

FORM OF ORDER AND TRANSMITTAL BY AGENCY HAVING SINGLE HEAD

State of Washington

OFFICE OF ARCHAEOLOGY AND HISTORIC PRESERVATION

(agency name)

Administrative Order No. 11

(1) I, Jacob E. Thomas, director of Office of Archaeology & Historic Preservation

do promulgate and adopt at 111 West 21st Ave. Olympia, WA. (place)

the annexed rules relating to:

the establishment of application and review procedures for the issuance of archaeological excavation permits.

(2) ALTERNATIVE A. Use only for Adoption of Permanent Rules.

This action is taken pursuant to Notice No. 86-09-039 filed with the code reviser on April 14 1986. These rules shall take effect: [X] thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2). [] at a later date, such date being

(2) ALTERNATIVE B. Use only for Adoption of Emergency Rules.

I, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is:

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

(3) Pursuant to the requirements of RCW 34.04.026 that "every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules" fill in statement (a), (b), or (c) as appropriate:

[X] (a) This rule is promulgated pursuant to RCW 27.34.220 and 27.44.020 and is intended to administratively implement that statute.

[] (b) This rule is promulgated pursuant to RCW which directs that the

(agency) has authority to implement the provisions of

(name of act or RCW citation)

[] (c) This rule is promulgated under the general rule-making authority of the (agency)

as authorized in RCW

(4) The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

(5) This order, after being first recorded in the order register of this agency, is herewith transmitted to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED June 2 19 86

STATE OF WASHINGTON FILED

JUN 5 1986

By Jacob E. Thomas Director Title

Title

[Form CR-7: Rev. 7/23/82]

CODE REVISER'S OFFICE WSR 86-13-001

Chapter 25-48 WAC

ARCHAEOLOGICAL EXCAVATION PERMIT

WAC

25-48-010	Purpose.
25-48-020	Definitions.
25-48-030	Scope and coverage of this chapter.
25-48-040	Agency policy.
25-48-050	Application forms.
25-48-060	Summary of information required of an applicant.
25-48-070	Notification to Indian tribes.
25-48-080	Public notice.
25-48-090	Issuance of permit.
25-48-100	Terms and conditions of permits.
25-48-105	Permit denial.
25-48-110	Suspension and revocation of permits.
25-48-120	Appeals relating to permits.
25-48-130	Display of permit.
25-48-140	Severability.

NEW SECTION

WAC 25-48-010 PURPOSE. The purpose of this chapter is to establish application and review procedures for the issuance of archaeological excavation permits as provided for in RCW 27.53.060 and 27.44.020.

NEW SECTION

WAC 25-48-020 DEFINITIONS. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Archaeology" means systematic, scientific study of man's past through his material remains.

(2) "Historic" means peoples and cultures who are known through written documents in their own or other languages.

(3) "Prehistoric" means peoples and cultures who are unknown through contemporaneous written documents in any language.

(4) "Professional archaeologist" means a person has designed and executed an archaeological study as evidenced by a thesis or dissertation, and has been awarded an advanced degree such as an M.A., M.S., or Ph.D. from an accredited institution of higher education in archaeology, anthropology, or history or other germane discipline with a specialization in archaeology; has a minimum of one year of field experience with at least twenty-four weeks of field work under the supervision of a professional archaeologist including no more than twelve weeks of survey or reconnaissance work, and at least eight weeks of supervised laboratory experience. Twenty weeks of field work in a supervisory capacity must be documentable with a report produced by the individual on the field work.

(5) "Public lands" means lands owned by or under the possession, custody, or control of the state of Washington or any county, city, or political subdivision of the state.

(6) "Site restoration" means to repair the archaeological property to its preexcavation vegetational and topographic state.

(7) "Amateur society" means any organization composed primarily of persons who are not professional archaeologists, whose primary

interest is in the archaeological resources of the state, and which has been certified in writing by two professional archaeologists.

(8) "Archaeological resource" means any material remains of human life or activities which are of archaeological interest. This shall include all sites, objects, structures, artifacts, implements, and locations of prehistorical or archaeological interest, whether previously recorded or still unrecognized, including, but not limited to, those pertaining to prehistoric and historic American Indian or aboriginal burials, campsites, dwellings, and their habitation sites, including rock shelters and caves, their artifacts and implements of culture such as projectile points, arrowheads, skeletal remains, grave goods, basketry, pestles, mauls, and grinding stones, knives, scrapers, rock carvings and paintings, and other implements and artifacts of any material.

(9) "Of archaeological interest" means capable of providing scientific or humanistic understandings of past human behavior, cultural adaptation, and related topics through the application of scientific or scholarly techniques such as controlled observation, contextual measurement, controlled collection, analysis, interpretation, and explanation.

(10) "Director" means the state historic preservation officer as provided for in chapter 27.34 RCW.

(11) "Office" means the Washington state office of archaeology and historic preservation.

(12) "Suspension" means the abeyance of a permit under this chapter for a specified period of time.

(13) "Revocation" means the termination of a permit under this chapter.

NEW SECTION

WAC 25-48-030 SCOPE AND COVERAGE OF THIS CHAPTER. (1) This chapter is applicable to any person, corporation, partnership, trust, institution, association, or any other private entity, or any officer, employee, agent, department, or instrumentality of the state, county, or city, or a political subdivision of the state.

(2) This chapter is applicable to the alteration, digging, excavating, or removal of archaeological resources from public lands, the alteration, digging, excavating or removal of archaeological resources from private lands where the landowner has requested the office to issue archaeological excavation permits, and the removal of glyptic or painted records of prehistoric peoples or archaeological resources from Indian cairns or graves under either circumstance.

(3) This chapter does not apply to the removal of artifacts found exposed on the surface of the ground nor to the excavation and removal of artifacts from state-owned shorelands below the line of ordinary high water or within the intertidal zone except when there will be removal of glyptic or painted records of prehistoric peoples, or archaeological resources from Indian cairns or graves.

NEW SECTION

WAC 25-48-040 AGENCY POLICY. The overriding policy of the office is to assure the protection of the archaeological resources of the state. This policy results from:

(1) The legislated duty of the office to preserve and protect the heritage of the state in a manner that does not impair the resources (RCW 27.34.220); and

(2) Recognition of the fact that the public has an interest in the knowledge of the state's heritage and a responsibility to contribute to the preservation and enhancement of that heritage (RCW 27.53.010).

NEW SECTION

WAC 25-48-050 APPLICATION FORMS. (1) Any person or entity covered by this chapter and described in WAC 25-48-030 proposing to excavate and/or remove archaeological resources from public lands, or private lands where the landowner has transferred permit authority to the office, or proposing to remove glyptic or painted records of prehistoric tribes or peoples, or archaeological resources from Indian cairns or graves shall apply to the office for a permit for the proposed work, and shall not begin the proposed work until a permit has been issued.

(2) Each application for a permit from the office shall be submitted on the archaeological excavation permit application form approved by the preservation officer. These application forms may be obtained from the Office of Archaeology and Historic Preservation, 111 West 21st Avenue KL-11, Olympia, WA 98504; telephone (206) 753-5010.

NEW SECTION

WAC 25-48-060 SUMMARY OF INFORMATION REQUIRED OF AN APPLICANT. (1) Each application for a permit shall include:

(a) The nature and extent of the work proposed, including how and why it is proposed to be conducted, proposed time of performance, locational maps, and a completed site inventory form.

(b) A professional, scientific research design demonstrating that the work will be performed in a scientific and technically acceptable manner taking into account current scientific research issues and cultural resource management plans.

(c) The name and address of the individual(s) proposed to be responsible for conducting the work, institutional affiliation, if any, and evidence of education, training, and experience in accord with the minimal qualifications listed in this chapter.

(d) The name and address of the individual(s) proposed to be responsible for carrying out the terms and conditions of the permit, if different from the individuals enumerated under (c) of this subsection.

(e) Financial evidence of the applicant's ability to initiate, conduct, and complete the proposed work, including evidence of logistical support and laboratory facilities.

(f) A plan for site restoration following excavation activities and evidence of plans to secure bonding to cover the cost of site restoration.

(g) Evidence of approval of the proposed work from the agency or political subdivision with management responsibility over the land.

(h) Evidence of filing of the proposed work with the Washington archaeological research center.

(i) For amateur society application, evidence of review and recommendations from the Washington archaeological research center.

(j) A site security plan to assure the protection of the site and its contents during the public permit review and excavation process.

(k) A public participation plan detailing the extent of public involvement and dissemination of project results.

(1) A completed environmental checklist as required by WAC 197-11-100 to assist the office in making a threshold determination and to initiate SEPA compliance.

(2) Where the application is for the excavation and/or removal of archaeological resources on public lands, the name of the university, museum, repository or other scientific or educational institution in which the applicant proposes to store all collections, and copies of records, data, photographs, and other documents derived from the proposed work. Applicants shall submit written certification, signed by an authorized official of the institution, of willingness to assume curatorial responsibility for the collections, records, data, photographs and other documents and to safeguard, preserve, and allow for the future scientific access to these materials as property of the state.

(3) Where the application is for the excavation and/or removal of archaeological resources on private land, the name of the university, museum, repository, or other scientific or educational institution in which the applicant proposes to store copies of records, data, photographs, and other documents derived from the proposed work and all collections in the event the landowner does not wish to take custody or otherwise dispose of the archaeological resources. Applicants shall submit written certification, signed by an authorized official of the institution, of willingness to assume curatorial responsibility for the collections, if applicable, and/or the records, data, photographs, and other documents derived from the proposed work and to safeguard, preserve, and allow for the future scientific access to these materials.

(4) After review of the application, the office may require additional information to properly evaluate the proposed work and shall so inform the applicant. Field investigation or research may be required of the applicant or conducted by the office at the applicant's cost. A bond in an amount specified by the office may be required of the applicant to ensure payment of the professional expenses incurred by the office. Advance notice of any anticipated cost shall be given to the applicant.

NEW SECTION

WAC 25-48-070 NOTIFICATION TO INDIAN TRIBES. (1) Upon receipt of a completed application form for archaeological excavation of an Indian cairn or grave or the removal of glyptic or painted records, the office, at least thirty days before issuing such a permit, shall notify any Indian tribe which may consider the site to be of historic or cultural significance.

(2) Notice by the office to any Indian tribe shall be sent to the chief executive officer or other designated official of the tribe. Any Indian tribe or other native American group may supply the office in advance with sites or locations for which such tribe or group wishes to receive notice under this section.

(3) Upon request during the thirty-day period, the office may meet with official representatives of any Indian tribe or group to discuss their interests, including, but not limited to, the proposed excavation methods. Mitigation measures, including stipulations pertaining to the disposition of human remains, may be incorporated into the terms and conditions of the permit.

(4) When the office determines that a permit applied for under this chapter must be issued immediately because of an imminent threat of loss or destruction of an archaeological resource, the office shall so notify the appropriate tribe.

(5) The tribes with whom the office has consulted shall be promptly notified in writing of the issuance of the permit.

NEW SECTION

WAC 25-48-080 PUBLIC NOTICE. (1) The office will give public notice of a pending permit application by one or more of the following methods as appropriate for the specific circumstances in order to solicit public and scientific comment:

(a) Notifying public, and private groups, tribes, and agencies with a known interest in a certain application or type of application being considered;

(b) Notifying individuals with known interest in a certain application or in the type of application being considered;

(c) Publication in a newspaper of general circulation in the area in which the application will be implemented;

(d) Notifying the news media; and/or

(e) Posting on the property site in question.

(2) Comments from such notified agencies, groups, entities or individuals must be received within thirty days of the notice.

NEW SECTION

WAC 25-48-090 ISSUANCE OF PERMIT. The office will normally act upon a permit application within sixty days of receipt of a complete permit application. The director may issue a temporary permit immediately where delay could cause damage to an archaeological resource or site. Said permit shall be valid only for thirty days. The office may issue a permit, for a specified period of time appropriate to the work to be conducted, upon determining that:

(1) The applicant, or in the case of an amateur society, or other group or organization, the individual proposed to be responsible for conducting the work, is appropriately qualified, as evidenced by training, education, and/or experience, and possesses demonstrable competence in archaeological methods and theory, and in collecting, handling, analyzing, evaluating, and reporting archaeological data, relative to the type and scope of the work proposed, and also meets the minimum qualifications as a professional archaeologist.

(2) The proposed work is to be undertaken for the purpose of furthering archaeological knowledge in the public interest, which may include but need not be limited to, scientific or scholarly research, and preservation of archaeological data.

(3) The proposed work, including time, scope, location, and purpose, is not inconsistent with any management plan or established policy, objectives, or requirements applicable to the management of public lands concerned.

(4) Evidence is submitted to the office that any university, museum, repository, or other scientific or educational institution proposed in the application as the repository possesses adequate curatorial capability for safeguarding and preserving the archaeological resources and all associated records.

(5) After the granting of a permit and, when information filed with the office becomes inaccurate in any way, or additions or deletions are necessary, the applicant or permittee shall submit full details of any such changes and/or correct any inaccuracy, together with copies of any new required documents, with the office within fifteen days following the change. The office reserves the right to suspend or revoke a permit under the terms of WAC 25-48-110.

NEW SECTION

WAC 25-48-100 TERMS AND CONDITIONS OF PERMITS. (1) In all permits issued, the office shall specify:

(a) The nature and extent of work allowed and required under the permit, including the time, duration, scope, location, and purpose of the work;

(b) The name of the individual(s) responsible for conducting the work and, if different, the name of the individual(s) responsible for carrying out the terms and conditions of the permit.

(c) The name of any university, museum, repository, or other scientific or educational institutions in which any collected materials and data shall be deposited.

(d) Reporting documentation requirements and site restoration requirements.

(2) The preservation officer may specify such terms and conditions as deemed necessary, consistent with this chapter, to protect public safety and other values and/or resources, to secure work areas, to safeguard other legitimate land uses, and to limit activities incidental to work authorized under the permit. This may include sufficient bonding to cover cost of site restoration.

(3) The office may include in permits issued for archaeological work on Indian cairns and graves or glyptic or painted records such terms and conditions as may be requested by the concerned Indian tribe.

(4) Initiation of work or other activities under the authority of a permit signifies the permittee's acceptance of the terms and conditions of the permit.

(5) The permittee shall not be released from requirements of a permit until all outstanding obligations have been satisfied, whether or not the term of the permit has expired.

(6) The permittee may request that the office extend or modify a permit. Such a request will require compliance with all the provisions of this chapter.

(7) The permittee's performance under any permit issued for a period greater than one year shall be subject to review by the office, at least annually.

NEW SECTION

WAC 25-48-105 PERMIT DENIAL. If a permit is denied, a written statement of the reasons for the denial will accompany the notice of permit denial to the applicant.

NEW SECTION

WAC 25-48-110 SUSPENSION AND REVOCATION OF PERMITS. (1) The office may suspend or revoke a permit issued pursuant to this chapter upon determining that the permittee has failed to meet any of the terms and conditions of the permit and upon at least twenty days written notice. In the case of emergencies which imminently threaten health, safety, or welfare including property, the office may suspend a permit immediately.

(2) The office shall provide written notice to the permittee of the suspension or revocation, the cause thereof, and in the case of a suspension, the length of the suspension and the requirements which must be met before the suspension will be removed.

NEW SECTION

WAC 25-48-120 APPEALS RELATING TO PERMITS. Any affected person may request a hearing to appeal a denial of a permit, suspension, or revocation to the preservation officer. Said request must be in writing and filed with the preservation officer within twenty days of receipt of notice of the denial, suspension, or revocation.

NEW SECTION

WAC 25-48-130 DISPLAY OF PERMIT. (1) The permit granted by the office shall be prominently displayed at all times upon the archaeological site being excavated during the permitted period.

(2) If more than one archaeological site is being excavated under a single permit, the permittee may obtain from the office such copy or copies of his or her permit as may be necessary to display at each archaeological site being excavated.

(3) The director or his designee may examine at any time the permit, work, and site at which such permitted work is being undertaken.

NEW SECTION

WAC 25-48-140 SEVERABILITY. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances shall not be affected.