



Parks, Recreation and Historic Preservation (/)

14.09 State Regulations



[Home \(/\)](#) / [Historic Preservation Office \(/shpo/default.aspx\)](#) / [Environmental Review \(/shpo/environmental-review/default.aspx\)](#) / 14.09 State Regulations

PART 426

Authority and Purpose. Definition of Terms; Notification and Inquiries

(Statutory Authority: Parks, Recreation and Historic Preservation Law, Section 3.09(8), art. 14)

Section

426.1 - Authority and Purpose

426.2 - Definition of Terms

426.3 - Notification and Inquiries

Historical Note: Part (Sections 426.1-426.9, 426.11) added by renum. Part 282, Title 6, filed Sept. 1971; repealed, filed June 6, 1974; new (Sections 426.1-426.3) filed Sept. 23, 1981 eff. Sept. 23, 1981.

Section 426.1 - Authority and Purpose.

- a. These regulations implement article 14 of the Parks, Recreation and Historic Preservation Law, which was enacted by the New York State Historic Preservation Act of

[Overview \(/shpo/\)](#)

[Online Tools - CRIS \(/shpo/online-tools/default.aspx\)](#)

[National Register \(/shpo/national-register/\)](#)

[Survey \(/shpo/survey-evaluation/\)](#)

[Preservation Assistance \(/shpo/preservation-assistance/\)](#)

[Tax Credit Programs \(/shpo/tax-credit-programs/\)](#)

1980 (Chapter 354 of the Laws of 1980). The act became effective on August 22, 1980.

- b. The purpose of the State Historic Preservation Act is to continue and advance the State's historic preservation programs and activities, to continue the responsibility for the coordination of such programs and activities with the Commissioner of Parks, Recreation and Historic Preservation, to foster consistency of State activities with historic preservation policy, to encourage and assist local governments in local preservation programs and activities, and to encourage and assist private agencies and individuals undertaking preservation by private means.
- c. The act declares it to be the public policy and in the public interest of this State to engage in a comprehensive program of historic preservation.
- d. The act authorizes the Commissioner of Parks, Recreation and Historic Preservation, in consultation with the State Board for Historic Preservation, to establish the New York State Register of Historic Places, consisting of sites, districts, structures, buildings, areas or objects above or below the surface of the earth whether on land or in the waters of the State, together with any designated improvements thereon, significant in the history, architecture, archeology or culture of the State, its communities or the nation.
- e. The act requires State agencies to consult with the commissioner if it appears that any project which is being planned may or will cause any change, beneficial or adverse, in the quality of any historic, architectural, archeological or cultural property that is listed on the National Register of Historic Places or property listed on the State Register of Historic Places or that is determined by the commissioner to be eligible for listing on the State Register of Historic Places. It **requires State agencies**, to the fullest extent practicable, consistent with other provisions of the law, **to avoid or mitigate adverse impacts to such properties, to fully explore all feasible and prudent alternatives and to give due consideration to feasible and prudent plans which would avoid or mitigate adverse impacts to such property.** It establishes agency

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preservation officers for the purpose of implementing these provisions.

f. In addition, the act reinforces and expands the role of the State Board for Historic Preservation as an advisory body to the commissioner.

g. It continues the board's existing functions of:

- advising the commissioner on policy matters affecting historic preservation and the historic site system;
- providing consultation to the commissioner on historic site management, development and interpretation;
- reviewing and making recommendations to the commissioner on whether properties meet the criteria for listing on the State and National Registers of Historic Places; and
- reviewing and advising the commissioner on the statewide survey and plan for historic preservation.

h. It adds to the board's existing duties, new functions consisting of:

- reviewing and making recommendations to the commissioner on grant applications and use of Federal and State grants-in-aid; and
- reviewing and commenting on selected projects which are being reviewed by the commissioner under Section 106 of the National Historic Preservation Act of 1966 and Section 14.09 of the Parks, Recreation and Historic Preservation Law, and commenting on environmental impact assessments or statements, or as otherwise provided by law, on undertakings which may have an impact on historic resources

Historical Note: Sec. added by renum. 282.1, Title 6, filed Sept. 1971; repealed, filed June 6, 1974; new filed Sept. 23, 1981 eff. Sept. 23, 1981.

Section 426.2 - Definition of Terms.

Whenever used in these regulations, the following terms shall have the following meanings unless the context otherwise requires:

a. Agency Preservation Officer - (APO) shall mean the commissioner, director or chairperson of any State

department, agency, board, commission, public benefit corporation or public authority, or a representative identified in accordance with the provisions of subdivision 2 of Section 14.05 of the Parks, Recreation and Historic Preservation Law.

- b. Board - shall mean the State Board for Historic Preservation established pursuant to article 11 of the Parks, Recreation and Historic Preservation Law.
- c. Chairman - shall mean the chairman of the State Board for Historic Preservation.
- d. Eligible property - shall mean any place or property within the State which the commissioner determines meets the criteria for listing in the State Register found at Section 427.3 of this Subchapter, or which is deemed eligible pursuant to Section 427.6 of this Title.
- e. Historic Preservation - shall mean the study, designation, protection, restoration, rehabilitation and use of buildings, structures, historic districts, areas and sites significant in the history, architecture, archeology or culture of this State, its communities or the nation.
- f. Historic Place or Property - shall mean any building, structure, district, area, site or object, including underground and underwater sites, that is of significance in the history, architecture, archaeology or culture of the State, its communities or the nation.
- g. Interested party - shall mean any State or municipal official or member of the public.
- h. Inventoried property - shall mean:
 - any property listed on the statewide inventory of historic property established under subdivision 2 of Section 14.07 of the Parks, Recreation and Historic Preservation Law;
 - any property within the areas specified on the statewide archeological inventory map; and
 - any property listed on the Office of General Services inventory of properties under the jurisdiction or control of, or otherwise owned or used by, any State agency.

These lists, or information pertaining to properties included in the inventory, may be obtained from the commissioner pursuant to Section 426.3 of this Part.

- i. Municipality - shall mean any county, city, town or village.
- j. Municipal Official - shall mean the chief executive officer of any municipality or his or her designated representative.
- k. National Register - shall mean the National Register of Historic Places established under the National Historic Preservation Act of 1966.
- l. Project Impact Area - shall mean the geographic area or areas within which a proposed undertaking may cause any change, beneficial or adverse, in the character or use of an eligible or registered property.
- m. Project Review Data Sheet - (PRDS) shall mean the information required by the commissioner to make an informed and reasonable determination as to whether or not a proposed undertaking may have an adverse impact on a registered or eligible property. A suggested form is provided in Appendix I-8 of this Title.
- n. Registered Property - shall mean any place or property within the State nominated by the commissioner for listing on the National Register of Historic Places or listed on the New York State Register of Historic Places established pursuant to Section 14.07 of the Parks, Recreation and Historic Preservation Law.
- o. Register - shall mean the New York State Register published by the Secretary of State under article 6-A of the Executive Law.
- p. State Agency - shall mean any State department, agency, board or commission of the State, or a public benefit corporation or public authority at least one of whose members is appointed by the Governor.
- q. State Register - shall mean the State Register of Historic Places established under Section 14.07 of the Parks, Recreation and Historic Preservation Law.
- r. Undertaking - shall mean any of the following:
 - o any physical activity undertaken by a State agency, including the alteration or demolition of property, and the transfer, lease or sale of property;

- the funding by a State agency of any physical activity, including the alteration or demolition of property, and the transfer, lease or sale of property; and
- the approval, licensing, permitting or any other entitlement by a State agency of any activity, including the alteration, demolition, transfer, lease or sale of property.

Historical Note: Sec. added by renum. 282.2, Title 6, filed Sept. 1971; repealed, filed June 6, 1974; new filed Sept. 23, 1981; amd. filed June 3, 1991 eff. June 19, 1991.

Section 426.3 - Notification and Inquiries.

- a. All notices required by these regulations and all inquiries and requests for documents and forms referred to in these regulations should be addressed to:
 - Commissioner of Parks, Recreation and Historic Preservation
 - Attention: Historic Preservation Field Services Bureau
 - Agency Building 1, Empire State Plaza
 - Albany, New York 12238
- b. Notices to the State Board for Historic Preservation should be addressed to:
 - State Board for Historic Preservation
 - Attention: Chairman, Division of Historic Preservation
 - Agency Building 1, Empire State Plaza
 - Albany, New York 12238

Historical Note: Sec. added by renum. 282.3, Title 6, filed Sept. 1971; repealed, filed June 6, 1974; new filed Sept. 23, 1981 eff. Sept. 23, 1981.

Section 426.4-426.7

Historical Note: Secs. added by renum. 282.4-282.7, Title 6, filed Sept. 1971; repealed, filed June 6, 1974 eff. June 10, 1974.

Section 426.8

Historical Note: Sec. added by renum. 282.8, Title 6, filed Sept. 1971; repealed, new filed May 12, 1972; repealed, filed June 6, 1974 eff. June 10, 1974.

Section 426.9

Historical Note: Sec. added by renum. 282.9, Title 6, filed Sept. 1971; repealed, filed June 6, 1974 eff. June 10, 1974.

Section 426.11

Historical Note: Sec. added by renum. 282.11, Title 6, filed Sept. 1971; repealed, filed June 6, 1974 eff. June 10, 1974.

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Accessibility (</accessibility/default.aspx>)

Freedom of Information Law (FOIL) (</inside-our-agency/foil-requests.aspx>)

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