

# NEW YORK STATEWIDE TRAILS PLAN 2010 APPENDIX



**New York State Office of Parks,  
Recreation and Historic Preservation**

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**Appendix A – Legal Authorization to Develop a New York Statewide Trails Plan**

Authority of the Office of Parks, Recreation and Historic Preservation to act as a statewide trails coordinator is established in the Parks, Recreation and Historic Preservation Law (Chapter 660 of the Consolidated Laws, L. 1972, Article 3) as well as federal law. The laws authorize OPRHP to develop a statewide trails plan, to establish the State Trails Council and administer the Recreational Trails Program.

Sections of the Law applicable to the above functions, duties and responsibilities are presented below.

**1. New York State**

**Consolidated Laws, L. 1972, Chapter 660 Article 3, Office of Parks, Recreation and Historic Preservation; Commissioner**

**§3.09 General functions, powers and duties.**

The office by and through the commissioner, shall:

3. Encourage, facilitate and coordinate the planning and implementation of parks, recreational and historic preservation activities of state agencies.
4. Cooperate in the planning, organization, development and operation of municipal and private park, recreational and historic preservation projects and programs.
7. Undertake surveys or analyses deemed appropriate for the performance of the functions, powers and duties of the office through office personnel or consultants, or in cooperation with any public or private agencies.

7-a. Promulgate a comprehensive plan for the establishment of a statewide trails system. For the purposes of this subdivision “trails” shall include footpaths, bike ways, snowmobile trails, horse trails, cross country ski trails, roads and other rights-of-way suitable for hiking, strolling, cycling, horseback riding, skiing and other means of motorized and non-motorized travel for recreational purposes and shall include combinations and systems of trails, including connecting and side trails, and trails leading to scenic and recreational areas. The commissioner, with the approval of the director of the budget, may, within the appropriations made available by the legislature, purchase such abandoned railroad rights-of-way as can be used in the comprehensive plan, and make improvements where necessary, in order to make them suitable and available for use as trails.

11. When designated by the governor, act as the state agent for the receipt and administration of any federal grant or advance of funds for the assistance of any project, program or activity related to the functions, powers and duties of the office, where the designation of a state agent is required under federal law or regulation, regardless of whether the project, program or activity is undertaken by the office or another person.

## **2. Federal Highway Administration**

**Codified in Title 23 United States Code (23 U.S.C.)**

### **§104. Apportionment**

- h. RECREATIONAL TRAILS PROGRAM.--
  - 1. ADMINISTRATIVE COSTS.--Before apportioning sums authorized to be appropriated to carry out the recreational trails program under section 206, the Secretary shall deduct for administrative, research, technical assistance, and training expenses for such program \$840,000 for each of fiscal years 2005 through 2009. The Secretary may enter into contracts with for-profit organizations or contracts, partnerships, or cooperative agreements with other government agencies, institutions of higher learning, or nonprofit organizations to perform these tasks.
  - 2. APPORTIONMENT TO THE STATES.--After making the deduction authorized by paragraph (1) of this subsection, the Secretary shall apportion the remainder of the sums authorized to be appropriated for expenditure on the recreational trails program for each fiscal year, among the States in the following manner:
    - A. 50 percent of that amount shall be apportioned equally among eligible States.
    - B. 50 percent of that amount shall be apportioned among eligible States in amounts proportionate to the degree of non-highway recreational fuel use in each of those States during the preceding year.
  - 3. ELIGIBLE STATE DEFINED.--In this section, the term "eligible State" means a State that meets the requirements of section 206(c).

### **§206. Recreational trails program**

- a. DEFINITIONS.--In this section, the following definitions apply:
  - 1. MOTORIZED RECREATION.--The term "motorized recreation" means off road recreation using any motor-powered vehicle, except for a motorized wheelchair.
  - 2. RECREATIONAL TRAIL.--The term "recreational trail" means a thoroughfare or track across land or snow, used for recreational purposes such as--
    - A. pedestrian activities, including wheelchair use;
    - B. skating or skateboarding;
    - C. equestrian activities, including carriage driving;
    - D. nonmotorized snow trail activities, including skiing;
    - E. bicycling or use of other human powered vehicles;
    - F. aquatic or water activities; and
    - G. motorized vehicular activities, including all terrain vehicle riding, motorcycling, snowmobiling, use of off-road light trucks, or use of other off road motorized vehicles.
- b. PROGRAM.--In accordance with this section, the Secretary, in consultation with the Secretary of the Interior and the Secretary of Agriculture, shall carry out a program to provide and maintain recreational trails.
- c. STATE RESPONSIBILITIES.--To be eligible for apportionments under this section--
  - 1. the Governor of the State shall designate the State agency or agencies that will be responsible for administering apportionments made to the State under this section; and

## New York Statewide Trails Plan: Appendix A

2. the State shall establish a State recreational trail advisory committee that represents both motorized and nonmotorized recreational trail users, which shall meet not less often than once per fiscal year.
- d. USE OF APPORTIONED FUNDS.--
  1. IN GENERAL.--Funds apportioned to a State to carry out this section shall be obligated for recreational trails and related projects that--
    - A. have been planned and developed under the laws, policies, and administrative procedures of the State; and
    - B. are identified in, or further a specific goal of, a recreational trail plan, or a statewide comprehensive outdoor recreation plan required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 et seq.), that is in effect.
  2. PERMISSIBLE USES.--Permissible uses of funds apportioned to a State for a fiscal year to carry out this section include--
    - A. maintenance and restoration of existing recreational trails;
    - B. development and rehabilitation of trailside and trailhead facilities and trail linkages for recreational trails;
    - C. purchase and lease of recreational trail construction and maintenance equipment;
    - D. construction of new recreational trails, except that, in the case of new recreational trails crossing Federal lands, construction of the trails shall be--
      - i. permissible under other law;
      - ii. necessary and recommended by a statewide comprehensive outdoor recreation plan that is required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 et seq.) and that is in effect;
      - iii. approved by the administering agency of the State designated under subsection (c)(1); and
      - iv. approved by each Federal agency having jurisdiction over the affected lands under such terms and conditions as the head of the Federal agency determines to be appropriate, except that the approval shall be contingent on compliance by the Federal agency with all applicable laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);
    - E. acquisition of easements and fee simple title to property for recreational trails or recreational trail corridors;
    - F. assessment of trail conditions for accessibility and maintenance;
    - G. development and dissemination of publications and operation of educational programs to promote safety and environmental protection, (as those objectives relate to one or more of the use of recreational trails, supporting non-law enforcement trail safety and trail use monitoring patrol programs, and providing trail-related training), but in an amount not to exceed 5 percent of the apportionment made to the State for the fiscal year; and
    - H. payment of costs to the State incurred in administering the program, but in an amount not to exceed 7 percent of the apportionment made to the State for the fiscal year.
  3. USE OF APPORTIONMENTS.--

## New York Statewide Trails Plan: Appendix A

- A. IN GENERAL.--Except as provided in subparagraphs (B) and (C), of the apportionments made to a State for a fiscal year to carry out this section--
    - i. 40 percent shall be used for recreational trail or related projects that facilitate diverse recreational trail use within a recreational trail corridor, trailside, or trailhead, regardless of whether the project is for diverse motorized use, for diverse nonmotorized use, or to accommodate both motorized and nonmotorized recreational trail use;
    - ii. 30 percent shall be used for uses relating to motorized recreation; and
    - iii. 30 percent shall be used for uses relating to nonmotorized recreation.
  - B. SMALL STATE EXCLUSION.--Any State with a total land area of less than 3,500,000 acres shall be exempt from the requirements of clauses (ii) and (iii) of subparagraph (A).
  - C. STATE ADMINISTRATIVE COSTS.--State administrative costs eligible for funding under paragraph (2)(H) shall be exempt from the requirements of subparagraph (A).
4. GRANTS.--
- A. IN GENERAL.--A State may use funds apportioned to the State to carry out this section to make grants to private organizations, municipal, county, State, and Federal government entities, and other government entities as approved by the State after considering guidance from the State recreational trail advisory committee established under subsection (c)(2), for uses consistent with this section.
  - B. COMPLIANCE.--A State that makes grants under subparagraph (A) shall establish measures to verify that recipients of the grants comply with the conditions of the program for the use of grant funds.