(1) "Length" means a straight line measurement of the overall length from the foremost part of the vessel to the aftmost part of the vessel, measured parallel to the center line. The measurement must be from end to end over the deck, excluding sheer. Bow sprits, bumpkins, rudders, outboard motor brackets, handles, and other similar fittings, attachments, and extensions are not included in the measurement.

(2) "Repair" means any repair of a vessel including installations, painting and maintenance work. Repair does not include alterations or conversions that render the vessel a non-recreational vessel under § 701.501. For example, a worker who installs equipment on a private yacht to convert it to a passenger-carrying whale-watching vessel is not employed to "repair" a recreational vessel. Repair also does not include alterations or conversions that render a non-recreational vessel recreational under § 701.501.

(3) "Dismantle" means dismantling any part of a vessel to complete a repair but does not include dismantling any part of a vessel to complete alterations or conversions that render the vessel a non-recreational vessel under § 701.501, or render the vessel recreational under § 701.501, or to scrap or dispose of the vessel at the end of the vessel's life.

(c) An individual who performs recreational-vessel work not excluded under paragraph (a) of this section or who engages in other qualifying maritime employment in addition to recreational-vessel work excluded under paragraph (a) of this section will not be excluded from the definition of "employee." (*See* § 701.303).

7. Add § 701.503 to read as follows:

§ 701.503 Did the American Recovery and Reinvestment Act of 2009 Amend the Recreational Vessel Exclusion?

Yes. The amended exclusion was effective February 17, 2009, the effective date of the American Recovery and Reinvestment Act of 2009.

8. Add § 701.504 to read as follows:

§ 701.504 When does the 2009 amended version of the recreational vessel exclusion apply?

(a) *Date of injury.* Whether the amended version applies depends on the date of the injury for which compensation is claimed. The following rules apply to determining the date of injury:

(1) *Traumatic injury.* If the individual claims compensation for a traumatic injury, the date of injury is the date the employee suffered harm. For example, if the individual injures an arm or leg in the course of his or her employment, the date of injury is the date on which the individual was hurt.

(2) *Occupational disease or infection.* Occupational illnesses and infections are generally caused by exposure to a harmful substance or condition. If the individual claims compensation for an occupational illness or infection, the date of injury is the date the illness becomes "manifest" to the individual. The injury is "manifest" when the individual learns, or reasonably should have learned, that he or she is suffering from the illness, that the illness is related to his or her work with the responsible employer, and that he or she is disabled as a result of the illness.

(3) *Hearing loss.* If the individual claims compensation for hearing loss, the date of injury is the date the individual receives an audiogram with an accompanying report which indicates the individual has suffered a loss of hearing that is related to employment.

(4) *Death-benefit claims.* If the individual claims compensation for an employee's death, the date of injury is the date of the employee's death, even if his or her death was the result of an event or incident that happened on an earlier date.

(b) If the date of injury is before February 17, 2009, the individual's entitlement is governed by section 2(3)(F) as it existed prior to the 2009 amendment.

(c) If the date of injury is on or after February 17, 2009, the employee's eligibility is governed by the 2009 amendment to section 2(3)(F).

9. Add § 701.505 to read as follows:

§ 701.505 May an employer stop paying benefits awarded prior to the effective date of the recreational vessel exclusion amendment if the employee would now fall within the exclusion?

No. If an individual was awarded compensation for an injury occurring before February 17, 2009, the employer must still pay all benefits awarded, including disability compensation and medical benefits, even if the employee would be excluded from coverage under the amended exclusion.

Shelby Hallmark,

Director, Office of Workers' Compensation Programs.

[FR Doc. 2010–25895 Filed 10–14–10; 8:45 am]

BILLING CODE 4510–CF–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 67

RIN 1024–AD65

Historic Preservation Certifications for Federal Income Tax Incentives

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service (NPS) proposes to amend its procedures for obtaining historic preservation certifications for rehabilitation of historic structures. Individuals and corporations must obtain these certifications to be eligible for tax credits from the Internal Revenue Service (IRS). This rule: Incorporates references to the revised sections of the Internal Revenue Code containing the requirements for obtaining a tax credit; replaces references to NPS's regional offices with references to its Washington Area Service Office (WASO); requires NPS to accept appeals for denial of certain certifications; and removes the certification fee schedule from the regulation. These latter two revisions provide an additional avenue for appeals and allow NPS to update fees by publishing a notice in the **Federal Register** as administrative costs change.

DATES: Comments must be received by December 14, 2010.

ADDRESSES: You may submit comments, identified by the number 1024–AD65, by any of the following methods:

—*Federal rulemaking portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

—*Mail:* National Park Service, Attn. Michael J. Auer, 1849 C Street, NW. (org. code 2255), Washington, DC 20240.

All submissions must include the agency name and the number 1024–AD65. We will post all comments without change to *http://www.regulations.gov,* including any personal information provided. For additional information, see "Public Participation" under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Michael J. Auer, National Park Service, 1849 C Street, NW. (org. code 2255), Washington, DC 20240; *Michael_Auer@nps.gov;* fax: 202–371–1616.

SUPPLEMENTARY INFORMATION:

Background

Section 47 of Title 26 of the United States Code (the Internal Revenue

Code), formerly Section 48(g), authorizes tax credits for qualified expenditures of funds for "certified rehabilitation" of "certified historic structures." This section of the Internal Revenue Code designates the Secretary of the Interior as the authority for review of applications for certifications to verify: (a) That buildings undergoing rehabilitation are "certified historic structures," and (b) that the rehabilitation preserves the overall historic character of the buildings, and therefore is a "certified rehabilitation."

These approvals take the form of notifications or "certifications" by the Secretary of the Interior to the Secretary of the Treasury. In addition, section 170(h) of the Internal Revenue Code allows a Federal income tax deduction for the donation of interests in qualified real property for conservation purposes.

Section 170(h) also designates the Secretary of the Interior as the authority who receives applications and issues certifications verifying to the Secretary of the Treasury that the building or buildings contribute to the significance of a historic district.

The proposed rule accomplishes four objectives. First, it removes outdated references to the Internal Revenue Code. Second, the proposed rule deletes references to the regional offices and substitutes the NPS Washington office in their place. In 1995, the review authority on applications for historic preservation certifications was moved from the NPS regional offices to the Washington office. Third, it lifts the prohibition on appeals from the denial of preliminary certification for rehabilitation of a property that is not a certified historic structure. Removing this prohibition from the language of § 67.10(b) brings the proposed rule into conformity with longstanding agency practice, which has been to grant administrative review in such circumstances.

Fourth, the proposed rule removes the certification fee schedule from the regulation. In 1984, NPS began charging fees for processing and reviewing tax incentives applications. This proposed rule removes the fee schedule from § 67.11 and all other specific provisions regarding the charging of fees from the regulations, and incorporates an explanation of the method by which we will determine the kind and amount of review fees to be charged in the future. We will provide public notice of all fee changes. Until a revised means of determining fees is decided upon, approved, and published, the 1984 fee schedule will remain in effect.

Compliance With Other Laws, Executive Orders, and Department Policies

Regulatory Planning and Review (Executive Order 12866)

The Office of Management and Budget has determined that this document is not a significant rule. We have made the assessments required by E.O. 12866 and the results are available as a supporting document with the proposed rule at *http://www.regulations.gov*.

(1) The results of the NPS cost/benefit analysis are that this rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. It is an agency-specific rule. No other Federal agency designates "certified historic structures" or "certified rehabilitations" for Federal income tax incentives.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. This rule updates statutory authority, deletes references to regional offices and substitutes the NPS Washington office in their place, authorizes additional administrative appeals, and removes from the text of the regulations the fee dollar amounts and specific instructions for charging fees.

(4) This rule does not raise novel legal or policy issues.

Regulatory Flexibility Act (RFA)

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act, (5 U.S.C. 601 *et seq.*).

The NPS threshold analysis as part of the NPS cost-benefit analysis concluded the proposed rule would generate positive benefits for all affected businesses with no negative impacts.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(1) Does not have an annual effect on the economy of $100 million or more. The rule merely updates statutory authority, revises references to NPS offices, authorizes additional administrative appeals, and deletes specific dollar amount of application review fees—changes that the Office of Management and Budget (OMB) has determined are purely technical in nature.

(2) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The rule does not impose any new requirements on building owners undertaking building rehabilitations.

(3) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. OMB has determined that the changes proposed in the rule are purely technical. Moreover, the tax incentives program involves purely domestic buildings and entities.

Unfunded Mandates Reform Act (UMRA)

This rule does not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or Tribal governments or the private sector.

Although State Historic Preservation Offices receive applications for the Federal tax incentives and forward them to the NPS, with a recommendation, State participation in this program is funded through the Historic Preservation Fund administered by the NPS.

Takings (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. Application for the Federal historic preservation tax incentives program is on a voluntary basis by owners seeking a benefit in the form of Federal income tax incentives. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement. The rule does not preempt or conflict with any State or local law. A Federalism impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of E.O. 12988. Specifically, this rule:

(a) Meets the criteria requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian Tribes (Executive Order 13175)

Under the criteria in Executive Order 13175, we have evaluated this rule and determined that it has no potential effects on Federally recognized Indian tribes. The rule has no Tribal implications, and does not impose any costs on Indian Tribal governments.

Paperwork Reduction Act (PRA)

This rule contains information collection requirements and a submission under the Paperwork Reduction Act is required. OMB has approved the information collection and has assigned approval number 1024–0009, expiring on 03/31/2013. A Federal agency may not conduct or sponsor and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. Part 1 of the application is used in requesting a certification of historic significance or non-significance and preliminary determinations. Part 2 of the application is used in requesting an evaluation of a proposed rehabilitation project or (in conjunction with a request for certification of completed work) a certification of a completed rehabilitation project. Information contained in the application is required to obtain a benefit. We estimate the burden associated with this information collection to be 4.6 hours per response including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct your comments regarding this burden estimate or any aspect of this form to the Manager, Administrative Program Center, National Park Service, 1849 C Street, NW., Washington, DC 20240 and to the Office of Management and Budget, Paperwork Reduction Project Number 1024–0009, Washington, DC 20503.

National Environmental Policy Act (NEPA)

This rule is developed under the authority of the National Historic Preservation Act, particularly 16 U.S.C. 470a(a)(1)(A), and 26 U.S.C. 47 (Internal Revenue Code), and does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required because the rule is administrative and procedural in nature and therefore is covered by a categorical exclusion under 43 CFR 46.205(b) and 46.210(i).

We have also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under the National Environmental Policy Act.

Information Quality Act (IQA)

In developing this rule we did not conduct or use a study, experiment, or survey requiring peer review under the Information Quality Act (Pub. L. 106–554).

Effects on the Energy Supply (Executive Order 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

Clarity of This Regulation

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, *etc.*

Drafting Information: The primary authors of this regulation are Michael J. Auer, Technical Preservation Services, Heritage Preservation Services, National Park Service; Philip A. Selleck, Chief, Regulations and Special Park Uses, National Park Service; A.J. North, Branch Chief, Regulations and Special Park Uses, Regulations, National Park Service and Maria Elena Lurie, Office of the Solicitor, Department of the Interior.

Public Participation

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Docket: For access to the electronic docket to read the proposed rule, background documents or e-mail comments received, go to *http://www.regulations.gov* and enter "1024–AD65" in the "Keyword or ID" search box.

List of Subjects in 36 CFR Part 67

Administrative practice and procedures, Historic preservation, Income taxes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the NPS proposes to amend 36 CFR part 67 as follows:

PART 67—HISTORIC PRESERVATION CERTIFICATIONS UNDER THE INTERNAL REVENUE CODE

1. The authority citation for part 67 is revised to read as follows:

Authority: 16 U.S.C. 470a(a)(1)(A); 26 U.S.C. 47 and 170(h).

2. In part 67, revise the heading to read as set forth above.

3. In part 67, remove the words "regional office" and "regional offices" wherever they occur and add in their place "WASO."

4. In part 67, remove the words and numbers "Sec. 48(g)" wherever they occur and add in their place the words and numbers "Sec. 47."

5. In part 67, remove the words and numbers "section 48(g)" wherever they occur and add in their place the words and numbers "section 47."

6. In § 67.1,

A. Revise the section heading

B. Revise paragraph (a) and the first sentence of paragraph (b)

The revisions read as follows:

§ 67.1 Program authority and function.

(a) Section 47 of the Internal Revenue Code designates the Secretary as the authority for the issuance of certifications of historic district statutes and of State and local historic districts, certifications of significance, and certifications of rehabilitation in connection with certain tax incentives involving historic preservation. These certification responsibilities have been delegated to the National Park Service (NPS); the following office issues those certifications: National Park Service, Washington Area Service Office,

Technical Preservation Services, Heritage Preservation Services, (WASO), 1849 C Street, NW., Washington, DC 20240.

(b) NPS WASO establishes program direction and considers appeals of certification denials. * * *

* * * * *

7. In § 67.4, revise paragraph (g) to read as follows:

§ 67.4 Certifications of historic significance.

* * * * *

(g) For purposes of the other rehabilitation tax credits under sec. 47 of the Internal Revenue Code, properties within registered historic districts are presumed to contribute to the significance of such districts unless certified as nonsignificant by the Secretary. Owners of non-historic properties within registered historic districts, therefore, must obtain a certification of nonsignificance in order to qualify for those investment tax credits. If an owner begins or completes a substantial rehabilitation (as defined by the Internal Revenue Service) of a property in a registered historic district without knowledge of requirements for certification of nonsignificance, he or she may request certification that the property was not of historic significance to the district prior to substantial rehabilitation in the same manner as stated in § 67.4(c). The owner should be aware, however, that the taxpayer must certify to the Secretary of the Treasury that, at the beginning of such substantial rehabilitation, he or she in good faith was not aware of the certification requirement by the Secretary of the Interior.

* * * * *

8. In § 67.5 revise the section heading to read as follows:

§ 67.5 Standards for evaluating significance within registered historic districts.

* * * * *

9. In § 67.7 revise the section heading to read as follows:

§ 67.7 Standards for rehabilitation.

* * * * *

10. In § 67.10, revise paragraphs (a), (b), and (c)(3) to read as follows:

§ 67.10 Appeals.

(a) The owner or a duly authorized representative may appeal any of the certifications or denials of certification made under this part or any decisions made under § 67.6(f).

(1) Appeals must:

(i) Be in writing; *e.g.* letter, fax, or e-mail;

(ii) Be addressed to the Chief Appeals Officer, Cultural Resources, National Park Service, U.S. Department of the Interior, 1849 C Street, NW., Washington, DC 20240;

(iii) Be received by NPS within 30 days of receipt by the owner or a duly authorized representative of the decision which is the subject of the appeal; and

(iv) Include all information the owner wishes the Chief Appeals Officer to consider in deciding the appeal.

(2) The appellant may request a meeting to discuss the appeal.

(3) NPS will notify the SHPO that an appeal is pending.

(4) The Chief Appeals Officer will consider the record of the decision in question, any further written submissions by the owner, and other available information and will provide the appellant a written decision as promptly as circumstances permit.

(5) Appeals under this section constitute an administrative review of the decision appealed from and are not conducted as an adjudicative proceeding.

(b) The denial of a preliminary determination of significance for an individual property may not be appealed by the owner because the denial itself does not exhaust the administrative remedy that is available. The owner instead must seek recourse by undertaking the usual nomination process (36 CFR part 60).

(c) * * *

(3) Resubmit the matter to WASO for further consideration; or

* * * * *

11. Revise § 67.11 to read as follows:

§ 67.11 Fees for processing certification requests.

(a) Fees are charged for reviewing certification requests according to the schedule and instructions provided in public notices in the **Federal Register** by NPS.

(b) No payment should be made until requested by the NPS. A certification decision will not be issued on an application until the appropriate remittance is received.

(c) Fees are nonrefundable.

Dated: October 5, 2010.

Eileen Sobeck,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2010–25853 Filed 10–14–10; 8:45 am]

BILLING CODE 4310–70–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 10–1806; MB Docket No. 10–189; RM–11611]

Radio Broadcasting Services; Willow Creek, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document sets forth a proposal to amend the FM Table of Allotments. The Commission requests comment on a petition filed by Miriam Media, Inc., proposing the allotment of FM Channel 258A at Willow Creek, California. Petitioner, the auction winner and permittee of Channel 253A, Willow Creek, has submitted an application to specify operation of the station on Channel 254C1 at Loleta, California. Petitioner proposes the allotment of Channel 258A at Willow Creek in order to maintain a first local service at that community. Petitioner concedes that the signal contour of proposed Channel 258A at Willow Creek would not provide 70 dBu city-grade coverage to the entire Census Designated Place of Willow Creek, but argues that it has demonstrated substantial compliance with section 73.315(a) of the Commission's rules, and that the proposed allotment would serve the public interest. Channel 258A can be allotted at Willow Creek in compliance with the Commission's minimum distance separation requirements at 40–57–29 North Latitude and 123–42–23 West Longitude. *See* **SUPPLEMENTARY INFORMATION** *infra.*

DATES: The deadline for filing comments is November 18, 2010. Reply comments must be filed on or before December 3, 2010.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: Evan Carb, Esq., Law Offices of Evan D. Carb, PLLC, 1140 Nineteenth Street, NW., Suite 600, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Deborah A. Dupont, Media Bureau (202) 418–7072.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making,* MB Docket No. 10–189, adopted September 24, 2010, and released September 27, 2010. The full text of this Commission decision is