§ 14.09 State agency activities affecting historic or cultural property; notice and comment. 1. As early in the planning process as may be practicable and prior to the preparation or approval of the final design or plan of any project undertaken by a state agency, or prior to the funding of any project by a state agency or prior to an action of approval or entitlement of any private project by a state agency, the agency's preservation officer shall give notice, with sufficient documentation, to and consult with the commissioner concerning the impact of the project if it appears that any aspect of the project 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 or is determined to be eligible for listing on the state register by the commissioner. Generally, adverse impacts occur under conditions which include but are not limited to (a) destruction or alteration of all or part of a property; (b) isolation or alteration of its surrounding environment; (c) introduction of visual, audible, or atmospheric elements that are out of character with the property or alter its setting; or (d) neglect of property resulting in its deterioration or destruction. Every agency shall fully explore all feasible and prudent alternatives and give due consideration to feasible and prudent plans which avoid or mitigate adverse impacts on such property. In the event that the agency has filed or will file with the department of environmental conservation, with respect to that contemplated project, a draft environmental impact statement pursuant to the provisions of article eight of the environmental conservation law, it shall provide a copy thereof to the commissioner and the chairman of the board and shall also supply such further information as the commissioner may request. This section shall not apply to a state project that is necessary to prevent an immediate and imminent threat to life or property.

2. The commissioner shall undertake a review and make comment within thirty days of receipt of notice, with sufficient documentation, of a proposed project as to whether or not such proposed project may have an adverse impact on any property that is listed on the national register of historic places or on the state register or is determined to be

eligible for the state register by the commissioner. The comment shall be put on file and shall be available to the public on request. If it is determined that a project may have an adverse impact on such property, the commissioner shall so notify the agency in writing. Upon receipt of such notification from the commissioner, the agency shall immediately contact the commissioner for the purpose of exploring alternatives which would avoid or mitigate adverse impacts to such property consistent with the policy and provisions of this article and other provisions of law relating to historic preservation. To the fullest extent practicable, it is the responsibility of every state agency, consistent with other provisions of law, to avoid or mitigate adverse impacts to registered property or property determined eligible for listing on the state register by the commissioner. In order to avoid inconsistency or duplication in review functions, the commissioner shall establish procedures in accordance with other provisions of this section whereby reviews conducted under this section are coordinated with the reviews of project or plan proposals under other provisions of law and regulation. When a project is being reviewed pursuant to section one hundred six of the national historic preservation act of 1966, the procedures of this section shall not apply and any review or comment by the commissioner and the board on such project shall be within the framework or procedures of the section one hundred six review. The commissioner shall issue an annual report outlining state agency actions on which comment had been requested or issued under this section. Proposed alternatives and results of the review process shall be included in said annual report.