



RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (7/1/89)

Agency: Department of Community Development

- Permanent Rule
- Emergency Rule

(1) Date of adoption: December 19, 1989

(2) Purpose:
To amend existing WACs pertaining to the application and granting of archaeological excavation and removal permits to apply to privately owned land.

(3) Citation of existing rules affected by this order:

Repealed:

Amended: 25-48-020, 25-48-030, and 25-48-050

Suspended:

(4) Authority for adoption:

Statute: 27.34.220 and 27.44.020 and Section 7, Chapter 44, Laws of 1989 (amending

Other Authority: RCW 27.53.060)

(5.1) PERMANENT RULE ONLY

Pursuant to notice filed as WSR _____ on _____ (date).

Describe any changes other than editing from proposed to adopted version:

(5.2) EMERGENCY RULE ONLY

Pursuant to RCW 34.05.350 the agency for good cause finds:

- (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

Reports of uncontrolled excavation of archaeological sites on private lands have raised concern among enforcement personnel on successful prosecution in the absence of permitting WACs. The emergency rules seek to eliminate that loophole in enforcement until the permanent rules take effect. Permanent rules have been filed with the Code Reviser and are effective January 19, 1990.

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?
 Yes No If yes, explain:

(6) Effective date of rule:

Permanent Rules

- 30 days after filing
- Other (specify) _____ *

*(If less than 30 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

Emergency Rules

- Immediately
- Later (specify) _____

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

DEC 19 1989

TIME: 4:41 AP

WSR 90-01-090

NAME (TYPE OR PRINT)

Chuck Clarke

SIGNATURE

Chuck Clarke

TITLE

Director

DATE

12/19/89

AMENDATORY SECTION (Amending Order 88-06, filed 11/4/88)

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. As applied to underwater archaeological resources, the term historic shall include only those properties which are listed in or eligible for listing in the Washington State Register of Historic Places (RCW 27.34.220) or the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.

(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; including the state's submerged lands under the Submerged Lands Act, 43 U.S.C. Sec. 1301 et seq.

(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 object" means an object that comprises the physical evidence of an indigenous and subsequent culture including material remains of past human life including monuments, symbols, tools, facilities, and technological by-products.

(9) "Archaeological site" means a geographic locality in Washington, including but not limited to, submerged and submersible lands and the bed of the sea within the state's jurisdiction, that contains archaeological objects.

(10) "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.

~~((49))~~ (11) "Historic archaeological resources" means those properties which are listed in or eligible for listing in the Washington State Register of Historic Places (RCW 27.34.220) or the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.

~~((40))~~ (12) "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.

((44)) (13) "Director" means the director of the department of community development or his designee.

((45)) (14) "Office" means the Washington state office of archaeology and historic preservation, department of community development.

((46)) (15) "Department" means the department of community development.

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

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

((49)) (18) "Mitigation" means:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action;

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;

(e) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or

(f) Monitoring the impact and taking appropriate corrective measures.

((50)) (19) "Abandonment" means that the resource has been deserted and the owner has relinquished ownership rights with no retention, as demonstrated by a writing, oral communication, action, or inaction.

AMENDATORY SECTION (Amending Order 88-06, filed 11/4/88)

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 objects or sites or historic archaeological resources which have been abandoned thirty years or more (~~from public lands, the alteration, digging, excavating or removal of archaeological or historic archaeological resources from private lands where the landowner has requested the office to issue archaeological excavation and removal permits~~), and the removal of glyptic or painted records (~~of prehistoric peoples~~) or archaeological resources from native Indian cairns or graves.

(3) This chapter does not apply to the removal of artifacts found exposed on the surface of the ground which are not historic archaeological resources or sites except when there will be removal of glyptic or painted records (~~of prehistoric peoples~~), or archaeological resources from native Indian cairns or graves.

(4) This chapter is applicable as follows to the removal of sample artifacts as provided under WAC 25-46-060 (1)(d):

WAC 25-48-010.

WAC 25-48-020.

WAC 25-48-030.

WAC 25-48-050.

WAC 25-48-060 (1)(a), except for the requirements of a completed inventory form, (1)(d), (f), (g), (h), (m), (n), and (5).

WAC 25-48-090.
WAC 25-48-100.
WAC 25-48-105.
WAC 25-48-120.

AMENDATORY SECTION (Amending Order 88-06, filed 11/4/88)

WAC 25-48-050 APPLICATION REQUIREMENTS AND FORMS. (1) Any person or entity covered by this chapter and described in WAC 25-48-030 proposing to dig, alter, excavate, and/or remove archaeological objects and sites or historic archaeological resources (~~(from public lands or private lands where the landowner has transferred permit authority to the department)~~), or proposing to remove glyptic or painted records of (~~(prehistoric)~~) tribes or peoples, or archaeological resources from native 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 department shall be submitted on the archaeological excavation and removal permit application form approved by the director. These application forms may be obtained from the Office of Archaeology and Historic Preservation, Department of Community Development, 111 West 21st Avenue KL-11, Olympia, WA 98504; telephone (206) 753-5010.