

WAC 25-48-041 Notice of violation—Penalties. (1)(a) It is unlawful for any person to knowingly and willfully remove, alter, dig into, excavate or remove an archeological object or site or archeological resource without a permit required by RCW 27.53.060.

(b) It is unlawful for any person to knowingly and willfully fail to comply with the provisions of a permit issued by the state historic preservation officer under RCW 27.53.060.

(2) Pursuant to RCW 27.53.095, the state archaeologist or the assistant state archaeologist may issue a notice of violation to any person who knowingly and willfully violates RCW 27.53.060 or the provisions of a permit issued under RCW 27.53.060 and this chapter.

(3) The notice of violation shall impose a monetary penalty of five thousand dollars; provided, however, that the state archaeologist or the assistant state archaeologist may decrease the penalty for the first or second violation upon a determination, supported by specific findings, that the circumstances of the violation warrant a lesser penalty than the statutory maximum. This determination shall be based on the factors set out in WAC 25-48-044. The monetary penalty for any subsequent violation will be five thousand dollars.

(4) In addition to any civil penalty imposed under this section, the notice of violation also shall require the respondent to pay the following costs, as determined under WAC 25-48-043:

(a) Reasonable investigative costs incurred by a mutually agreed upon independent professional archaeologist investigating the alleged violation; and

(b) Reasonable site restoration costs.

(5) The notice of violation shall set forth the conduct determined to violate RCW 27.53.060 or a permit issued thereunder, the damage for which restoration is required, the amount of civil penalty assessed, and, if appropriate, the findings warranting a lesser penalty than the statutory maximum. If the reasonable investigative costs incurred by a mutually agreed upon independent professional archaeologist investigating the alleged violation and the reasonable site restoration costs have been determined, they shall be set forth in the notice of violation; if those costs are determined after the notice of violation has been issued, those costs may be levied against the respondent by a later addendum to the notice of violation or in a final order following an adjudicative proceeding.

(6) The notice of violation shall inform the respondent of its right to request a hearing to contest the notice of violation.

(7) In addition to, and/or independent of any civil penalty imposed under this section, the state archaeologist or the assistant state archaeologist may refer any alleged violation to any federal, state, or county authority with jurisdiction over the act or acts alleged to constitute the violation.

[Statutory Authority: RCW 27.34.220, 27.53.140, 43.21C.120. WSR 06-06-001, § 25-48-041, filed 2/15/06, effective 3/18/06.]