owned historical resources 5024 MOU Attachment 2, identify undertakings, projects and activities that typically have no potential to affect historic properties and may be exempt from further review of consultation under the 106 PA or under the 5024 MOU. Additional Section 106 and/or PRC 5024 review will be required when the Caltrans PQS determines that the undertaking, project or activity has potential to affect other historic properties, as described in Attachment 2.

Historic Bridges and Tunnels Screened Undertakings

Exhibit 7.3: *Historic Bridges and Tunnels Screened Undertakings and Activities* contains a list that clarifies the routine and maintenance activities specific to historic bridges and tunnels that qualify as screened undertakings under Attachment 2 for both federal undertakings and state-only projects and activities.

If the proposed routine or maintenance activity does not appear in Exhibit 7.3, it is not a "screenable" activity.

However, the activity might still result in a: Finding of No Historic Properties Affected; Finding of No Adverse Effect with Standard Conditions (FNAE-SC) either by establishing an Environmentally Sensitive Area (ESA), by using the *SOIS*; or Finding of No Adverse Effects without standard conditions (FNAE-No SC); see Sections 7.12.2, 7.12.3, and 7.12.4 below. For the equivalent language for these findings under PRC 5024 and consideration under CEQA, see Section 7.12.1 below.

7.12.1 Assessment of Effects

If historic properties are identified in the APE, the project's effects to these properties will need to be assessed. Chapter 2 provides guidance on assessing effects and preparing the appropriate documentation.

The Finding of Effect document must address this question: Does the project adversely affect a contributing element within the boundaries of the historic property (building structure, site, object, or district)?

There are three possible outcomes:

1) *No Historic Properties Affected* (either there are no historic properties present, or there are no effects to historic properties that are, or may be, present) under

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Section 106. The PRC 5024 equivalent is *No Historical Resources Affected* and the CEQA Consideration equivalent is *No Impact to Historical Resources*.

2) *No Adverse Effect* (either with or without standard conditions) under Section 106 and PRC 5024. The CEQA Consideration equivalent is *No Substantial Adverse Change*.

3) *Adverse Effect* under Section 106 and PRC 5024. The CEQA Consideration equivalent is *Substantial Adverse Change*.

7.12.2 No Historic Properties Affected

When there are historic properties within the project's APE but there are no effects to them, the finding is called "No Historic Properties Affected." It is necessary to keep in mind the reason why a historic property is significant, its period of significance, its essential physical features and its National Register boundaries when determining whether there is an effect. Refer to Chapter 2 Section 2.3.7 for guidance on what constitutes an effect.

When it is determined that there *is* an effect to one or more historic properties within a project APE, finding of effect documentation is required to assess the project's effects on such properties. Because of their training and experience, architectural historians take the lead in assessing effects to built-environment historic properties; they also prepare the sections of the findings of effect that specifically discuss built-environment historic properties.

In order to determine whether there are adverse effects, it is necessary to review the:

- Criteria under which the historic property was listed or determined eligible.
- Level and period of significance.
- Essential physical features.
- National Register boundaries.
- Aspects of integrity that would be affected.

The National Register nomination or determination of eligibility documentation should contain this vital information. If the determination of eligibility was prepared for a Caltrans project, this information should be in the summary paragraph for the affected historic properties in the HRER and the HPSR

State-only Projects and Activities

For state-only projects, under CEQA, the conclusion is No Historical Resources Impacted and under the PRC 5024 MOU for state-owned historical resources the

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finding is No Historical Resources Affected. (See Exhibit 2.6, or for state-only projects and activities, include the historical status and the summary paragraph(s) for the affected historical resources in the HRER and the HRCR (See Exhibit 2.14). In addition, Caltrans uses Character-defining features forms and guidance to assist in determining effects and planning for appropriate rehabilitation, maintenance and mitigation measures. See Exhibit 7.1: *Ranking Character-Defining Features* for additional guidance. These components of the historic property's significance guide not only the finding of effect, but also the conditions for No Adverse Effect Findings and mitigation measures for Adverse Effect Findings. The architectural historian may need to conduct additional, but typically *minimal*, work, if the existing documentation does not contain this information, or the information is vague.

The finding-of-effect document types for federal undertakings, state-owned historical resources, and state-only projects are discussed in Chapter 2, Exhibits 2.8: *Finding of No Adverse Effect* and Exhibit 2.9: *Finding of Adverse Effect*, which contain the format and required content for these findings.

Determinations of eligibility, findings of effect and proposed mitigation measures may be combined in a single HRCR. However, when project timing is an issue or mitigation measures have not been developed, these steps may be documented sequentially in the HRCR and supplemental HRCRs.

7.12.3 No Adverse Effect with Standard Conditions

In accordance with the 106 PA Stipulation X.B.1, a finding of No Adverse Effect with Standard Conditions (FNAE-SC) may be appropriate in two situations[6]:

1) When the historic property can be protected through the establishment of an ESA; or

2) When the federal undertaking itself or the undertaking's effects or activities include but are not limited to maintenance, repairs, rehabilitation, or alterations to historic properties in accordance with the *SOIS* (36 CFR Part 68), Preservation, Rehabilitation or Restoration Treatment Options.

[6] For state-only projects and activities and for state-owned historical resources, in addition to the two situations mentioned here, there is a third situation outlined in 5024 MOU Stipulation X.B.1 and Attachment 5 that applies to the transfer of state-owned historical resources to Certified Local Governments. See Section Chapter 2 Sections 2.8 and 2.9 for guidance under state laws and regulations.

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Often it may be possible to avoid potential effects to built-environment historic properties and features from adjacent construction or repair through the establishment of an ESA, as outlined in 106 PA Stipulation X.B.1.a, and Attachment 5, and for state-owned historical resources 5024 MOU Stipulation X.B.1.a and Attachment 5. Examples include fencing around entry pillars and retaining walls or monitoring noise and vibration. Exhibit 2.7: *Environmentally Sensitive Area Action Plan (ESA) Format and Content Guide* contains more detailed guidance on establishing ESAs and on this document that accompanies the FNAE-SC: ESA.

Similarly, it may be possible to avoid potential effects to historic properties through the use of the *SOIS*, as outlined in 106 PA Stipulation X.B.1.b, and Attachment 5, and for state-owned historical resources 5024 MOU Stipulation X.B.1.b and Attachment 5. Plans and specifications for any proposed maintenance, alteration, repair, or rehabilitation project or activity must be reviewed by PQS who meet the Caltrans Professional Qualifications Standards as Principal Architectural Historian as outlined in 106 PA/5024 MOU Attachment 1 and who has the training and experience to ensure that the standards are met. Districts lacking a Principal Architectural Historian PQS may submit a request for review or assistance either to the Section 106 Branch Chief or the BEPS Chief at CSO. See Exhibit 7.5: *Secretary of the Interior's Standards for the Treatment of Historic Properties (SOIS) Action Plan Format and Content Guide* for guidance on this plan that accompanies the FNAE-SC: SOIS.

Historic Bridges and Tunnels Finding of No Adverse Effect with Standard Conditions

Exhibit 7.4: *Historic Bridges and Tunnels No Adverse Effects with Standard Conditions* contains specific guidance for repairs and maintenance activities specific to historic bridges and tunnels that qualify as FNAE-SC-SOIS under 106 PA Stipulation X.B.1.b and Attachment 5 for federal undertakings and for state-only projects and activities and those for state-owned historic bridges and tunnels, 5024 MOU Stipulation X.B.1.b and Attachment 5. The guidance is organized both by bridge or tunnel components and by construction materials and can be excerpted for use in documenting the finding and developing the SOIS Action Plan.

As outlined in the 5024 MOU Stipulation X.B.1.c and Attachment 5, transferring state-owned historic bridges and tunnels to Certified Local Governments may be considered a FNAE-SC as well. See Exhibit 2.17: *Excess Property Transfers and Route Relinquishments* for additional guidance.

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Finding of No Adverse Effect with Standard Conditions Documentation

When 106 PA Stipulation X.B.1, or for state-owned historical resources 5024 MOU Stipulation X.B.1, is applicable, Caltrans prepares a "Finding of No Adverse Effect with Standard Conditions," (FNAE-SC) report as discussed in Chapter 2, Section 2.3.9.2 for federal undertakings and Section 2.8.6.1.

For the FNAE-SC-ESA report, include the measures to avoid potential effects and attach the ESA Action Plan; see Exhibit 2.7. For FNAE-SC-SOIS report, include the applicable standard(s), an explanation as to how the proposed work meets the cited *SOIS,* and attach the SOIS Action Plan. For Caltrans and local agency projects the Preservation Treatment and Rehabilitation Treatment options are the most commonly used options. See Exhibit 7.5 for guidance on preparing the SOIS Action Plan.

Detailed information on preparing the FNAE-SCs and processing them is contained in Exhibit 2.8: *Finding of No Adverse Effect Format and Content Guide*.

State-only Projects and Activities

For state-only projects and activities, under CEQA, these 106 PA and 5024 MOU stipulations do not technically apply. But, use of ESAs and the SOIS as outlined in the stipulations may be used to demonstrate that there are no substantial adverse changes to historical resources under CEQA.

For state-only projects and activities, this information (FNAE-SC for state-owned historical resources under the PRC 5024 MOU and a no substantial adverse change determination under CEQA) is included in the HRCR under the appropriate sections as described in Exhibit 2.14: *Historical Resources Compliance Report Format and Content Guide*, and the appropriate supporting documentation is attached to the HRCR. See Chapter 2 Section 2.8.6.1 Finding of No Adverse Effect with Standard Conditions and Section 2.9.2 HRCR Types of Findings for guidance on processing these findings.

7.12.4 No Adverse Effect without Standard Conditions

This finding applies to federal undertakings when either no conditions are imposed (there is an effect, but it does not rise to the level of being adverse), when conditions other than, or in addition to, one of the two Standard Conditions are imposed, or when the 106 PA does not apply (e.g., undertakings on tribal land).

These other-than-standard conditions may be used to support a finding of "No Adverse Effect without Standard Conditions," (FNAE-No SC) as discussed in

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Chapter 2, Section 2.3.9.2 and 2.5.3.1. The justification for this finding should include a description of the affected historic property's essential physical features and aspects of integrity; specify how they would be affected, and explain why the proposed conditions would not ensure those qualities that make the property eligible for inclusion in the National Register would not be diminished. See Exhibit 2.8 for more guidance on preparing this type of finding.

Similarly, these other-than-standard conditions may be used to support a FNAE-No SC for state-owned historical resources. See Chapter 2 Section 2.8.6.2 No Adverse Effect without Standard Conditions and Section 2.9.2 HRCR Types of Findings for guidance on processing these findings.

State-only Projects and Activities

For state-only projects under CEQA, however, the 106 PA and 5024 MOU stipulations regarding FNAE-No SC do not technically apply. Such measures may be used to demonstrate there is no substantial change to a historical resource under CEQA. See Chapter 2 Section 2.76 Determination of Project Effects under CEQA.

7.12.5 Adverse Effect

Federal Undertakings

A federal undertaking is considered to have an adverse effect when any aspect of an undertaking meets one or more of the Criteria of Adverse Effect, when a consulting party disagrees with a No Adverse Effect finding, or when SHPO objects to a finding of No Adverse Effect without Standard Conditions.

As stated in the Section 106 regulations [36 CFR 800.5(a)(2)], examples of adverse effects[7] include [*italics* indicate explanatory information]:

(i) Physical destruction of or damage to all or part of the property [*such as demolishing a historic apartment complex that is center-line on a new alignment, or removal of stone entry pillars and elms that line the drive leading to a historic farm on a curve correction project*];

(ii) Alteration of a property, including restoration, rehabilitation, repair, maintenance, stabilization, hazardous material remediation, and provision of handicapped access, that is not consistent with the Secretary's Standards for the Treatment of

[7] Caltrans uses these same criteria for assessing whether a project has the potential for substantial adverse change under CEQA and for considering adverse effects under the PRC 5024 MOU. See Section Chapter 2 Sections 2.8 and 2.9 for guidance under state laws and regulations.

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Historic Properties (36 CFR part 68) and applicable guidelines [*such as removing and replacing or raising original railings on a historic bridge, or removing a wooden sidewalk and balcony support posts to install a wheelchair accessible ramp and concrete sidewalk at the entry of an architecturally significant commercial building*];

(iii) Removal of the property from its historic location [*such as relocating the home and studio of a historically important artisan to a new location because it is center-line on a new highway*];

(iv) Change of the character of the property's use or of physical features within the property's setting that contribute to its historic significance [*such as installing an elevated freeway immediately adjacent to a retreat significant as a meditation site, or converting an architecturally significant theater into multi-level offices*];

(v) Introduction of visual, atmospheric or audible elements that diminish the integrity of the property's significant historic features [*such as installing sound walls that block views of the ocean from an architecturally significant hotel, when the hotel was consciously designed and sited to take advantage of the ocean views; or widening a highway to within 20 feet of the entrance to a historically significant rural church, and thus increasing noise in a meditative or spiritual setting]*;

(vi) Neglect of a property which causes its deterioration, except where such neglect and deterioration are recognized qualities of a property of religious and cultural significance to an Indian tribe or Native Hawaiian organization [*such as "deferred" or no maintenance of an architecturally significant building*]; and

(vii) Transfer, lease, or sale of property out of Federal ownership or control without adequate and legally enforceable restrictions or conditions to ensure long-term preservation of the property's historic significance. *[This effect normally does not apply to Caltrans projects; however there is a similar state law, PRC 5024, that applies to state-owned historical resources. See Chapter 2, Section 2.6. The transfer of historic properties with covenants on Caltrans federal undertakings usually is part of other mitigation measures; for instance, when Caltrans has to acquire a historic house for a highway project, relocate it and transfer ownership to a private owner or local government. This type of transfer would be part of the mitigation measures for one or more of the above cited examples. Contact the Section 106 Branch Chief in CSO if there is a question whether Section 106 applies to properties acquired with federal funds and provision for their transfer are not included in mitigation measures.]*

The discussion of adverse effects should explain how and why an affected historic property is significant, identify its essential physical features, explain how the project

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potentially affects the property, cite the appropriate Section 106 adverse effect criteria, and propose appropriate measures to mitigate the adverse effects. Adverse effects on the built environment either can be direct (e.g., demolition, alteration, take of land) or indirect (e.g., visual, audible, atmospheric). For more guidance see Exhibit 2.9 and 2.14.

Under the 106 PA, the Caltrans district proposes the finding of Adverse Effect to CSO, and CSO consults with SHPO. After CSO, the SHPO, the Caltrans district, and any other consulting parties reach an agreement on the finding, they move on to resolving adverse effects. The purpose of this step is to reach agreement on measures that will avoid or reduce harm to historic properties, while enabling the undertaking to proceed.

State-only Projects and Activities

Under the 5024 MOU

As outlined in 5024 MOU Stipulation IV.D List of Adverse Effects, a project or activity is considered to have an adverse effect to a state-owned historical resource when the project or activity alters the original or significant historical features or fabric, transfers, relocates, or demolishes that resource. Caltrans uses the federal Criteria of Adverse Effect examples as a *guide* for these determinations, see above examples. The effect also is considered adverse when SHPO objects to a finding of No Adverse Effect without Standard Conditions. Caltrans does not "resolve adverse effects," under the 5024 MOU, rather mitigation measures are proposed concurrent to preparing the FAE whenever possible.

1) Not on the Master List[8]: For state-owned historical resources not on the Master List, the Caltrans district submits the HRCR containing the proposed FAE and mitigation measures to CSO. CSO has 30 calendar days to review the FAE pursuant to 5024 MOU Stipulation X.C.2.a.

2) On the Master List: For state-owned historical resources on the Master List, the Caltrans district, the Caltrans district submits the HRCR containing the proposed FAE and mitigation measures to CSO pursuant to 5024 MOU Stipulation X.C.2.b. If CSO agrees, it forwards the HRCR containing the FAE and proposed

[8] The Master List of Historical Resources (Master List) is a list of state-owned historical resources that are listed on or determined eligible for inclusion in the National Register of Historic Places or for registration as a California Historical Landmark. SHPO maintains this list; see 5024 MOU Stipulation IV.E.

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mitigation measures to SHPO. After CSO, the SHPO, the Caltrans district, and any other consulting parties reach an agreement on the finding, they move on to resolving adverse effects.

Section 7.12.6 Mitigation Measures of this chapter contains an array of measures that may be helpful in avoiding or mitigating adverse effects. Also see Chapter 2 Sections 2.8.7 and 2.9.2.3, Exhibit 2.14 and 5024 MOU Stipulation X.C.2 for additional guidance on processing the FAE.

Under CEQA

Under CEQA, Caltrans uses the federal Criteria of Adverse Effect examples as a *guide* for determining whether there is a substantial adverse change to historical resources under CEQA, see above examples. Section 7.12.6 Mitigation Measures of this chapter contains an array of measures that may be helpful in mitigating substantial adverse changes below the level of significant impact. Also see Chapter 2 Sections 2.7.6 and 2.9.2, and Exhibit 2.14 for additional guidance on processing a finding of No Substantial Change to a historical resource under CEQA.

7.12.6 Mitigation Measures

Federal Undertakings

When adverse effects cannot be avoided, measures to mitigate those effects are stipulated in a Memorandum of Agreement (MOA). See Chapter 2 for a description of the consultation process to resolve adverse effects and Exhibit 2.10: *Guidelines for (MOA) Memoranda of Agreements* for drafting MOAs, and the Advisory Council on Historic Preservation (ACHP) has a website, Guidance on Section 106 Agreement Documents includes basic information on drafting MOAs in addition to sample stipulations, a checklist for ensuring needed content is included in an MOA, and another checklist for staff reviewing draft MOAs.

There are standard mitigation measures that are often applied, but mitigation must *always* be commensurate to the scope of the undertaking, actual project effects, and the type and significance of the historic properties being affected. Development and review of such measures for buildings and other built-environment historic properties should be done by, or under the supervision of architectural historians who meet the PQS standards for Principal Architectural Historian.

Section 7.12.7 Commonly Used Mitigation Measures contains a discussion of mitigation measures that traditionally have been used nationwide to mitigate adverse

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effects. More recently, however, the ACHP and the California SHPO are encouraging creativity in developing innovative mitigation measures that are commensurate to the types of historic properties being adversely affected. The ACHP Section 106 Success Stories webpage contains examples of creative and innovative mitigation measures.

State-only Projects and Activities

State-only projects and activities do not use MOAs as the legal commitment for resolving substantial adverse change, and for state-owned historical resources, adverse effects. Depending on the type of project or activity the agreed-up mitigation measures could be in the Caltrans project environmental commitments, or could be documented in a Memorandum of Understanding or other legal agreement. As with federal undertakings, mitigation must *always* be commensurate to the scope of the project or activity, actual project or activity effects, and the type and significance of the historical resources being impacted. Also, staff who meet Principal Architectural Historian PQS standards must develop and review mitigation measures for buildings and other built-environment historical resources, or supervise other architectural historians who develop and review these measures.

The majority of the mitigation measures proposed for federal undertakings and described in Section 7.12.7 likely would be appropriate for state-only projects and for state-owned historical resources for projects and activities of similar scope and impact. Creative and innovative measures not discussed below, but that would benefit the public, are encouraged.

Under the 5024 MOU

When state-owned historical resources are within the APE of a federal undertaking, PRC 5024 Stipulation III requires Caltrans to use the Section 106 PA for all the steps in the PRC 5024 process and SHPO is required to use the Section 106 documentation for reviewing and commenting under PRC 5024. In these cases, Caltrans just notifies SHPO that there are state-owned historical resources for which Caltrans is currently complying under PRC 5024 in the transmittal letter to SHPO and provides information in the relevant sections of the HPSR and Finding of Effect documents.

For state-only projects, Stipulation X.C of the 5024 MOU allows Caltrans to combine the assessment of adverse effects and proposed mitigation measures in the step review step. Proposed mitigation measures are briefly described in the Mitigation Plan section of the HRCR and more detailed information should be contained in the

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attached documentation. The proposed finding of adverse effect is described in the HRCR to CSO:

1) Not on the Master List: If the historical resource is not on the Master List (e.g. National Register-eligible state-owned landscapes, tree rows, or historical sites), CSO reviews the proposed finding and mitigation measures pursuant to 5024 MOU Stipulation X.C.2a. If CSO does not object within 30 calendar days of receipt, the project or activity is not subject to further review. Within that same time frame CSO may request to extend the time for review or object to the finding or the mitigation measures. If there still is a disagreement with the district, CSO must forward the documentation to SHPO for review pursuant to 5024 MOU Stipulation X.F.
2) On the Master List: If the historical resource is on the Master List (.e.g. National Register listed or eligible buildings, structures, objects, districts, sites and non-structural resources such as National Register listed tree rows, etc.), CSO reviews the documentation. Upon CSO's agreement with the finding, and pursuant to 5024 MOU Stipulation X.C.2.b, CSO forwards the FAE and supporting documentation to the SHPO who has 30 days from receipt to review the FAE. If SHPO does not comment or request an extension of time within 30 days of receipt, the project is not subject to further review. However, if SHPO disagrees, then CSO and SHPO have only 30 days to resolve the disagreement, pursuant to 5024 MOU Stipulation X.F. For historical resources on the Master List, if SHPO determines the disagreement cannot be resolved through consultation, under PRC 5024.5(d) the SHPO is required to request the Office of Planning and Research (OPR) to mediate the disagreement. The OPR determination in the mediation is final and binding.

Also see Chapter 2 Sections 2.8.7 and 2.9.2.3, Exhibit 2.14 and 5024 MOU Stipulation X.C.2 for additional guidance on processing the FAE.

Under CEQA

When Caltrans is the lead agency under CEQA, it is required to find "potentially feasible measures to mitigate significant adverse changes in the significance of an historical resource. The lead agency shall ensure that any adopted measures to mitigate or avoid significant adverse changes are fully enforceable through permit conditions, agreements, or other measures." [PRC 15064.5(b) 4] Caltrans mitigation measures typically parallel those for federal undertakings and for state-owned historical resources as described above. However, the documentation in the HRCR

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does not need either CSO or SHPO review. Briefly describe how the substantial adverse change materially impairs the historical resource in the CEQA Considerations section of the HRCR and describe the mitigation measures and how Caltrans will ensure these adopted measures will be enforced in the Mitigation Plan section of the HRCR, referring to attached documentation for more detailed information. For additional guidance, refer to Chapter 2 Sections 2.7.7: *Determination of Appropriate Mitigation Under CEQA*, 2.9.2.1: *HRCR to District File*, and Exhibit 2.14.

7.12.7 Commonly Used Mitigation Measures

Commonly applied mitigation measures include relocation, rehabilitation, recordation, disposal with covenants, landscaping, screening, signage, and public interpretation. Development of other, creative mitigation measures is encouraged, but in all cases, measures must be reasonable, cost effective, and designed to address the actual effects of the project on historic properties. For example, relocation might be appropriate mitigation for a building that otherwise would be demolished, but not appropriate for the same building if the only project effects on it were indirect.

For buildings and structures other than bridges, such mitigation measures typically include:

- Adding visual screens or other features to lessen visual, audible or atmospheric impacts and that are compatible with the historic property(ies),
- Repositioning the building or structure and/or portions of its contributing elements within the parcel (such as moving entry pillars, fences, gates back on a large parcel when there is new right-of-way along the edge of a parcel),
- Relocating the building or structure and its contributing elements to a new site with historical covenants and conveyance of title to another party preceded by heritage documentation to Historic American Buildings Survey (HABS), Historic American Engineering Record (HAER) or Historic American Landscapes Survey (HALS) standards, collectively known as Heritage Documentation Programs (HDP) standards (see Exhibit 7.6: *Heritage Documentation for HABS/ HAER / HALS*); or
- **As a last resort**, demolition, with recordation to HDP standards.

Mitigation measures need to be consistent with the *SOIS*, whenever feasible. Depending on the type of mitigation measure, the appropriate standard can range from preservation to reconstruction. For instance, if the mitigation measure involves relocating a historic house, reconstruction may be the appropriate treatment option for installing landscaping, walkways, drives and fencing, while rehabilitation may be the

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appropriate treatment option for repairing the house at its new location. If mitigation measures for working adjacent to a fragile Gold Rush-era stone warehouse include stabilizing the warehouse, the preservation treatment option may be the most appropriate. The discussion of mitigation measures should reference the applicable standards and describe how the proposed work meets those standards.

7.12.7.1 Relocation

Relocation can be an appropriate mitigation measure when

- A property would be demolished or otherwise suffer substantial adverse effects if left in place,
- When it possesses significance that is not dependent on its location, and
- When it can be moved to a compatible new site.

Individual buildings, structures, or contributing elements can be repositioned, reoriented, or moved back within the existing parcel to accommodate new right-of-way acquisition, or the historic property can be relocated in whole or in part to an entirely new site.

When relocation is determined to be an appropriate mitigation measure, the MOA/HRCR should include some or all of the following stipulations: acquisition of relocation site (the site specified if known, or site requirements identified); conditions of the sale or transfer of title; historical covenants; stipulations for the moving process; recordation prior to the move; standards for documentation of the property (whether to HDP or other standards); re-evaluation of the property in its new location; and distribution of reports.

For historic buildings, relocation shall be done in accordance with the Secretary of the Interior's publication, *Moving Historic Buildings*[9] and the applicable treatment options in the *SOIS*, unless otherwise stipulated. For additional information or assistance, contact the BEPS Chief in CSO.

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[9] Curtis, John Obed. Moving Historic Buildings. Washington, DC: National Park Service, Heritage Conservation and Recreation Service, Technical Preservation Services Division, 1979. Reprinted in 1988 by the AASLH Press and in 1981 by W. Patram for the International Association of Structural Movers. This publication is out of print but is available through a number of libraries in California, including the California Historical Society, California State Library, Northern and Southern Regional Library Facilities, and the University of California campuses of Berkeley, Davis, Riverside, San Diego, Santa Barbara, and Santa Cruz.

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7.12.7.2 Rehabilitation

The Secretary of the Interior defines rehabilitation as "the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values." Rehabilitation, which makes a property available for contemporary use (either original use or adaptive reuse) through carefully considered alterations or additions, is a desirable alternative to demolition, and it is appropriate to consider this option for the purpose of mitigation.

When rehabilitation is used as mitigation, the MOA/HRCR should stipulate that it would be done in accordance with the *Secretary of the Interior's Standards for Rehabilitation* Treatment option.

7.12.7.3 Recordation

For mitigation purposes, recordation is intended to document the existing condition of a historic property, to establish for posterity a record of the historic property prior to its alteration, relocation, or demolition. The level of mitigation documentation, which can range from minimal photo documentation to a formal and extremely detailed process, will be determined as part of the consultation process and it will be specified in a stipulation in the MOA/HRCR.

In specific circumstances, the National Park Service (NPS) Pacific Great Basin Support Office in the NPS Western Regional Office will determine the level of documentation for mitigation, as noted below; in other cases, the SHPO determines the level (should the SHPO withdraw from consultation during the resolution of adverse effects, the Council will then make that determination).

For National Historic Landmarks, properties listed or determined eligible at the national level of significance, and some specifically identified individual properties, NPS will stipulate the level of documentation. The highest level of recordation will be in accordance with HDP (HABS, HAER or HALS) standards, as appropriate. Generally, documentation of a property to HDP standards will require black-and-white large-format photographs. *NPS has not yet approved Digital media as an appropriate archival standard for mitigation documentation*. See Exhibit 7.6 for guidance on HDP documentation and procedures for reviewing, approving, and transmitting documentation to the appropriate agencies and repositories.

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7.12.7.4 Landscaping and Screening

When a project may have indirect effects on historic properties, compatible visual screens or other features can be proposed as mitigation to lessen visual, audible, or atmospheric impacts. For example, landscaping can help screen a visual intrusion or compensate for removal of existing vegetation, while sound barriers may provide noise abatement. While the addition of sound barriers or other screening features can be a mitigation measure, their installation also may create potential adverse effects, such as a visual intrusion on the historic property being screened; they also would require consideration as additional potential project effects.

7.12.7.5 Signage

When a project's effects include reducing access to or visibility of, a historic property that is dependent on attracting travelers, such as a roadside business, the effect may be wholly or partially mitigated by installing new signs identifying the facility or redirecting the traveling public to it. The introduction of signage would need to be coordinated with the Division of Traffic Operations Office of Traffic Operations Traffic Control Devices Branch.

7.12.7.6 Public Interpretation and Education

Public interpretation and education can be appropriate mitigation when it will be of benefit to the public, it is reasonable and cost effective, and it relates to the actual effects of the project on historic properties.

Not all properties will be equally amenable to interpretation as mitigation. For interpretation to be appropriate,

- The subject of the interpretation must be closely tied to the resource's values and the project's effect,
- The information to be conveyed would not be otherwise easily discernible or apparent to the public, and
- There is likely public interest in receiving that information.

Options for interpretation include use of electronic audio-visual media, "virtual" experience, brochures, booklets, museum exhibits, traveling exhibits, interpretive panels, roadside signs, audio-visual presentations, audio recordings, radio or television programs, live performances, and school programs. Other methods also should be explored as appropriate; creativity is especially valuable in identifying and producing products related to public interpretation. Consulting parties may have

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innovative ideas and SHPO encourages innovative approaches to this aspect of mitigation.

7.12.7.7 Mitigation Measures Specific to Historic Bridges

The Transportation Research Board (TRB) and FHWA have developed additional programmatic mitigation measures and procedures that apply specifically to historic bridges.

Historic bridges are rated for functional adequacy by the same standards as new bridges, which often results in historic bridges being found deficient and therefore subject to replacement. As a result, specific programmatic mitigation options were developed for bridges. In accordance with the TRB's 1983 publication *NCHRP Synthesis 101: Historic Bridges – Criteria for Decision Making*, and its complimentary publication, TRB's 1999 *NCHRP Synthesis 275: Historic Highway Bridge Preservation Practices*,[10] mitigation options for bridges include:

1) Rehabilitation to bring a bridge up to current standards.
2) Continued use for vehicular traffic on its existing site (perhaps as half of a couplet of bridges).
3) Continued use for non-vehicular traffic (pedestrian, bicycle, or equestrian use) on its existing site.
4) Continued use for vehicular or non-vehicular use on another site, preceded by recordation to HAER standards.
5) Retention in place exclusively for environmental mitigation purposes.
6) As a last resort, demolition, preceded by recordation to HAER standards.

The first two options listed above could permit the bridge to remain on the State Highway System when brought up to current bridge standard. The others would require that a new bridge be built to current standards. The historic bridge then would be demolished, retained off-system by Caltrans, or transferred to an appropriate party willing to assume title and liability and to abide by a preservation contract or historical covenant. A preservation contract is reimbursable with the Federal-aid funds, up to but not to exceed the applicable Federal-aid pro-rata share of demolition costs. However, if the FHWA Federal-aid pro-rata share of demolition costs is used to preserve the historic bridge, other FHWA funds cannot be used to match this

[10] Available to Caltrans staff through the Caltrans Library and History Center

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money. Likewise, the federal reimbursement cannot be used to set up a trust account for future maintenance of the historic bridge.

According to the Caltrans Legal Division, mitigation option 5 is a feasible alternative and constitutes a recognized highway purpose: "Article XIX of the State Constitution authorizes the Department to expend funds for the mitigation of the environmental effects of its activities. Consequently, the retention of property for mitigation effectively would remove it from qualified disposal requirements."

A historic bridge may be bypassed by a new bridge and retained in place without having the historic bridge serve another use, or the historic bridge may be relocated to another compatible site. Removal of certain types of historic bridges could involve match-marking the structural members and dismantling the structure for storage and future use. If Federal Bridge Replacement funds are used to construct a new bridge, the old bridge will be removed from the State Highway System (its bridge number is changed to reflect this fact). According to the Highway Bridge Replacement and Rehabilitation Act regulations (23 CFR 650.411[c][2]), "Whenever a deficient bridge is replaced or its deficiency alleviated by a new bridge under the bridge program, the deficient bridge shall be dismantled or demolished or its use limited to the type and volume of traffic the structure can safely service over its remaining life." In addition, the old bridge would not be eligible for Federal Bridge Replacement funds thereafter.

Section 123(f) of the Surface Transportation Act of 1987 requires that MOAs for historic bridges contain a marketing plan for transferring title for bridges that otherwise would be demolished. Retention by Caltrans is a "last resort" option, which avoids Section 4(f).

The Programmatic Section 4(f) Evaluation and Approval for FHWA Projects that Necessitate the Use of Historic Bridges allows demolition of a historic bridge *only* if

- The bridge is not a National Historic Landmark;
- There is no prudent and feasible way to save the bridge; *and*
- CSO, the SHPO, and the Council have reached agreement on the project under Section 106.

Program Comment for Common Post-1945 Concrete and Steel Bridges

The ACHP issued a Program Comment for Common Post-1945 Concrete and Steel Bridges (Program Comment) at FHWA's request in 2012 that would "…eliminate individual historic review requirements under Section 106 of the National Historic

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Preservation Act for common post-1945 concrete and steel bridges and culverts. The intent of Program Comment is to ensure that more unique historic bridges receive the attention they deserve while the process is substantially streamlined for common, "cookie-cutter" bridges that are unlikely to be significant for preservation in place…" The Program Comment is not a waiver to complying with Section 106 but is a process for streamlining the process.

The Program Comment:

- Applies to specific types of bridges and culverts built after 1945, including various forms of reinforced concrete slab bridges, reinforced concrete beam and girder bridges, steel multi-beam bridges or multi-girder bridges, and culverts and reinforced concrete boxes (Section V).
- Does NOT apply to bridges that are already listed in or eligible for the National Register of Historic Places or to those located in or adjacent to a historic district (Section IV.A).
- Does NOT apply to arch bridges, truss bridges, bridges with movable spans, suspension bridges, cable-stayed bridges, or covered bridges (Section IV.B).
- Does NOT apply to bridges identified as having exceptional significance for association with a person or event, being a very early or particularly important example of its type in a State or the nation, having distinctive engineering or architectural features that depart from standard designs, or displaying other elements that were engineered to respond to a unique environmental context and included in a list to be developed by each state Division of FHWA (Section IV.C).

Because Caltrans has already inventoried these bridge and culvert types, including those built between 1946 and 1974 (the latter date in the 2015 Historic Bridge Inventory Update), and has in place the 106 PA that already streamlines the Section 106 process for these bridge types in a manner substantially similar to the Program Comment, Caltrans, acting on behalf of FHWA under its NEPA assignment, is not using the Program Comment for bridges in California.

Confidentiality of Historic Bridge Information

As a result of heightened security measures, as-built plans for many bridges, tunnels and highway structures are confidential documents and need to be treated as such.

Before including copies of as-builts, whether historic or current, in any reports or HDP or other recordation documents, please consult with the Division of Engineering

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Services to determine whether the as-builts for a particular highway structure has been classified as confidential. The Bridge Inspection Records Information System (BIRIS), available only to Caltrans staff on the Division of Engineering intranet site, is a quick go-to resource for determining whether bridge records are confidential.

7.12.7.8 Conservation Easements, Historical Covenants and Preservation Agreements

While transferring historic properties is rare as mitigation for a federal undertaking, it can occur. When it does, the mitigation should include a conservation easement, historical covenant or other preservation agreement. Transfer out of public ownership more commonly occurs as a state-only project or activity.

Disposal of a publicly owned historical resource and conveyance of title to another party generally is considered to have the potential for an adverse effect when the property goes *outside* the protections of state and federal laws governing the actions of public agencies. Disposal of the property to a private party with a historical covenant or conservation easement, or to a public entity with a conservation easement or preservation agreement, can be an appropriate measure to avoid or mitigate potential adverse effect.

Conservation easements are defined in California under the Civil Code 815.1 as

> "..any limitation in a deed, will, or other instrument in the form of an easement, restriction, covenant, or condition, which is or has been executed by or on behalf of the owner of the land subject to such easement and is binding upon successive owners of such land, and the purpose of which is to retain land predominantly in its natural, scenic, historical, agricultural, forested, or open-space condition."

Conservation easement, therefore, can be considered an umbrella term for a number of different documents that legally bind an owner to preserve, in this case, the historical condition of a historical resource. Such documents include but are not limited to historical covenants, city resolutions, and relinquishment agreements, in addition to conservation easement as an instrument in and of itself.

Under Civil Code 815.3, only the following entities may hold conservation easements (including covenants, etc.), *emphasis added*:

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- A *tax-exempt nonprofit organization* qualified under Internal Revenue Code Section 501(c)(3) and qualified to do business in this state which has as its primary purpose the preservation, protection, or enhancement of land in its natural, scenic, *historical*, agricultural, forested, or open-space condition or use.
- The *state or any city, county, city and county, district, or other state or local governmental entity*, if otherwise authorized to acquire and hold title to real property and if the conservation easement is voluntarily conveyed. No local governmental entity may condition the issuance of an entitlement for use on the applicant's granting of a conservation easement pursuant to this chapter.
- A *federally recognized California Native American tribe or a nonfederally recognized California Native American tribe that is on the contact list maintained by the Native American Heritage Commission* to protect a California Native American *prehistoric, archaeological, cultural, spiritual, or ceremonial place*, if the conservation easement is voluntarily conveyed. [Note: It is rare that a tribe would hold an easement or covenant for a historic building, structure or other non-Native American historical resource.]

Qualified Organizations for Holding Conservation Easements and Historical Covenants

The historical covenant, conservation easement, or other historic preservation agreement, ensures that a new owner will preserve the property's CDFs in accordance with the *SOIS* and allow the easement holder (also called an assignee or covenantee) to review proposed alterations and monitor the covenant. This transfer document also includes a list or description of the historical resource's CDFs that are to be protected by the new owner. Therefore, it is imperative that the organization or agency that Caltrans is seeking as a potential covenant or easement holder be a qualified agency or organization with a board of directors and staff, or consultants, with practical knowledge of the approaches in the SOIS, and that has the capability, in perpetuity, of carrying out responsibilities under the covenant. Because the holder of the covenant or easement will incur costs to carry out its responsibilities under that document, Caltrans should expect to pay a service fee or endowment. The fee or endowment can vary and is subject to negotiation between Caltrans and the candidate organization or agency.

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Basic components in Conservation Easements and Historical Covenants

When Caltran transfers its historical resources utilizing conservation easements and historical covenants, there are actually two documents that need to be recorded in the applicable county recorder's office:

1) The covenant itself, in Caltrans and the new (and future) owner(s) consent to preserve the historical resource according to the stipulations in that document.
2) The Assignment and Assumption Agreement (AAA), in which Caltrans delegates its historic preservation responsibilities to the organization that will be monitoring the covenant, according to the conditions in the agreement.

Terms commonly used in the documents sometimes can be confusing. In the covenant, once first identified by their proper names, Caltrans then is referred to as the DEPARTMENT/GRANTOR; the new owner is the GRANTEE; the historical resource is the PROPERTY; and the organization that has agreed to hold the covenant or easement and monitor it is referred to as the ASSIGNEE.

Similarly in the Assignment and Assumption Agreement, the document itself is referred to as the AAA, Caltrans is the DEPARTMENT/ASSIGNOR; the new owner is the GRANTEE; the property is the PROPERTY; and the organization that has agreed to hold the covenant or easement and monitor is the ASSIGNEE.

Those who sign the covenant or easement include:

- New owner(s)
- District Environmental Division Chief (or environmental staff legally delegated to sign for District Director)
- District Right-of-Way (ROW) Chief (or ROW staff legally delegated to sign for District Director)
- Caltrans District attorney (who approves the document as to form and procedure)
- Official with the organization that will become the covenant holder (Assignee), signs as acknowledging the covenant
- Notary(ies) Public (who need to notarize every signature on the covenant)

The same signatures are needed on the AAA, but the order is slightly different. On the AAA, Assignee is the first signature because the organization is taking on the

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responsibilities of the AAA, and the new owners sign last as acknowledging the document).

There are standard legal stipulations that Caltrans Legal and Right-of-Way Divisions need to provide in addition to those that pertain to historic preservation. What follows below are historic preservation *paraphrased* whereas clauses and stipulations that are common to all enforceable conservation easement/historical covenant and AAA documents and that need to be included. Exhibit 2.17 contains a sample historical covenant and AAA.

Covenant Whereas Clauses and Now Therefore Clause

- Acknowledgment that the new owner of the parcel also will become the owner of the historical resource that it is included in or determined to be eligible for inclusion on the National Register of Historic Places and is listed in the California Register of Historical Resources, along with the physical address of the property and its legal property description.
- Acknowledgement that the historic property possesses significant historical value and characteristics that are of great importance to new owner and to the people of county in which the property is located, and the people of the State of California.
- Acknowledgment that the new owner and Caltrans intend to preserve and protect the historical resource's historical values and CDFs in perpetuity.
- "Now, Therefore" clause: This clause states that the new owner: voluntarily enters into the covenant with Caltrans; the owner (and all future owners) assures Caltrans that the historical resource's historical values and CDFs will be preserved, protected, enhanced and retained; and that the new owner acknowledges the receipt and sufficiency of the fact that the new owner (and all future owners) will carry out the permission and restrictions contained in the stipulations that follow.

Covenant Stipulations

- The new owner and all succeeding owners maintain and preserve all the historical resource's CDFs. These architectural features may be listed and described in the stipulation or included as an attachment to the covenant. The list should clearly distinguish between the exterior features and the interior features to be protected. Most of the CDFs to be protected will be exterior features. There likely will be few or no interior CDFs for contributing properties to districts, but there may be more for individually

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listed or eligible properties. As a general rule of thumb features to be protected are the "Most significant" and "Significant" CDFs as outlined on the property's CDF Summary Form that should have been prepared prior to submitting the HRCR to CSO's review and, for state-owned historical resources on the Master List, SHPO's review. See Exhibit 7.1.

- New and future owners, in order to preserve and enhance those CDFs that make the property National Register eligible and California Register listed shall use the recommended approaches set forth in *The Secretary of the Interior's Standards for the Treatment of Historic Properties*, found at 36 Code of Federal Regulations, Part 68 (and any amendments or modifications to them) to preserve and maintain the historical resource.
- New and future owners shall not undertake any type of construction, alteration, remodeling, relocation or demolition of the property that would affect its CDFs without the express prior written permission by a "fully authorized representative" of Caltrans or the organization holding the covenant (the Assignee).
- New and future owners shall permit Caltrans and/or its assignee, to inspect the property for the purpose of determining whether the obligations and duties set forth in the covenant are being observed: at time of sale or transfer, at time of any application for any building permit, or at any time Caltrans and/or its assignee chooses.
- In the event of the covenant is violated, Caltrans or its Assignee will give prior notice (typically 30 days) to the new or future owners stating that in addition to any remedy provided by law, Caltrans or its Assignee, may initiate legal action or proceedings to enjoin the violation and require the remediation of any changes made to the features, spaces or spatial relationships characterizing the historic aspects of the historical resource.
- The covenant shall run with the property and be binding upon Caltrans and its successor Assignee(s)—in case the organization originally agreeing to monitor the covenant cannot or will not continue that responsibility— and the new and future owners. Also, a statement needs to be included here that the new/future owners shall always include this covenant (either verbatim or by express reference) in any deed or other legal instrument "by which fee simple title or any other lesser estate in the Property or any part thereof is transferred or otherwise passes," and that the new deed or other legal

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instrument shall be recorded in the County Recorder's Office of the county in which the historical resource is located. This stipulation also includes a statement that if the new/future owners fail to comply with this provision, it does not "impair the validity of this covenant or limit its enforceability in any way." Any of the future owners in interest or assigns, by accepting a deed, lease or other document that conveys an interest in the historical resource are deemed to have consented to, reaffirmed and agreed to be bound by all of the terms, covenants, restrictions and conditions of the covenant.

- Caltrans's or its Assignee's failure to exercise any right or remedy granted under the covenant "shall not have the effect of waiving or limiting the exercise of any other right or remedy or the use of such right of remedy at any other time."
- The new owner, for itself and on behalf of future owners agrees and acknowledges that neither Caltrans or its Assignee is responsible for any damage or liability occurring by reason of anything done or omitted to be done by Caltrans or its successors, under or in connection with their obligations, duties or responsibilities set forth in the covenant.
- Caltrans understands and acknowledges that, as set forth in the Assignment and Assumption Agreement (This is a document that always accompanies the Covenant), it has permanently assigned, transferred, and released all of its obligations, responsibilities, and any liabilities stipulated in the covenant to (Include the name of organization that will be the Assignee monitoring the covenant.), its successors and assigns. Also, add a statement that the Assignee has agreed to and will assume and perform, comply with and discharge, each and every obligation, covenant, representation, warranty, duty and liability of Caltrans.
- The covenant shall be recorded in the County Recorder's Office of the county in which the historical resource is located after all parties to the covenant have executed (signed) the document.
- If any of the provisions of the covenant are invalidated by judgment or court order, it does not affect any of the other provisions, which shall remain in full force and effect.
- When the new owners executes (signs) the covenant, it constitutes conclusive evidence that the new owner has read and understood the

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contents of the covenant and agrees to be bound by it provisions, conditions, restrictions, and assignment, and to perform the obligations as they are stipulated in the covenant.

- The new owner(s) acknowledge that as buyers of the property they also have entered into a Right to Purchase Agreement (RTPA), which is incorporated by reference, pursuant to Government Code 54235, etc. seq. The RTPA places certain additional restrictions on the use of the property including, but not limited to, the requirement that new owner obtains written approval from Caltrans prior to commencing any substantial repairs to the property. The new owner acknowledges and agrees that the provisions of both the RTPA and this Covenant apply to the property with regard to the CDFs. Also, in the event that the RTPA and the covenant conflict, the more restrictive provision of the two agreements shall apply in order to give the greatest protection to the historical resource.
- Definitions and examples for the following terms as set forth in 36 CFR 68.2 Definitions and National Register Bulletin 15 are included as a stipulation: "preserve, preserving, and/or preservation;" "rehabilitate, rehabilitating, and/or "rehabilitation;" and "integrity." These are included as three sub-paragraphs for the: 1) preservation definitions; 2) rehabilitation definitions; and 3) integrity definition. See sample covenant in Exhibit 2.17.

Assignment and Assumption Agreement Recitals (Wheras and Now Therefore Clauses)

- Acknowledgment that the new owner will become the owner of the historical resource that it is included in or determined to be eligible for inclusion on the National Register of Historic Places and is listed in the California Register of Historical Resources, along with the physical address of the property and its legal property description.
- Acknowledgment that the new owner and Caltrans are parties to a Historical Covenant and Notice of Restrictions Agreement (including the Agreement #XXXX and date it was signed) and is incorporated by reference and that the new owner has agreed to do or refrain from doing certain things to the historical resource in order to assure its preservation, protection, and enhancements of its CDFs. It also includes a statement that under the covenant, Caltrans as the covenant holder has taken on certain duties, rights and obligations relative to the historical resource.

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- Acknowledgement that Caltrans has assigned all of its duties, rights and obligations under the covenant to its Assignee (the organization agreeing hold the covenant for Caltrans), and that the Assignee desires to assume these responsibilities under the covenant.
- Acknowledgement that Caltrans intends to pay a one-time service fee or endowment of the agreed upon dollar amount (this can vary) to the Assignee for the Assignee assuming in perpetuity all of Caltrans's duties, rights and obligations under the covenant.
- "NOW, THERFORE" clause: This clause states that in consideration of the foregoing recitals, which are specifically incorporated into this agreement [*typically by now its abbreviation, AAA is used*], and other good and valuable consideration, receipt of which Caltrans acknowledges and there ASSIGNEE agrees to carry out the stipulations that follow:

Assignment and Assumption Agreement Stipulations

- Caltrans assigns and delegates all of its obligations, responsibilities, and duties in and to the covenant to its assignee and the assignee assumes and agrees to perform and carry out all the obligations and other responsibilities of Caltrans under the covenant.
- As the buyers of the property the new owner [*who is named here*] have also entered into a Right to Purchase Agreement (RTPA) [including the date], which is incorporated by this reference, and places certain additional restrictions on the use of the property, including, but not limited to, the requirement that Buyer shall not add any substantial improvements to the property without Caltrans or its Assignee's the prior express written consent. The stipulation also states that the new owner acknowledges and agrees that the provisions of both the RTPA and the covenant apply to the property and that in the event that the RTPA and the covenant conflict, the more restrictive provision of the two agreements shall apply in order to give the greatest protection to the property. The stipulation also states that Caltrans and its Assignee agree that Caltrans has retained all of the rights, duties and obligations described and set forth in that RTPA.
- There is a stipulation that reiterates that as a condition of the Assignee accepting the AAA and of its obligations, the Assignee, in perpetuity, will perform or observe all of the covenant's obligations. It also reiterates that Caltrans will pay the Assignee a one-time service fee of the agreed upon dollar amount (this

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amoutncan vary. While the earlier Whereas clause states Caltrans's *intention* to pay the see, this stipulation *obligates* Caltrans to pay it).

- In the event that the Assignee is unable to satisfy its obligations, duties and responsibilities that the AAA and the covenant require, the Assignee will notify Caltrans in writing within a preset time frame (typically 30 calendar days) of its inability to satisfy the terms of the AAA and the covenant. The Assignee, with Caltrans's prior written approval, may then assign its interest in the AAA and covenant and transfer the remainder of the service fee and its accrued interest to its Assignee, along with all the Assignee conditions, obligations and duties that are in AAA and the covenant. The stipulation should include that Caltrans reserves the right to approve of the new Assignee and the current Assignee acknowledges this fact. Caltrans will give preference to a qualified agency or organization that has a board of directors, and staff or consultants with practical knowledge of the approaches in the *SOIS*.
- Include a stipulation that neither Caltrans nor any of its officers or employees are responsible for any injury, damage or liability done or omitted to be done by the Assignee or future Assignees in connection with any work, authority or jurisdiction that were delegated to the current or future Assignee under the AAA. Also include a statement that Caltrans reserves the right to represent itself in any litigation in which Caltrans's interests are at stake.
- Include a stipulation that the AAA shall be governed by and construed in accordance with the laws of the State of California. Time is of the essence of this AAA. This AAA shall be binding upon and shall inure to the benefit of the parties and their successors and assigns. This AAA constitutes the entire agreement of the parties hereto on the matters covered. The invalidity or unenforceability of any provision(s) of this AAA shall not render any other provision(s) invalid or unenforceable.
- Include a stipulation that the AAA may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute but one agreement.
- Include a stipulation that the AAA shall be deemed effective upon the last of the dates that Caltrans and the Assignee sign, and provide that.

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SHPO Review of Conservation Easements/Historical Covenants for Federal Undertakings

Transfers of state-owned historical resources are included in the list of actions that have the potential for adverse effect. See Chapter 2 Section 2.8. This *state* obligation must be met even when the project is a *federal* undertaking, but as allowed in Stipulation III of the 5024 MOU, Caltrans uses the Section 106 process for transfers that are also measures to avoid or resolve adverse effect under Section 106. FHWA has determined that when federal funds initially were used to acquire state-owned parcels, the National Environmental Policy Act (NEPA) applies to those excess parcels under 23 CFR 771.117(d)(6).

Allow enough time for *early* consultation with and review by SHPO.

Transfers of Caltrans-owned historical resources out of Caltrans ownership, whether to a private party or to a public entity, must be reviewed by SHPO under Section 106 if the transfer is identified as a mitigation measure in an MOA. For a transfer to a private party or local entity, Caltrans submits a draft version of the covenant, easement, resolution or transfer agreement to SHPO for review and consultation. When SHPO concurs with the content of the protective document(s) or language in the Finding of Adverse Effect or MOA, and the property has been transferred, Caltrans will submit a signed and recorded copy of the covenant/Assignment and Assumption Agreement, easement or officially accepted resolution to SHPO and request that SHPO change the ownership status accordingly. This is a record-keeping measure for SHPO in which the property is removed from the Master List of [state-owned] Historical Resources, but retains its underlying National Register, California Register and or State Historical Landmark listing/eligibility status.

For additional information on, or assistance with, historical covenants and preservation agreements, contact the BEPS Chief in CSO.

Review of Conservation Easements/Historical Covenants for PRC 5024 Compliance

Under the 5024 MOU transfers of Caltrans-owned historical resources out of Caltrans ownership take different paths to 5024 compliance depending on whether the historical resources is or is not on the Master List and to whom the historical resource will be transferred. For detailed guidance on how to process transfers and relinquishments out of state ownership, refer to Chapter 2 Section 2.8.10 Excess

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Parcel and Route Relinquishments, Exhibit 2.17, and 5024 MOU Stipulations X and XVI.

7.12.8 Review of Mitigation Measures over $500,000

As a result of concerns expressed by Caltrans Headquarters, Regional and District management, the California Transportation Commission, FHWA and regulatory agencies over the appropriateness of certain mitigation expenditures, Caltrans established a policy for internal independent peer review of all environmental mitigation commitments expected to exceed $500,000 per project. This review is intended to confirm that the mitigation is cost effective and that it is commensurate to the scope of the undertaking and to the type and significance of the historic properties.

All proposed measures that identify potential mitigation costs of $500,000 (and above) for the undertaking *as a whole* must be reviewed by the CSO Chief, under delegation by the Chief, Division of Environmental Analysis, per memo of January 28, 2005.

Documentation should include:

- Basic project information
- Affected resources
- Project effects,
- Proposed mitigation
- Alternatives considered
- Likely costs
- Issues impacting mitigation decisions

The CSO Chief will complete the review within 15 working days from receipt of the mitigation documentation. The DEBC will take the CSO Chief's comments into consideration prior to approving mitigation expected to cost $500,000 or more.

7.12.9 Construction Monitoring

Effective Monitoring

Despite Caltrans' efforts to ensure plans and specifications include instructions for contractors to follow that are consistent with the *SOIS*, sometimes actions occur that result in damage to or destruction of significant character-defining features and materials. A PQS who meets the criteria outlined in the 106 PA Attachment 1, and for state-owned resources, 5024 MOU Attachment 1, at the Principal Architectural

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Historian level may be assigned to monitor construction work for the purpose of ensuring plans and specifications are followed in a manner consistent with the *SOIS* to avoid or minimize damage to character-defining features. *Monitoring is not a substitute for adequate pre-construction instructions and specifications.*

Effective monitoring requires that the Principal Architectural Historian monitor work closely with Caltrans' and the contractor's field personnel. All participants need to understand clearly:

- The nature of the historic built-environment concerns at the location.
- Various participants' responsibilities.
- Construction schedules and procedures.
- The chain of command for dealing with any damaged or destroyed character-defining features.

A monitoring plan should discuss chain of command and decision thresholds for what constitutes damage to built-environment historic properties.

Safety Concerns While Monitoring

Safety concerns are particularly important in construction situations. The Principal Architectural Historian monitor must be adequately aware of the operating methods of heavy equipment, adjacent traffic conditions, safety policy with respect to general construction practices and hazardous materials potentially present at the site. See Chapter 4 Section 4.6.3.4 Field Safety and Chapter 5 Section 5.3.6 for guidance on field safety.

If the monitor sees that the work is not being performed in a manner consistent with the *SOIS*, or that damage has occurred to character-defining features, it may be necessary temporarily to divert construction work away from the location, to allow the damage to be properly assessed. The monitor contacts the Resident Engineer (RE) and the RE will redirect any work.

Because delays may cause serious impacts to the construction schedule, the monitor should have a clear understanding of the thresholds for such damage.

Reporting Damage to Built Environment Historic Properties

Damage to historic properties may result in additional assessment and repair work that necessitates construction delays.

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When damage occurs, the DEBC prepares a Report of Construction Impacts to Cultural Resources. The DEBC certifies this report and includes it in the project files. The DEBC sends copies of this report to Headquarters Division of Construction and to the CSO Chief. Exhibit 5.13: *Construction Impacts to Cultural Resources Report Format and Content Guide* contains guidance for completing the Report of Construction Impacts. Damage to historic properties must be reported to SHPO when they occur; they are also reported in the 106 PA and/or 5024 MOU Annual Report. Annual reports are discussed in Chapter 2 Section 2.5.6.

7.13 State Laws and Regulations

CEQA and PRC 5024 are the primary state laws and regulations that apply to Caltrans projects. Chapter 1 and Exhibit 1.5: *Historic Preservation Laws and Regulations Summary* explain the applicable state laws and regulations in further detail.

With few exceptions, compliance with CEQA and PRC 5024 follows the same procedures for level of effort, identification, evaluation, assessment of effects and developing mitigation measures as for federal undertakings.

If the project is a federal undertaking, the federal documents (HPSR, HRER, Finding of Effect, etc.) need to include a section on CEQA compliance and, if applicable PRC 5024. If the project is state-only, follow the procedures outlined in this chapter and report the findings, including identification, evaluation, assessment of effects, and mitigation measures in the HRCR. See Exhibit 2.14 for reporting guidance.

7.13.1 CEQA

The California Environmental Quality Act (CEQA) (PRC 21000 *et seq.* and its implementing regulations CEQA Guidelines California Code of Regulations (CCR) 15064.5 et seq) is intended to develop and maintain a high-quality environment now and in the future. CEQA requires California's public agencies to identify the significant environmental effects of their actions and to avoid or mitigate them, where feasible. CEQA applies to projects that will be undertaken by, or that require the approval of, state or local government agencies and that have the potential to have a physical impact on the environment. For state-only projects that include built environment resources within the PAL, use the guidance in this chapter.

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7.13.1.1 Identification and Evaluation of cultural resources

Normally, the identification and evaluation efforts for historical resources under CEQA and PRC 5024 are the same as for historic properties under Section 106, but the HRER is attached to the HRCR, for state-only projects. However, SHPO does not need to be consulted on these efforts for CEQA purposes. Caltrans, as the lead agency, makes the determinations whether resources meet California Register criteria.

7.13.1.2 Assessment of Effects and Mitigation Plans

Normally, the impacts and the mitigation measures for historical resources under CEQA are the same as for historic properties under Section 106, though under CEQA adverse effects are called substantial adverse changes[11], and include locally designated landmarks and resources identified as significant in a local survey that meets SHPO standards, whether or not those resources meet National Register criteria. When a project is federally funded, assessment of impacts under CEQA is incorporated into the assessment of effects and mitigation measures contained in the Section 106 documentation. As under Section 106, impacts to historical resources must be assessed under CEQA, and if applicable, mitigated. Unlike the Section 106 process, a single document, the HRCR, can be used to document both the impacts and the mitigation measures for state-only projects.

The stipulations outlined in 106 PA Stipulation X.B., "No Adverse Effect with Standard Conditions," do not apply to state-only projects. See Section 7.13.1.2 below.

7.13.1.3 Mitigation Measures

Mitigation measures for buildings and structures (including bridges) follow the same principles under state law as under federal law. Document the proposed measures in the Mitigation Plan section of the HRCR and include plans, specifications, and other relevant material as attachments. Consultation with SHPO on mitigation is not required under CEQA. See Chapter 2 and Exhibit 2.14 for more guidance.

As with federal undertakings, all proposed mitigation measures with costs of $500,000 and above must be submitted to the CSO Chief for review and comment. See Section 7.12.8, above.

[11] Caltrans uses the federal criteria of adverse effect [36 CFR 800.5(a)(1)and (2)] as guidance for assessing whether a project has the potential for substantial adverse change under CEQA and adverse effect under PRC 5024.

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Measures to Mitigate to Below the Level of Significant Impact

The equivalent in CEQA to the Section 106 "No Adverse Effect with Standard Conditions" for rehabilitation of a historic property is a Class 31 Categorical Exemption (CEQA Guidelines at PRC 15331), which requires that the rehabilitation, maintenance, repair, restoration, or reconstruction of historical resources, including buildings, bridges, structures, and other built-environment resources, be done in a manner consistent with the *SOIS*.

Likewise, under CEQA Guidelines at PRC 15064.5(b)(3), conformance to these *SOIS* is considered to mitigate substantial adverse changes to historical resources to below the level of significant impact. The proposed work also must comply with the CHBC (see Section 7.14.4 below). Use of this code is a legal requirement for work on state-owned historical resources.

A Caltrans PQS Principal Historian must review plans and specifications for proposed rehabilitations, maintenance, repairs or mitigation measures that would mitigate to below a level of significant impact. The plans, specifications or other mitigation documentation must be attached to the HRCR. A district without appropriately qualified PQS can send review requests to the BEPS Chief in CSO.

7.13.2 Public Resources Code (PRC) 5024

Public Resources Code 5024 requires state agencies to preserve and maintain state-owned historical resources. State agencies must demonstrate that they are protecting and maintaining their prehistoric, historic, ethnographic, and traditional cultural resources, and that they are ensuring that their development or maintenance projects will not adversely impact those resources. State-owned historical resources may be on the Master List of Historical Resources (see below), depending on their National Register or CHL status and their property types. Whether or not they are on this list, all are protected by PRC 5024; but the process by which Caltrans complies with PRC 5024 is different. Caltrans and the SHPO have executed a Memorandum of Understanding, the 5024 MOU, for complying with this state law. See Section 7.5.3, Chapter 2 Section 2.8, and the 5024 MOU for guidance on the appropriate procedures to follow regarding state-owned historical resources.

Caltrans projects that include maintenance, repair, rehabilitation, relocation, ownership transfer (including route relinquishments and excess parcel sales), or demolition of state-owned historic buildings or structures (such as historic roads, bridges, retaining walls, pumping stations, etc.) are all subject to compliance with PRC 5024.

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Master List of Historical Resources

The Master List of Historical Resources (Master List), which is maintained by the Office of Historic Preservation (OHP), only includes State-owned historical resources that have been listed on the National Register or have been registered as CHLs (including National Register-listed and CHL-registered non-structural resources like archaeological sites, landscapes and tree rows), as well as buildings and structures[12] that have been determined eligible for inclusion in the National Register or as a CHL. This list is a "virtual" list in that there is no published list, but state-owned historical resources can be identified in the OHP database by the historical resource status code "4CM," for Master List - State Owned Properties – PRC §5024.

The Master List does not include archaeological sites or non-structural resources and sites that were officially determined eligible for inclusion in the National Register or for registration as a CHL, nor does the Master List include any State-owned resources that are assumed eligible for the National Register or as a CHL only for purposes of a project or activity. See 5024 MOU Stipulation IV.E for a more complete description.

State-owned historical resources that are not on the Master List are still subject to PRC 5024 and guidance for complying with PRC 5024 can be found in Chapter 2 Section 2.8.

[12] Pursuant to PRC 5024(h), a structure is defined as an "immovable work constructed by man having interrelated parts in a definite pattern of organization and [is] used to shelter or promote a form of human activity and which constitutes an historical resource."

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7.14 Additional State Responsibilities for Historical Resources

7.14.1 PRC 5027

PRC 5027 prohibits the demolition, destruction or significant alteration (except for restoration to preserve or enhance its historical values) of any state-owned National Register-*listed* building or structure that is transferred to another public agency, without prior approval of the Legislature. In essence, the Legislature needs to change the law in order to allow this type of substantial adverse change to occur. Because the Legislature has to amend PRC 5027 to allow a substantial adverse change to this type of property *and* Caltrans must consult with SHPO early in the process, before the legislation is passed, allowing enough time for SHPO review is critical and needs to be synchronized with CEQA and PRC 5024 compliance. The key points to remember are

- National Register *listed* building or structure
- There is a *substantial adverse change*/adverse effect through demolition, destruction or significant alteration
- Transfer is to another *public agency*
- SHPO must be consulted prior to the passage of the proposed legislation and PRC 5024 compliance must be complete
- This kind of transfer may be either a *Negative Declaration or EIS.* Coordinate with the Caltrans district staff responsible for CEQA compliance.

The law does not apply to archaeological sites, landscapes or other non-structural property types. Very few Caltrans-owned historic buildings or structures are actually listed in the National Register; most are determined eligible.

7.14.2 Secretary of the Interior's Standards for the Treatment of Historic Properties

It is Caltrans policy to use the Secretary of the Interior's *Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings (SOIS)* for the repair, maintenance, stabilization, rehabilitation, or restoration of Caltrans-owned historic buildings and structures. This includes both federal and state-only projects and activities.

Under the 106 PA Stipulation X.B.1.b, and for state-owned historical resources 5024 MOU Stipulation X.B.1.b, rehabilitation that conforms to the *SOIS* may be used to document a finding of No Adverse Effect with Standard Conditions or to mitigate adverse effects on historic properties. Rehabilitation conforming to the *SOIS* can also

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mitigate substantial adverse changes to historical resources under CEQA. Use of the *SOIS* in repair, maintenance, or rehabilitation of historical resources also constitutes a Categorical Exemption under CEQA as a Class 31 project when no other environmental issues are present; coordinate with Caltrans district staff responsible for CEQA compliance.

7.14.4 California Historical Building Code

The California Historical Building Code (CHBC), last updated in 2010, is the mandated alternative to other prevailing local and state codes "to preserve, encourage conservation and provide a cost effective approach to preservation of the resource and safety of users and occupants" for historical resources. The CHBC outlines state regulations that "control and allow alternatives to any prevailing codes when dealing with qualified historical buildings or sites." It is designed to protect the character-defining features of buildings and structures, while also meeting the federal Americans with Disabilities Act (ADA) and its accompanying guidelines, as well as state ADA laws and regulations.

Under the CHBC state agencies are required to "apply the alternative building regulations pursuant to Section 18959.5 [of the Health and Safety Code] in permitting repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, moving or continued use of an historical building or structure."

The code's use is mandatory, not optional, on state-owned historic buildings and structures, including roads and bridges. *Caltrans must therefore comply with the CHBC* in its maintenance programs; in repair, stabilization, and rehabilitation activities; and in projects that involve Caltrans-owned historic buildings and structures that meet the definition of a qualified historical building or property outlined in Chapter 8-2 of the CHBC and Section 18955 of the Health and Safety Code. That includes properties listed in or eligible for inclusion in the National Register or the California Register, designated as a State Historical Landmark or Point of Historical Interest, listed in city or county registers, and listed in inventories of historical or architecturally significant sites, places, historic districts, or landmarks.

Consultation with State Historical Building Safety Board

Consultation with the Executive Director of the State Historical Building Safety Board is required when use of prevailing codes and standards could result in an adverse effect to a state-owned historical resource. Consultation should occur early in the planning process to determine whether components of the project can take advantage of this alternative code.

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CHBC and the California Building Energy Efficiency Standards

Qualified historical buildings, as defined in the CHBC, **are exempt** from the California Building Energy Efficiency Standards, as revised.

This exemption includes historic lighting components or replicas of historic lighting components. However, all other light systems in historical buildings must comply with the energy efficiency standards for lighting power allowances. Under the CHBC, all non-historical additions must comply with regular code. New or replacement mechanical, plumbing and electrical equipment and appliances *should* comply with the Building Energy Efficiency Standards.

The BEPS Chief in CSO is the Caltrans contact person regarding the CHBC.

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