

Effective 7/1/2023

Part 4 Historic Sites

9-8a-401 Purpose.

The Legislature determines and declares that the public has a vital interest in all antiquities, historic and prehistoric ruins, and historic sites, buildings, and objects which, when neglected, desecrated, destroyed or diminished in aesthetic value, result in an irreplaceable loss to the people of this state.

Renumbered and Amended by Chapter 160, 2023 General Session

9-8a-402 Definitions -- Office duties.

- (1) In addition to the definitions described in Section 9-8a-302, as used in this part:
- (a) "Effect" means an alteration to one or more characteristics of a historic property that qualify the historic property for inclusion in, or that make the historic property eligible for inclusion in, the National Register of Historic Places.
 - (b) "Historic property" means any historic or prehistoric district, site, building, structure, or object that is at least 50 years old and that is included in, or that is eligible for inclusion in, the National Register of Historic Places.
 - (c) "State register" means a register of cultural sites and localities, historic and prehistoric sites, and districts, buildings, and objects significant in Utah history.
 - (d) "Undertaking" means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a state agency, including a project, activity, or program:
 - (i) carried out by or on behalf of a state agency;
 - (ii) carried out with financial assistance from the state; or
 - (iii) that requires a state permit, license, or approval.
- (2) The office shall:
- (a) constitute the historic preservation agency for this state;
 - (b) establish a state register for the orderly identification and recognition of the state's cultural resources; and
 - (c) provide for participation in the National Historic Preservation Program.

Renumbered and Amended by Chapter 160, 2023 General Session

9-8a-403 Placement on State or National Register.

The board shall notify owners of sites, buildings, structures, or objects before placing those sites, buildings, structures, or objects on the State Register or nominating them to the National Register.

Renumbered and Amended by Chapter 160, 2023 General Session

9-8a-404 Agency responsibilities -- State historic preservation officer to comment on undertaking -- Public Lands Policy Coordinating Office may require joint analysis.

- (1)
- (a) Before approving any undertaking, an agency shall:
 - (i) take into account the effect of the undertaking on any historic property; and

- (ii) provide the state historic preservation officer with a written evaluation of the undertaking's effect on any historic property.
 - (b) The state historic preservation officer shall provide to the agency a written comment on the agency's determination of effect within 30 days after the day on which the state historic preservation officer receives a written evaluation described in Subsection (1)(a)(ii).
 - (c) If the written evaluation described in Subsection (1)(a)(ii) demonstrates that there is an adverse effect to a historic property, the agency shall enter into a formal written agreement with the state historic preservation officer describing how each adverse effect will be mitigated before the agency may expend state funds or provide financial assistance for the undertaking.
 - (d) The state historic preservation officer shall make available to the Public Lands Policy Coordinating Office a list of undertakings on which an agency or federal agency has requested the state historic preservation officer's or the Antiquities Section's advice or consultation.
 - (e) The Public Lands Policy Coordinating Office may request the joint analysis described in Subsections (2)(c) and (d) of any proposed undertaking on which the state historic preservation officer or Antiquities Section is providing advice or consultation.
- (2)
- (a) If the state historic preservation officer does not concur with the agency's written evaluation required by Subsection (1)(a)(ii), the state historic preservation officer shall inform the Public Lands Policy Coordinating Office of any objections.
 - (b) The Public Lands Policy Coordinating Office shall review the state historic preservation officer's objections and determine whether or not to initiate the joint analysis established in Subsections (2)(c) and (d) within 30 days after the day on which the state historic preservation officer informs the Public Lands Policy Coordinating Office of the objections.
 - (c) If the Public Lands Policy Coordinating Office determines further analysis is necessary, the Public Lands Policy Coordinating Office shall, jointly with the agency and the state historic preservation officer, analyze:
 - (i) the cost of the undertaking, excluding costs attributable to the identification, potential recovery, or excavation of historic properties;
 - (ii) the ownership of the land involved;
 - (iii) the likelihood of the presence and the nature and type of historical properties that may be affected by the expenditure or undertaking; and
 - (iv) clear and distinct alternatives for the identification, recovery, or excavation of historic properties, including ways to maximize the amount of information recovered and report that information at current standards of scientific rigor.
 - (d) The Public Lands Policy Coordinating Office, the agency, and the state historic preservation officer shall also consider as part of the joint analysis:
 - (i) the estimated costs of the alternatives in Subsection (2)(c)(iv) in total and as a percentage of the total cost of the undertaking; and
 - (ii) at least one plan for the identification, recovery, or excavation of historic properties that does not substantially increase the cost of the proposed undertaking.
- (3)
- (a)
 - (i) If the state historic preservation officer concurs with the agency's evaluation or if the Public Lands Policy Coordinating Office determines that the joint analysis is unnecessary, the state historic preservation officer shall, no later than 30 calendar days after receiving the agency's evaluation, provide formal comments on the agency's evaluation.

- (ii) If a joint analysis is conducted, the state historic preservation officer shall provide formal comments on the agency's evaluation no later than 30 calendar days after the conclusion of the joint analysis.
- (b) The state historic preservation officer shall ensure that the comments include the results of any joint analysis conducted under Subsection (2).
- (c) If a joint analysis is not conducted, the state historic preservation officer's comments may include advice about ways to maximize the amount of historic, scientific, archaeological, anthropological, and educational information recovered, in addition to the physical recovery of artifacts and the reporting of archaeological information at current standards of scientific rigor.

Renumbered and Amended by Chapter 160, 2023 General Session

9-8a-405 Federal funds -- Agreements on standards and procedures.

By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the office may accept and administer federal funds provided under the provisions of the National Historic Preservation Act of 1966, the Land and Water Conservation Act as amended, and subsequent legislation directed toward the encouragement of historic preservation, and to enter into those agreements on professional standards and procedures required by participation in the National Historic Preservation Act of 1966 and the National Register Office.

Renumbered and Amended by Chapter 160, 2023 General Session