

07 NCAC 04R .0907 APPEALS

(a) Except as otherwise noted in this Rule, an appeal by the owner or duly authorized representative, as appropriate, may be made from any of the certifications or denials of certification made pursuant to this Section. Such appeals must be in writing and received by the Associate Director for Archeology and Historic Preservation, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240, within 30 days of receipt of the decision which is the subject of the appeal. The denial of a preliminary certification of significance for an individual structure or for a building within a historic district may not be the subject of an appeal by the owner because the denial itself does not exhaust the administrative remedy that is available. The owner instead must seek recourse by consulting with the SHPO and undertaking the usual nomination process (36 CFR Part 60). Similarly, the denial of rehabilitation certification for a structure that is not a certified historic structure may not be appealed. The owner must seek a final certification of significance as the next step, rather than appealing the denial of rehabilitation certification. The appellant may request an opportunity for a meeting with the Associate Director to discuss the appeal. The Associate Director, or his designee, will review such appeals and the written record of the decision in question, and notify the appellant of his decision within 30 days of its receipt unless the appellant is required to submit additional information.

(b) In reviewing such appeals, the Associate Director shall consider:

- (1) alleged errors in professional judgment;
- (2) alleged substantial procedural errors; and
- (3) any additional information provided.

(c) The decision of the Associate Director shall be the final administrative decision on the matter. No person shall be considered to have exhausted his administrative remedies with respect to the certifications described in this Section until the Associate Director has issued a final administrative decision.

History Note: Authority G.S. 121-8; 26 U.S.C. 46-48; 26 U.S.C. 170; 26 U.S.C. 191; 26 C.F.R. Part 1; 36 C.F.R. 67; Eff. February 1, 1985; Amended Eff. June 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 26, 2015.