

SHPO Statement on the Use of the Term *Potentially Eligible*

Background:

The National Register of Historic Places (NRHP) is the official list of the Nation's historic places. Authorized under the National Historic Preservation Act of 1966, it is part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect our historic and archeological resources. Properties listed in the NRHP include districts, sites, buildings, structures, and objects that are significant in American history, architecture, archeology, engineering, and culture.

Under the National Historic Preservation Act, the State Historic Preservation Office (SHPO) is tasked with several duties, including nominating properties to the NRHP, conducting and maintaining an ongoing list of historic properties as part of a statewide survey, and participating as a consulting party under Section 106 of the Act. Federal agencies are responsible for determining the NRHP eligibility of properties in the Section 106 process through consultation with the SHPO and other interested parties. Only those properties that are eligible for listing in the NRHP are afforded additional consideration under Section 106. In situations where the agency and the SHPO disagree on eligibility or the agency wishes to have additional guidance, the Keeper of the National Register may be consulted for a Formal Determination of Eligibility. The Keeper is the final authority on eligibility for the NRHP.

In the past, the term *potentially eligible* was used mostly for large-scale projects where eligibility determinations were not made for each property and additional research into the historic significance and integrity of the property was needed. In some situations, properties referred to as *potentially eligible* were treated as if they were eligible. While this practice expedited the survey process at the time, it requires a reevaluation of eligibility for future projects. Increasingly, the term *potentially eligible* has been used less precisely and for all types of projects and situations.

Section 106 review requires sites to be determined as eligible or not eligible for the NRHP. Therefore, properties determined *potentially eligible* will need additional investigation and research if they may be affected by a federal project. For projects reviewed by the South Carolina Department of Health and Environmental Control – Ocean and Coastal Resource Management, only properties previously determined to be eligible for the NRHP by the S.C. Institute of Archaeology and Anthropology or the SHPO are afforded a measure of protection with the opportunity for professional examination and/or excavation, or preservation. When a property has been determined *potentially eligible*, the property is treated as not eligible unless there is enough information for the SHPO to determine that it meets the criteria for listing on the NRHP.

SHPO Statement:

The South Carolina SHPO recommends eliminating the term *potentially eligible* from all cultural resource survey reports and documents. The term *potentially eligible*, while

having a specific meaning to the archaeological community, may not have the same meaning to the larger client/compliance/preservation planning community. Our office suggests that agencies and consultants use more specific language such as “requires additional testing or research for eligibility” or “unevaluated, requires testing or research for eligibility” regarding these sites. This language should be applied until additional research and/or field evaluation can be completed to adequately assess eligibility as either “eligible” or “not eligible.” It is important for SHPO staff to have a solid assessment of eligibility as well as the documentation supporting that determination. Any above-ground and archaeological survey reports should provide specific eligibility recommendations and justifications that include detailed discussion of why the property could be significant within its historic context, which criteria it might meet, what types of questions may be asked, and what additional work needs to be conducted.

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