

Title 25 WAC

COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT, DEPARTMENT OF (ARCHAEOLOGY AND HISTORIC PRESERVATION)

Chapters

- 25-12** **Advisory council on historic preservation.**
- 25-42** **State Environmental Policy Act rules.**
- 25-46** **Registration of historic archaeological resources on state-owned aquatic lands.**
- 25-48** **Archaeological excavation and removal permit.**

DISPOSITION OF CHAPTERS FORMERLY CODIFIED IN THIS TITLE

Chapter 25-18 PUBLIC RECORDS

- 25-18-010 Purpose. [Statutory Authority: RCW 43.51A.080. 80-05-001 (Order 4), § 25-18-010, filed 4/3/80.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 25-18-020 Definitions. [Statutory Authority: RCW 43.51A.080. 80-05-001 (Order 4), § 25-18-020, filed 4/3/80.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 25-18-030 Public records available. [Statutory Authority: RCW 43.51A.080. 80-05-001 (Order 4), § 25-18-030, filed 4/3/80.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 25-18-040 Public records officer. [Statutory Authority: RCW 43.51A.080. 80-05-001 (Order 4), § 25-18-040, filed 4/3/80.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 25-18-050 Office hours. [Statutory Authority: RCW 43.51A.080. 80-05-001 (Order 4), § 25-18-050, filed 4/3/80.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 25-18-060 Requests for public records. [Statutory Authority: RCW 43.51A.080. 80-05-001 (Order 4), § 25-18-060, filed 4/3/80.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 25-18-070 Copying. [Statutory Authority: RCW 43.51A.080. 80-05-001 (Order 4), § 25-18-070, filed 4/3/80.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 25-18-080 Exemptions. [Statutory Authority: RCW 43.51A.080. 80-05-001 (Order 4), § 25-18-080, filed 4/3/80.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 25-18-090 Review of denials of public records requests. [Statutory Authority: RCW 43.51A.080. 80-05-001 (Order 4), § 25-18-090, filed 4/3/80.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 25-18-100 Protection of public records. [Statutory Authority: RCW 43.51A.080. 80-05-001 (Order 4), § 25-18-100, filed 4/3/80.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 25-18-110 Communications. [Statutory Authority: RCW 43.51A.080. 80-05-001 (Order 4), § 25-18-110, filed 4/3/80.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 25-18-120 Adoption of form. [Statutory Authority: RCW 43.51A.080. 80-05-001 (Order 4), § 25-18-120, filed 4/3/80.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 25-18-130 Request for public record. [Statutory Authority: RCW 43.51A.080. 80-05-001 (Order 4), § 25-18-130, filed 4/3/80.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.

Chapter 25-24 HISTORIC PRESERVATION GRANTS ADVISORY COMMITTEE

- 25-24-010 Purpose. [Statutory Authority: RCW 43.51A.080. 80-05-002 (Order 5), § 25-24-010, filed 4/3/80.] Repealed by 87-05-027 (Order 87-04), filed 2/17/87. Statutory Authority: RCW 43.63A.060.
- 25-24-020 Definitions. [Statutory Authority: RCW 43.51A.080. 80-05-002 (Order 5), § 25-24-020, filed 4/3/80.] Repealed by 87-05-027 (Order 87-04), filed 2/17/87. Statutory Authority: RCW 43.63A.060.
- 25-24-030 Description of purpose and staff. [Statutory Authority: RCW 43.51A.080. 80-05-002 (Order 5), § 25-24-030, filed 4/3/80.] Repealed by 87-05-027 (Order 87-04), filed 2/17/87. Statutory Authority: RCW 43.63A.060.
- 25-24-040 Composition. [Statutory Authority: RCW 43.51A.080. 80-05-002 (Order 5), § 25-24-040, filed 4/3/80.] Repealed by 87-05-027 (Order 87-04), filed 2/17/87. Statutory Authority: RCW 43.63A.060.
- 25-24-050 Duties and responsibilities. [Statutory Authority: RCW 43.51A.080. 80-05-002 (Order 5), § 25-24-050, filed 4/3/80.] Repealed by 87-05-027 (Order 87-04), filed 2/17/87. Statutory Authority: RCW 43.63A.060.
- 25-24-060 Procedures. [Statutory Authority: RCW 43.51A.080. 80-05-002 (Order 5), § 25-24-060, filed 4/3/80.] Repealed by 87-05-027 (Order 87-04), filed 2/17/87. Statutory Authority: RCW 43.63A.060.
- 25-24-070 Public records available. [Statutory Authority: RCW 43.51A.080. 80-05-002 (Order 5), § 25-24-070, filed 4/3/80.] Repealed by 87-05-027 (Order 87-04), filed 2/17/87. Statutory Authority: RCW 43.63A.060.

Chapter 25-30 WASHINGTON STATE HERITAGE COUNCIL

- 25-30-010 Purpose. [Statutory Authority: Chapter 27.34 RCW. 84-23-004 (Order 7), § 25-30-010, filed 11/8/84.] Repealed by 97-19-018, filed 9/8/97, effective 10/9/97. Statutory Authority: RCW 43.330.040 (2)(g).
- 25-30-020 Definitions. [Statutory Authority: Chapter 27.34 RCW. 84-23-004 (Order 7), § 25-30-020, filed 11/8/84.] Repealed by 97-19-018, filed 9/8/97, effective 10/9/97. Statutory Authority: RCW 43.330.040 (2)(g).
- 25-30-030 Description of purpose and staff. [Statutory Authority: Chapter 27.34 RCW. 84-23-004 (Order 7), § 25-30-030, filed 11/8/84.] Repealed by 97-19-018, filed 9/8/97, effective 10/9/97. Statutory Authority: RCW 43.330.040 (2)(g).
- 25-30-040 Procedures. [Statutory Authority: Chapter 27.34 RCW. 84-23-004 (Order 7), § 25-30-040, filed 11/8/84.] Repealed by 97-19-018, filed 9/8/97, effective 10/9/97. Statutory Authority: RCW 43.330.040 (2)(g).
- 25-30-050 Public records available. [Statutory Authority: Chapter 27.34 RCW. 84-23-004 (Order 7), § 25-30-050, filed 11/8/84.] Repealed by 97-19-018, filed 9/8/97, effective 10/9/97. Statutory Authority: RCW 43.330.040 (2)(g).

Chapter 25-36 PUBLIC RECORDS

- 25-36-010 Purpose. [Statutory Authority: Chapter 27.34 RCW. 84-23-005 (Order 8), § 25-36-010, filed 11/8/84.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 25-36-020 Definitions. [Statutory Authority: Chapter 27.34 RCW. 84-23-005 (Order 8), § 25-36-020, filed 11/8/84.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 25-36-030 Public records available. [Statutory Authority: Chapter 27.34 RCW. 84-23-005 (Order 8), § 25-36-030, filed 11/8/84.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.

25-36-040	Public records officer. [Statutory Authority: Chapter 27.34 RCW. 84-23-005 (Order 8), § 25-36-040, filed 11/8/84.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
25-36-050	Office hours. [Statutory Authority: Chapter 27.34 RCW. 84-23-005 (Order 8), § 25-36-050, filed 11/8/84.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
25-36-060	Requests for public records. [Statutory Authority: Chapter 27.34 RCW. 84-23-005 (Order 8), § 25-36-060, filed 11/8/84.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
25-36-070	Copying. [Statutory Authority: Chapter 27.34 RCW. 84-23-005 (Order 8), § 25-36-070, filed 11/8/84.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
25-36-080	Exemptions. [Statutory Authority: Chapter 27.34 RCW. 84-23-005 (Order 8), § 25-36-080, filed 11/8/84.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
25-36-090	Review of denials of public records requests. [Statutory Authority: Chapter 27.34 RCW. 84-23-005 (Order 8), § 25-36-090, filed 11/8/84.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
25-36-100	Protection of public records. [Statutory Authority: Chapter 27.34 RCW. 84-23-005 (Order 8), § 25-36-100, filed 11/8/84.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
25-36-110	Communications. [Statutory Authority: Chapter 27.34 RCW. 84-23-005 (Order 8), § 25-36-110, filed 11/8/84.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
25-36-120	Adoption of form. [Statutory Authority: Chapter 27.34 RCW. 84-23-005 (Order 8), § 25-36-120, filed 11/8/84.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
25-36-130	Request for public record. [Statutory Authority: Chapter 27.34 RCW. 84-23-005 (Order 8), § 25-36-130, filed 11/8/84.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.

Chapter 25-12 WAC

ADVISORY COUNCIL ON HISTORIC PRESERVATION

WAC

25-12-010	Purpose.
25-12-020	Definitions.
25-12-030	Description of purpose and staff.
25-12-040	Procedures—Nominations proposed by nonprofessional public.
25-12-050	Procedures—Nominations proposed by the professional public.
25-12-060	Procedures.
25-12-070	Public records available.

WAC 25-12-010 Purpose. The purpose of this chapter shall be to ensure compliance by the advisory council on historic preservation with the provisions of chapter 1, Laws of 1973 (chapter 42.17 RCW) in particular that portion dealing with public records.

[Statutory Authority: RCW 43.51A.080. 80-06-096 (Order 6), § 25-12-010, filed 5/30/80.]

WAC 25-12-020 Definitions. (1) Public records. "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency, regardless of physical form or characteristics.

(2) Writing. Writing means handwriting, typewriting, printing, photostating, and every other means of recording, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

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(3) Advisory council on historic preservation. The advisory council on historic preservation is the council established pursuant to RCW 43.51A.110, and is hereinafter referred to as the "council."

(4) Office of archaeology and historic preservation. The office of archaeology and historic preservation is that agency established pursuant to RCW 43.51A.030, and is hereinafter referred to as the "office." The office provides staff for the council.

(5) State historic preservation officer. The state historic preservation officer is that person appointed pursuant to RCW 43.51A.060 to implement the purposes of that chapter, and hereinafter referred to as "SHPO."

(6) Professional public. The professional public includes individuals, government agencies, or private businesses which, as a means of providing livelihood or fulfilling legal obligations, are available to prepare nominations to the state and national registers of historic places. The professional public is further identified in WAC 25-12-050(2).

(7) Nonprofessional public. The nonprofessional public includes individuals, organizations, government agencies, or private businesses not identified as provided in WAC 25-12-050(2).

[Statutory Authority: RCW 43.51A.080. 80-06-096 (Order 6), § 25-12-020, filed 5/30/80.]

WAC 25-12-030 Description of purpose and staff.

The council is of an advisory nature for the governor and the office. Financial and administrative services including those related to budgeting, accounting, financial reporting, personnel and procurement shall be provided the council by the office. The administrative location of the council and that of its staff is at the Office of Archaeology and Historic Preservation, 111 West 21st Avenue, Olympia, Washington. The council meets on the last Friday of every third month unless otherwise agreed by a majority of the members of the council.

[Statutory Authority: RCW 43.51A.080. 80-06-096 (Order 6), § 25-12-030, filed 5/30/80.]

WAC 25-12-040 Procedures—Nominations proposed by nonprofessional public. (1) Individuals expressing an interest in promoting the nomination of a property shall first receive a survey-inventory form. The form, when returned to the SHPO with a recent photograph, will be the basis for further action.

(2) If the SHPO determines that the property may meet the criteria of the State or National Register of Historic Places, a nomination form and instructions will be forwarded to the proponent. Completed nominations must be submitted to the SHPO for review and evaluation.

(3) The SHPO shall alert the proponent to any assistance that may be available to the proponent to complete the nomination in a manner consistent with the provisions of WAC 25-12-060(3). Such alert may include the direct involvement of the office in the preparation of the nomination or referrals to professionals.

(4) Any nomination developed under this section shall be treated as outlined in WAC 25-12-060.

[Statutory Authority: RCW 43.51A.080. 80-06-096 (Order 6), § 25-12-040, filed 5/30/80.]

WAC 25-12-050 Procedures—Nominations proposed by the professional public. (1) Members of the professional public may submit completed nominations directly to the SHPO for review and evaluation. The opportunity to review drafts of the nomination is encouraged to promote the rapid handling of the complete document.

(2) The SHPO shall prepare and maintain a list of the professional public to identify those who can submit nominations under this section and for referrals as provided in WAC 25-12-040(3). Inclusion on the list shall be limited to those individuals, governmental agencies, or private businesses that have demonstrated an ability to prepare nominations consistent with WAC 25-12-060(3).

(3) Any nomination developed under this section shall be treated as outlined in WAC 25-12-060.

[Statutory Authority: RCW 43.51A.080. 80-06-096 (Order 6), § 25-12-050, filed 5/30/80.]

WAC 25-12-060 Procedures. The following is a statement of the general course and method followed in the nomination and designation of historic properties.

(1) The SHPO shall not schedule any nomination for review by the council if the nomination is poorly prepared, incomplete in any manner, or treats a property that does not appear to be eligible for the state or national registers of historic places. The agenda shall be established by the SHPO in cooperation and consultation with the chairperson of the council.

(2) The SHPO may return any nomination to the originator for correction, or for additional information of any kind required for completion and accuracy.

(3) The SHPO shall prepare and distribute standards of acceptability for nominations, such standards to be not more restrictive than those promulgated by the Heritage Conservation and Recreation Service for the conduct of the National Register program.

(4) The SHPO will notify the owner of the property and the most appropriate local jurisdiction or government of the date, time, and location of the review of the nomination by the council, such notification to occur not more than 45 days nor less than 30 days prior to the scheduled meeting date.

(5) In the nomination of an historic district where more than 50 property owners are involved, notification shall occur through a notice in a local newspaper of general circulation.

(6) Federally affected properties which have been determined under federal regulations to be ineligible for the National Register will be referred to the SHPO to be evaluated for inclusion on the State Register without referring the nomination to the council for further consideration.

(7) Following council review, the council will transmit its recommendations to the SHPO. When the council has reviewed and approved a procedurally correct nomination and has forwarded it to the SHPO, the SHPO will submit the nomination to the National Register, unless, in his opinion, the SHPO considers the property one which does not meet the National Register criteria. A decision to submit a nomination is within the discretion of the SHPO. All council determinations regarding nominations are advisory only. In each instance that the SHPO determines a nomination to be ineligible for inclusion in the National Register, he/she shall

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notify the council of this action at its next regularly scheduled meeting.

(8) The SHPO shall act upon all nominations reviewed by the council prior to its next regularly scheduled meeting, and shall report those actions to the council at that meeting.

[Statutory Authority: RCW 43.51A.080. 80-06-096 (Order 6), § 25-12-060, filed 5/30/80.]

WAC 25-12-070 Public records available. All public records of the council, as defined in WAC 25-18-020, are available for public inspection any [and] copying at the office location described in WAC 25-12-030, pursuant to WAC 25-18-040 through 25-18-130, except as otherwise provided by RCW 42.17.310.

[Statutory Authority: RCW 43.51A.080. 80-06-096 (Order 6), § 25-12-070, filed 5/30/80.]

Chapter 25-42 WAC

STATE ENVIRONMENTAL POLICY ACT RULES

WAC

25-42-010	Definitions.
25-42-020	Impact of SEPA on office.
25-42-030	Purpose.
25-42-040	Scope and coverage of this chapter.
25-42-050	Agency policy—Substantive authority and mitigation.
25-42-060	Timing of the SEPA process.
25-42-070	Summary of information which may be required of an applicant.
25-42-080	Assumption of lead agency status.
25-42-090	Designation of responsible official.
25-42-100	Mitigated DNS.
25-42-110	SEPA public information center.
25-42-120	Public notice.
25-42-130	Severability.

WAC 25-42-010 Definitions. The definitions of the words and terms of WAC 197-11-700 through 197-11-799 are made a part of this chapter along with the following additions:

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

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

[Statutory Authority: RCW 27.34.220 and 43.21C.120. 86-13-002 (Order 10), § 25-42-010, filed 6/5/86.]

WAC 25-42-020 Impact of SEPA on office. The office fully endorses the intent and purpose of SEPA and will make every effort to implement and fulfill the intent and requirements of SEPA and the SEPA rules. The capacity of the office to provide full service to the public and other agencies is limited by funds and manpower. The office will make every effort to implement SEPA in the best manner possible with the resources available.

[Statutory Authority: RCW 27.34.220 and 43.21C.120. 86-13-002 (Order 10), § 25-42-020, filed 6/5/86.]

WAC 25-42-030 Purpose. (1) The purpose of this chapter is to implement chapter 197-11 WAC, SEPA rules, as applicable to the office.

(2) These policies and procedures are developed to implement SEPA in a manner which reduces duplication, establishes effective and uniform guidelines, encourages

public involvement, and promotes certainty with respect to the requirements of the act.

(3) These policies and procedures are not intended to cover compliance by the office with respect to the National Environmental Policy Act of 1969 (NEPA). In those situations where the office is required by federal law or regulations to perform some element of compliance with NEPA, compliance will be governed by the applicable federal statute and regulations.

[Statutory Authority: RCW 27.34.220 and 43.21C.120. 86-13-002 (Order 10), § 25-42-030, filed 6/5/86.]

WAC 25-42-040 Scope and coverage of this chapter.

(1) It is the intent of the office that compliance with this chapter shall constitute complete procedural compliance with SEPA for all actions as defined in WAC 197-11-704.

(2) This chapter applies to all actions as defined in WAC 197-11-704 and applies to all activities of the office. Furthermore, although these guidelines normally do not apply to actions of the office exempted under WAC 197-11-800, the office accepts the responsibility of attempting to follow the intent of SEPA and its decision making process for exempt actions.

(3) To the fullest extent possible, the office shall integrate procedures required by this chapter with existing planning and permitting procedures. These procedures should be initiated early, and undertaken in conjunction with other governmental operations to avoid lengthy time delays and unnecessary duplication of effort.

[Statutory Authority: RCW 27.34.220 and 43.21C.120. 86-13-002 (Order 10), § 25-42-040, filed 6/5/86.]

WAC 25-42-050 Agency policy—Substantive authority and mitigation. (1) The overriding policy of the office is to avoid or mitigate adverse environmental impacts which may result from its decisions. This policy results from:

(a) The legislated duty of the office to preserve and protect the heritage of the state in a manner that does not impair the resource (RCW 27.34.200); and

(b) Recognition of the fact that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment (RCW 43.21C.020(31)).

(2) If an action is subject to SEPA, including an activity or activities requiring a permit from the office, and is reasonably likely to have an adverse environmental impact as identified in an environmental document, the office will:

(a) Require reasonable alternatives to the action and/or proven measures which will mitigate or eliminate the identified potential adverse impact, and make such alternatives and/or proven mitigation measures conditions of the office's approval; or

(b) Deny the proposal if significant adverse impacts as identified in a final or supplemental environmental impact statement prepared under chapter 197-11 WAC are not satisfactorily avoided or mitigated by proven techniques.

[Statutory Authority: RCW 27.34.220 and 43.21C.120. 86-13-002 (Order 10), § 25-42-050, filed 6/5/86.]

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WAC 25-42-060 Timing of the SEPA process. (1) The environmental review process will normally begin upon receipt of a determination of nonsignificance (DNS), determination of significance (DS), scoping notice, or draft environmental impact statement (DEIS) when another agency is the lead agency. When the office is the lead agency for nonagency actions, review will begin upon receipt of a complete permit application and a complete environmental checklist. For agency actions, environmental review will normally begin when the proposed action is sufficiently developed to allow preliminary decisions.

(2) Upon written request of an applicant, preliminary environmental review will be conducted prior to receipt of detailed project plans and specifications. In such instances, the applicant shall submit information judged by the office to be sufficient to make a preliminary review.

(3) The preliminary review will be advisory only and not binding upon the office. Final review and determination will be made only upon receipt of detailed project plans and specifications.

[Statutory Authority: RCW 27.34.220 and 43.21C.120. 86-13-002 (Order 10), § 25-42-060, filed 6/5/86.]

WAC 25-42-070 Summary of information which may be required of an applicant. (1) The applicant for each project for which the office is the lead agency shall submit a complete environmental checklist along with a complete application for the required approval.

(2) After review of the environmental checklist, the office may require the applicant to submit additional information necessary to properly evaluate the potential environmental impacts of the project. Field investigation or research may be required of the applicant or conducted by the office at the applicant's cost.

(3) A draft and final EIS is required for each project for which a determination is made that the proposal will have a probable significant adverse impact on the environment. Preparation of the EISs is the responsibility of the office, by or under the direction of its responsible official, as specified by office procedures. No matter who participates in the preparation of the EIS, it is the EIS of the agency. The responsible official, prior to distributing an EIS, shall be satisfied that it complies with this chapter and chapter 197-11 WAC.

(4) The office may have an EIS prepared by office staff, an applicant or its agent, or by an outside consultant retained by either an applicant or the office. The office shall assure that the EIS is prepared in a professional manner and with appropriate interdisciplinary methodology. The responsible official shall direct the areas of research and examination to be undertaken as a result of the scoping process, as well as the organization of the resulting document.

(5) If a person other than the office is preparing the EIS, the office shall:

(a) Coordinate any scoping procedures so that the individual preparing the EIS receives all substantive information submitted by any agency and the public;

(b) Assist in obtaining any information on file with other agencies that is needed by the person preparing the EIS;

(c) Allow any party preparing an EIS access to all public records of the office that relate to the subject of the EIS, under RCW 42.17.250 through 42.17.340.

(6) Normally, the office will prepare EISs for its own proposals.

(7) For applicant proposals, the office normally will require the applicant to prepare or help prepare the EIS at the applicant's expense, under provisions of this chapter and chapter 197-11 WAC. Expenses shall include fees of any consultants, if required, the office's consultation time and cost of any required materials. A performance bond in an amount specified by the office may be required of the applicant to ensure payment of the office's expenses.

(8) The office may require an applicant to provide information that the office does not possess, including specific investigations. The applicant is not required to supply information that is not required under this chapter and chapter 197-11 WAC.

(9) A supplemental EIS shall be prepared as an addition to either the draft or final EIS if the office decides that:

(a) There are substantial changes to a proposal which will have a probable significant adverse environmental impact; or

(b) There is significant new information relative to the probable significant environmental impact of a proposal; or

(c) Its written comments on the DEIS warrant additional discussion for the purposes of its action than that found in the lead agency's FEIS.

The provisions of subsection (3) of this section except for the first sentence, also pertain to a supplemental EIS or addendum.

(10) Upon the written request of an applicant for a project for which the office is the lead agency, the office will consider initiating environmental review and preparation of an EIS at the conceptual stage as opposed to the final detailed design state.

[Statutory Authority: RCW 27.34.220 and 43.21C.120. 86-13-002 (Order 10), § 25-42-070, filed 6/5/86.]

WAC 25-42-080 Assumption of lead agency status.

(1) Whenever the office feels that a DNS issued by another lead agency is inappropriate and that the proposal in question could cause significant harm to the resources under its jurisdiction, the office will assume lead agency status per WAC 197-11-948.

(2) Within ten days of assuming lead agency status, the office will notify the proponent of the proposal in writing as to the reasons for its assumption of lead agency status.

(3) Prior to preparation of an EIS for the proposal, the office will consult with the proponent and give the proponent an opportunity to modify or change the proposal in such a way that an EIS may not be necessary as outlined in WAC 197-11-360(4).

[Statutory Authority: RCW 27.34.220 and 43.21C.120. 86-13-002 (Order 10), § 25-42-080, filed 6/5/86.]

WAC 25-42-090 Designation of responsible official.

Under normal circumstances, the responsible official is the director or his designee. The responsible official shall carry out duties and functions for the purpose of assuring the office's compliance with SEPA and SEPA guidelines. The responsible official may delegate duties and functions assigned under this chapter and chapter 197-11 WAC; the

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responsible official alone, however, is wholly responsible for proper accomplishment of such duties and functions.

[Statutory Authority: RCW 27.34.220 and 43.21C.120. 86-13-002 (Order 10), § 25-42-090, filed 6/5/86.]

WAC 25-42-100 Mitigated DNS. (1) An applicant may ask the office whether issuance of a DS is likely for a proposal. This request for early notice must:

(a) Be written;

(b) Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the office is lead agency; and

(c) Precede the office's actual threshold determination for the proposal.

(2) The responsible official shall respond to the request within ten working days of receipt of the letter, the response shall:

(a) Be written;

(b) State whether the office is considering issuance of a DS;

(c) Indicate the general or specific area(s) of concern that led the office to consider a DS; and

(d) State that the applicant may change or clarify the proposal to mitigate the impacts indicated in the letter, revising the environmental checklist as necessary to reflect the changes or clarifications.

(3) The office shall not continue with the threshold determination until receiving a written response from the applicant changing or clarifying the proposal or asking that the threshold determination be based on the original proposal.

(4) If the applicant submits a changed or clarified proposal, along with a revised environmental checklist, the office will make its threshold determination based on the changed or clarified proposal:

(a) If the office's response to the request for early notice indicated specific mitigation measures that would remove all probable significant adverse environmental impacts, and the applicant changes or clarifies the proposal to include all of those specific mitigation measures, the office shall issue a DNS and circulate the DNS for comments as in WAC 197-11-340(2).

(b) If the office indicated general or specific areas of concern but did not indicate specific mitigation measures that would allow it to issue a DNS, the office shall determine if the changed or clarified proposal may have a probable significant environmental impact, issuing a DNS or DS as appropriate.

(5) The office may specify mitigation measures that would allow it to issue a DNS without a request for early notice from an applicant. If it does so, and the applicant changes or clarifies the proposal to include those measures, the office shall issue a DNS and circulate it for review under WAC 197-11-340(2).

(6) When an applicant changes or clarifies the proposal, the clarification or changes may be included in written attachments to the documents already submitted. If the environmental checklist and supporting documents would be difficult to read and/or understand because of the need to read them in conjunction with the attachment(s) the office may require the applicant to submit a new checklist.

(7) The office may change or clarify features of its own proposals before making the threshold determination.

(8) The office's written response under subsection (2) of this section shall not be constructed as a determination of significance. In addition, preliminary discussion of clarification of or changes to a proposal, as opposed to a written request for early notice, shall not bind the office to consider the clarification or changes in the threshold determination.

(9) When an applicant submits a changed or clarified proposal pursuant to this section, it shall be considered part of the applicant's application for a permit or other approval for all purposes. Unless the office's decision expressly states otherwise, when a mitigated DNS is issued for a proposal, any decision approving the proposal shall be based on the proposal as changed or clarified pursuant to this section.

[Statutory Authority: RCW 27.34.220 and 43.21C.120. 86-13-002 (Order 10), § 25-42-100, filed 6/5/86.]

WAC 25-42-110 SEPA public information center.

The office designates its main office as its SEPA public information center. The mailing address is 111 West 21st Ave., Olympia, Washington 98504; telephone (206) 753-5010.

[Statutory Authority: RCW 27.34.220 and 43.21C.120. 86-13-002 (Order 10), § 25-42-110, filed 6/5/86.]

WAC 25-42-120 Public notice. (1) When required under chapter 197-11 WAC, the office will give public notice by one or more of the following methods as appropriate for the specific circumstances:

(a) Notifying public and private groups and agencies with known interest in a certain proposal or in the type of proposals being considered;

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

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

(d) Notifying the news media; and/or

(e) Posting on the property site in question.

(2) The office may require an applicant to perform the public notice requirements at the applicant's expense.

[Statutory Authority: RCW 27.34.220 and 43.21C.120. 86-13-002 (Order 10), § 25-42-120, filed 6/5/86.]

WAC 25-42-130 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.

[Statutory Authority: RCW 27.34.220 and 43.21C.120. 86-13-002 (Order 10), § 25-42-130, filed 6/5/86.]

Chapter 25-46 WAC

REGISTRATION OF HISTORIC ARCHAEOLOGICAL RESOURCES ON STATE- OWNED AQUATIC LANDS

WAC

25-46-010	Purpose.
25-46-020	Definitions.
25-46-040	Registration forms.
25-46-060	Summary of information required for registration.
25-46-080	Competing applications for the same resource.

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25-46-100	Issuance of registration acceptance.
25-46-120	Registration denial.
25-46-140	Appeals relating to registration.
25-46-160	Right of first refusal to permit upon registration.
25-46-180	Severability.

WAC 25-46-010 Purpose. The purpose of this chapter is to establish registration procedures for previously unreported historic archaeological resources discovered on, in, or under state-owned aquatic lands as provided for in chapter 27.53 RCW.

[Statutory Authority: RCW 27.53.030, [27.53.]060 and 1988 c 124 §§ 1, 3, 5, 6, 7 and 10. 88-23-005 (Order 88-07), § 25-46-010, filed 11/4/88.]

WAC 25-46-020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Historic archaeological resources" means those properties, including, but not limited to all ships, or aircraft, and any part or the contents thereof and all treasure trove which are listed or, in the professional judgment of the department, 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.

(2) "State-owned aquatic lands" means all state-owned tidelands, shorelands, harbor areas, and the beds of navigable waters.

(3) "Department" means the department of community development.

(4) "Office" means the office of archaeology and historic preservation, department of community development.

(5) "Director" means the director of the department of community development or the director's designee.

(6) "Entity" means any person, firm, corporation, institution, or agency.

(7) "Previously unreported" means the historic archaeological resource and its location are not known to the office and are not available from public records including but not limited to government records, historic records, or insurance claims.

[Statutory Authority: RCW 27.53.030, [27.53.]060 and 1988 c 124 §§ 1, 3, 5, 6, 7 and 10. 88-23-005 (Order 88-07), § 25-46-020, filed 11/4/88.]

WAC 25-46-040 Registration forms. (1) Any person or entity who discovers a previously unreported historic archaeological resource abandoned for thirty years or more on, in, or under state-owned aquatic lands may register it with the department.

(2) Each registration of a previously unreported historic archaeological resource shall be submitted on the Historic Archaeological Resource Registration form approved by the director. These registration forms may be obtained from the Office of Archaeology and Historic Preservation, Department of Community Development, 111 West 21st Avenue KL-11, Olympia, Washington 98504; telephone (360) 753-5010.

[Statutory Authority: RCW 27.53.030, [27.53.]060 and 1988 c 124 §§ 1, 3, 5, 6, 7 and 10. 88-23-005 (Order 88-07), § 25-46-040, filed 11/4/88.]

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WAC 25-46-060 Summary of information required for registration. (1) In order to be considered complete, each registration form shall include:

(a) A description of the historic archaeological resource sufficient to identify its historic association, identity, and integrity of its physical remains.

(b) Locational information including latitude, longitude, and depth.

(c) A copy of the relevant United States Coast and Geodetic Survey chart indicating the resource's location.

(d) A copy of a photograph or videotape documenting the existence of identifiable physical remains of the resource sufficient to establish its historic identity and integrity. If a photograph or videotape will not establish the existence of identifiable physical remains of the resource sufficient to establish its historic identity and integrity, the applicant may apply to the office for permission to obtain a sample artifact for this purpose. In the event the applicant wishes to apply for such permission, the applicant shall be subject to WAC 25-48-030.

(2) Failure to supply this information to the satisfaction of the office may result in the application being deemed incomplete or inadequate under WAC 25-46-100 and 25-46-120.

[Statutory Authority: RCW 27.53.030, [27.53.]060 and 1988 c 124 §§ 1, 3, 5, 6, 7 and 10. 88-23-005 (Order 88-07), § 25-46-060, filed 11/4/88.]

WAC 25-46-080 Competing applications for the same resource. (1) When registration forms are submitted for the same resource by two or more entities, the applications shall be evaluated, accepted, or denied in sequence based upon the unique log number assigned by the department.

(2) Notice will be sent by the department to each of the entities submitting the registration application for the same resource notifying them of the competing application and the sequence in which they will be evaluated. No competing application will be evaluated until such time as the first pending application has been denied and all appeal rights of that applicant have been exhausted.

(3) When an historic archaeological resource has been registered with the department all subsequent registration applications for that resource within the five-year time period for right of first refusal will be issued a notice that the resource has already been registered and the applications are denied.

[Statutory Authority: RCW 27.53.030, [27.53.]060 and 1988 c 124 §§ 1, 3, 5, 6, 7 and 10. 88-23-005 (Order 88-07), § 25-46-080, filed 11/4/88.]

WAC 25-46-100 Issuance of registration acceptance.

(1) Each registration form shall be assigned a unique sequential log number upon date and time of receipt by the department and shall be evaluated in sequence.

(2) Upon receipt of the registration form, the office shall inform the applicant by registered mail within fourteen calendar days of any incomplete or inadequate information and afford the applicant twenty-one calendar days from the receipt of the notice to provide the missing or inadequate information, plus such time as may be authorized by the department for a sample artifact permit granted under WAC 25-46-060 (1)(d).

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(3) If the applicant does not supply the missing or inadequate information within the specified time period the application shall be considered void and a notice of denial sent to the applicant.

(4) The department will act upon a complete registration application within thirty-five calendar days of receipt and shall so notify the applicant. In all notifications of registration acceptance, the department shall specify:

(a) The name, address, and telephone number of the entity submitting the registration application.

(b) A description of the historic archaeological resource sufficient to identify its historic association and identity.

(c) The location of the resource including its latitude and longitude and depth.

(d) A statement of director's opinion on the resource's eligibility to the Washington state register of historic places or the National Register of Historic Places.

(e) The date of the acceptance of the registration.

(f) The date of the expiration of the right for first refusal.

(g) That excavation or removal of any artifacts from the historic archaeological resource will require an archaeological excavation and removal permit and that granting of such a permit is not guaranteed.

[Statutory Authority: RCW 27.53.030, [27.53.]060 and 1988 c 124 §§ 1, 3, 5, 6, 7 and 10. 88-23-005 (Order 88-07), § 25-46-100, filed 11/4/88.]

WAC 25-46-120 Registration denial. (1) If a registration application is denied, a written statement of the reasons for the denial will accompany the notice of registration denial to the applicant.

(2) Registration may be denied for the following reasons:

(a) The application is incomplete or inadequate and has not been completed or corrected pursuant to WAC 25-46-100;

(b) The resource does not qualify as an historic archaeological resource under WAC 25-46-020(1);

(c) The resource has already been registered;

(d) The resource and its location are already known to the office or are part of the public record.

[Statutory Authority: RCW 27.53.030, [27.53.]060 and 1988 c 124 §§ 1, 3, 5, 6, 7 and 10. 88-23-005 (Order 88-07), § 25-46-120, filed 11/4/88.]

WAC 25-46-140 Appeals relating to registration.

Any affected person may request a hearing to appeal a denial of registration or extinguishment of a right of first refusal under WAC 25-46-160 to the director. Said request must be in writing and filed with the director within twenty-one calendar days of receipt of notice of registration denial or extinguishment.

[Statutory Authority: RCW 27.53.030, [27.53.]060 and 1988 c 124 §§ 1, 3, 5, 6, 7 and 10. 88-23-005 (Order 88-07), § 25-46-140, filed 11/4/88.]

WAC 25-46-160 Right of first refusal to permit upon registration. (1) Any person, firm, corporation, institution, or agency that discovers and registers a previously unreported historic archaeological resource abandoned on, in, or under state-owned aquatic lands with the department shall have a right of first refusal to future excavation and recovery permits granted for the recovery of that resource subject to

[Title 25 WAC—p. 7]

the provisions of chapter 27.53 RCW and chapter 25-48 WAC.

(2) Such right of first refusal shall exist for five years from the date of registration by the department. Such rights may be assigned, but it is the responsibility of the parties to the assignment to provide written evidence of the assignment to the department, including the correct name and mailing address of the assignee.

(3) Should another person, firm, corporation, institution, or agency apply for a permit to excavate or remove that resource or portions thereof, the person, firm, corporation, institution, or agency that registered the resource shall have sixty days from the receipt of notice to submit its own permit application and thereby exercise its first refusal right, or the right shall be extinguished.

(4) If the person, firm, corporation, institution, or agency that registered the resource does not exercise its first refusal right within sixty days of the receipt of notice, the department shall send to that entity a notice by certified mail, return receipt requested, that that entity's right of first refusal has been extinguished.

(5) If the entity that registered the historic archaeological resource does not exercise its right of first refusal within five years of the issuance of the registration acceptance the right lapses.

[Statutory Authority: RCW 27.53.030, [27.53.]060 and 1988 c 124 §§ 1, 3, 5, 6, 7 and 10. 88-23-005 (Order 88-07), § 25-46-160, filed 11/4/88.]

WAC 25-46-180 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.

[Statutory Authority: RCW 27.53.030, [27.53.]060 and 1988 c 124 §§ 1, 3, 5, 6, 7 and 10. 88-23-005 (Order 88-07), § 25-46-180, filed 11/4/88.]

Chapter 25-48 WAC

ARCHAEOLOGICAL EXCAVATION AND REMOVAL 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 requirements and forms.
25-48-060	Summary of information required of an applicant.
25-48-070	Notification to Indian tribes.
25-48-080	Public notice.
25-48-085	Applications for excavation and removal of previously registered shipwrecks and historic aircraft.
25-48-090	Issuance of permit.
25-48-100	Terms and conditions of permits.
25-48-105	Permit denial.
25-48-108	Right of first refusal—Discovery of new technology.
25-48-110	Suspension and revocation of permits.
25-48-120	Appeals relating to permits.
25-48-125	Listing of areas where permits are required to protect historic archaeological sites on aquatic lands.
25-48-130	Display of permit.
25-48-140	Severability.

WAC 25-48-010 Purpose. The purpose of this chapter is to establish application and review procedures for the issuance of archaeological excavation and removal permits as provided for in chapters 27.44 and 27.53 RCW.

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[Statutory Authority: RCW 27.53.030, [27.53.]060, [27.53.]080 and 1988 c 124 §§ 1, 3, 5, 6 and 7. 88-23-004 (Order 88-06), § 25-48-010, filed 11/4/88. Statutory Authority: RCW 27.34.220 and 27.44.020. 86-13-001 (Order 11), § 25-48-010, filed 6/5/86.]

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 889-665; 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 less 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 archaeologi-

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cal 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.

(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.

(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.

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

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

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

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

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

(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.

(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.

[Statutory Authority: RCW 27.34.220 and 27.44.020. 90-01-091, § 25-48-020, filed 12/19/89, effective 1/19/90. Statutory Authority: RCW 27.53.030, [27.53.]060, [27.53.]080 and 1988 c 124 §§ 1, 3, 5, 6 and 7. 88-23-004 (Order 88-06), § 25-48-020, filed 11/4/88. Statutory Authority: RCW 27.34.220 and 27.44.020. 86-13-001 (Order 11), § 25-48-020, filed 6/5/86.]

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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, and the removal of glyptic or painted records 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, 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.

[Statutory Authority: RCW 27.34.220 and 27.44.020. 90-01-091, § 25-48-030, filed 12/19/89, effective 1/19/90. Statutory Authority: RCW 27.53.030, [27.53.]060, [27.53.]080 and 1988 c 124 §§ 1, 3, 5, 6 and 7. 88-23-004 (Order 88-06), § 25-48-030, filed 11/4/88. Statutory Authority: RCW 27.34.220 and 27.44.020. 86-13-001 (Order 11), § 25-48-030, filed 6/5/86.]

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).

[Statutory Authority: RCW 27.34.220 and 27.44.020. 86-13-001 (Order 11), § 25-48-040, filed 6/5/86.]

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, or proposing to remove glyptic or painted records of 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.

[Statutory Authority: RCW 27.34.220 and 27.44.020. 90-01-091, § 25-48-050, filed 12/19/89, effective 1/19/90. Statutory Authority: RCW 27.53.030, [27.53.]060, [27.53.]080 and 1988 c 124 §§ 1, 3, 5, 6 and 7. 88-23-004 (Order 88-06), § 25-48-050, filed 11/4/88. Statutory Authority: RCW 27.34.220 and 27.44.020. 86-13-001 (Order 11), § 25-48-050, filed 6/5/86.]

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 and the methods proposed for excavation and recovery, proposed time of performance, locational maps, and a completed site inventory form.

(b) An artifact inventory plan detailing the character of the expected data categories to be recovered including the proposed methods of inventorying the recovered data and proposed methods of cleaning, stabilizing, and curating of specimens and recovered data consistent with the Secretary of the Interior's standards for archaeological curation. If human remains are proposed for recovery, a plan for their removal and disposition must be provided.

(c) 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.

(d) 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.

(e) 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 (d) of this subsection.

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

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

(h) Evidence of an agreement for the proposed work from the owner, agency, or political subdivision with management responsibility over the land.

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

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

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

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

(m) 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.

(n) Evidence of abandonment: Abandonment will be presumed where the applicant presents information that thirty or more years have elapsed since the loss of the resource. If it appears to the office from any source that the resource has not been abandoned or may not have been abandoned, and in the case of all United States government warships, aircraft, or other public vessels, the office will find that the presumption does not arise and will require proof of abandonment. Proof may be satisfied by submission of a statement of abandonment from the owner, his or her successors, assigns or legal representatives, or through final adjudication by a court of law.

(2) Where the application is for the excavation and/or removal of archaeological resources on public lands, the name of the Washington 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) Where the application is for the excavation and/or removal of a historic archaeological resource that is an historic aircraft, the name of the Washington museum, historical society, nonprofit organization, or governmental entity that proposes to assume curatorial responsibility for the resource. Applicants shall submit written certification, signed by an authorized official of the institution, of willingness to assume curatorial responsibility for the resource and all associated records, data, photographs and other documents derived from the proposed work and to safeguard, preserve, and allow for the future scientific and public access to these materials.

(5) 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.

[Statutory Authority: RCW 27.34.220 and 27.44.020, 90-01-091, § 25-48-060, filed 12/19/89, effective 1/19/90. Statutory Authority: RCW 27.53.030, [27.53.]060, [27.53.]080 and 1988 c 124 §§ 1, 3, 5, 6 and 7, 88-23-004 (Order 88-06), § 25-48-060, filed 11/4/88. Statutory Authority: RCW 27.34.220 and 27.44.020, 86-13-001 (Order 11), § 25-48-060, filed 6/5/86.]

WAC 25-48-070 Notification to Indian tribes. (1)

Upon receipt of a completed application form for archaeological excavation of a native 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 the affected Indian tribe which may consider the site to be of historic or cultural significance.

(2) Notice by the office shall be sent to the chief executive officer or other designated official of the tribe. Any native 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 native 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.

[Statutory Authority: RCW 27.34.220 and 27.44.020, 90-01-091, § 25-48-070, filed 12/19/89, effective 1/19/90; 86-13-001 (Order 11), § 25-48-070, filed 6/5/86.]

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.

[Statutory Authority: RCW 27.34.220 and 27.44.020, 86-13-001 (Order 11), § 25-48-080, filed 6/5/86.]

WAC 25-48-085 Applications for excavation and removal of previously registered shipwrecks and historic aircraft. Where the completed application is for the excavation and/or removal of an historic archaeological resource that is a shipwreck or historic aircraft that has been registered with the department by an entity other than the applicant the office will:

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(1) Notify the entity by certified mail, return receipt requested, that registered the historic archaeological resource with the department that it shall have sixty days from receipt of notice to submit its own permit application and exercise its first refusal right, or the right shall be extinguished.

(2) Notify the applicant that its permit application will not be acted upon until the entity that has registered the historic archaeological resource has exercised its right of first refusal by submitting a permit application or has allowed its right to be extinguished.

[Statutory Authority: RCW 27.53.030, [27.53.]060, [27.53.]080 and 1988 c 124 §§ 1, 3, 5, 6 and 7, 88-23-004 (Order 88-06), § 25-48-085, filed 11/4/88.]

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 except in the case of an historic archaeological resource where the applicant is not the holder of the right of first refusal. Such applications shall be subject to the provisions of WAC 25-48-085. The director may issue a temporary permit immediately where delay could cause damage to an archaeological or historic 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 archaeological 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 archaeological 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 archaeological 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) Any Washington university, museum, repository, or other scientific or educational institution proposed as the repository possesses adequate curatorial capability for safeguarding and preserving the archaeological resources and all associated records.

(5) Where the application is for a state-owned historic archaeological resource, a contract between the applicant and the department has been executed. Such a contract shall include but not be limited to the following terms and conditions:

(a) Historic shipwrecks:

(i) The contract shall provide for fair compensation to a salvor. Fair compensation means an amount not less than ninety percent of the appraised value of the objects recovered following successful completion of the contract.

(ii) The salvor may retain objects with a value of up to ninety percent of the appraised value of the total objects recovered, or cash, or a combination of objects and cash. In no event may the total of objects and cash exceed ninety percent of the total appraised value of the objects recovered. A salvor shall not be entitled to further compensation from any state sources.

(iii) The contract shall provide that the state will be given first choice of which objects it may wish to retain for display purposes for the people of the state from among all the objects recovered. The state may retain objects with a value of up to ten percent of the appraised value of the total objects recovered. If the state chooses not to retain recovered objects with a value of up to ten percent of the appraised value, the state shall be entitled to receive its share in cash or a combination of recovered objects and cash so long as the state's total share does not exceed ten percent of the appraised value of the objects recovered.

(iv) The contract shall provide that both the state and the salvor shall have the right to select a single appraiser or joint appraisers.

(v) The contract shall provide that the applicant agrees to allow the department access to all artifacts and data recovered from the historic shipwreck for purposes of scholarly research and photographic documentation for the period specified by the department.

(vi) The contract shall also provide that title to the objects shall pass to the salvor when the permit is issued. However, should the salvor fail to fully perform under the terms of the contract, title to all objects recovered shall revert to the state. If the salvor should fail to perform the contract terms specified in (a)(v) of this subsection and has disposed of the objects to which title has passed, the salvor shall be liable to the state for liquidated damages in the amount of the appraised value of the objects disposed of.

(b) Historic aircraft:

(i) The contract shall provide that historic aircraft belonging to the state of Washington may only be recovered if the purposes of the salvage operation is to recover the aircraft for a Washington museum, historical society, nonprofit organization, or governmental entity.

(ii) Title to the aircraft may only be passed by the state to one of the entities listed in (b)(i) of this subsection.

(iii) Compensation to the salvor shall only be derived from the sale or exchange of the aircraft to one of the entities listed in (b)(i) of this subsection or such other compensation as one of the entities and the salvor may arrange. The salvor shall not have a claim to compensation from state funds.

(c) Other historic archaeological resources:

The director, in his or her discretion, may negotiate the terms of such contracts.

(6) Evidence that the applicant agrees to mitigate any archaeological damage which occurs during the excavations and recovery operations.

(7) Evidence that the applicant agrees to allow the department access to all artifacts and data recovered from historic archaeological sites for purposes of scholarly research and photographic documentation for a period to be agreed upon by the parties.

(8) Evidence that the applicant agrees to allow the department to have the right to publish scientific papers con-

cerning the results of all research conducted as project mitigation.

(9) 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.

[Statutory Authority: RCW 27.34.220 and 27.44.020. 90-01-091, § 25-48-090, filed 12/19/89, effective 1/19/90. Statutory Authority: RCW 27.53.030, [27.53.]060, [27.53.]080 and 1988 c 124 §§ 1, 3, 5, 6 and 7. 88-23-004 (Order 88-06), § 25-48-090, filed 11/4/88. Statutory Authority: RCW 27.34.220 and 27.44.020. 86-13-001 (Order 11), § 25-48-090, filed 6/5/86.]

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 and mitigation requirements.

(2) The director 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 native Indian cairns and graves or glyptic or painted records such terms and conditions as may be requested by the concerned native 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.

[Statutory Authority: RCW 27.34.220 and 27.44.020. 90-01-091, § 25-48-100, filed 12/19/89, effective 1/19/90. Statutory Authority: RCW 27.53.030, [27.53.]060, [27.53.]080 and 1988 c 124 §§ 1, 3, 5, 6 and 7. 88-23-004 (Order 88-06), § 25-48-100, filed 11/4/88. Statutory Authority: RCW 27.34.220 and 27.44.020. 86-13-001 (Order 11), § 25-48-100, filed 6/5/86.]

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 as well as

notice of the right to request a hearing. A permit may be denied for failure to adequately meet the requirements of an applicant under WAC 25-48-060 and/or the standards set forth in WAC 25-48-090.

[Statutory Authority: RCW 27.34.220 and 27.44.020. 90-01-091, § 25-48-105, filed 12/19/89, effective 1/19/90. Statutory Authority: RCW 27.53.030, [27.53.]060, [27.53.]080 and 1988 c 124 §§ 1, 3, 5, 6 and 7. 88-23-004 (Order 88-06), § 25-48-105, filed 11/4/88. Statutory Authority: RCW 27.34.220 and 27.44.020. 86-13-001 (Order 11), § 25-48-105, filed 6/5/86.]

WAC 25-48-108 Right of first refusal—Discovery of new technology. (1) Any agency, institution, person, firm, or corporation which has been denied a permit because the historic archaeological resource would be destroyed beyond mitigation by their method of salvage shall have the right of first refusal for a permit at a future date should technology be found which would make salvage possible without destroying the historic archaeological resource.

(2) Such rights may be assigned, but it is the responsibility of the parties to the assignment to provide written evidence of the assignment to the department, including the correct name and mailing address of the assignee.

(3) Upon receipt of a complete permit application and determination that a new technology can salvage the resource, the director shall notify by certified mail, return receipt requested, the holder of the right of first refusal of a permit application that a new technology exists and the holder has sixty days from the receipt of the director's determination to submit its own permit application and thereby exercise its first refusal right, or the right shall be extinguished.

(4) If the person, firm, corporation, institution, or agency that possesses the first refusal right for a permit does not exercise its first refusal right within the sixty-day time period, the department shall send to that entity a notice by certified mail, return receipt requested, that the entity's right of first refusal has been extinguished.

[Statutory Authority: RCW 27.53.030, [27.53.]060, [27.53.]080 and 1988 c 124 §§ 1, 3, 5, 6 and 7. 88-23-004 (Order 88-06), § 25-48-108, filed 11/4/88.]

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 summarily suspend a permit by immediately issuing a written order which incorporates a finding to that effect.

(2) The office shall provide written notice and the notice of right to request a public hearing 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.

[Statutory Authority: RCW 27.34.220 and 27.44.020. 90-01-091, § 25-48-110, filed 12/19/89, effective 1/19/90; 86-13-001 (Order 11), § 25-48-110, filed 6/5/86.]

WAC 25-48-120 Appeals relating to permits. Any affected person may request a hearing to appeal a denial, suspension, or revocation of a permit or extinguishment of a

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right of first refusal under WAC 25-48-108 to the director. Said request must be in writing and filed with the director within twenty-one calendar days of receipt of notice of the denial, suspension, revocation, or extinguishment.

[Statutory Authority: RCW 27.53.030, [27.53.]060, [27.53.]080 and 1988 c 124 §§ 1, 3, 5, 6 and 7. 88-23-004 (Order 88-06), § 25-48-120, filed 11/4/88. Statutory Authority: RCW 27.34.220 and 27.44.020. 86-13-001 (Order 11), § 25-48-120, filed 6/5/86.]

WAC 25-48-125 Listing of areas where permits are required to protect historic archaeological sites on aquatic lands. The following is a list of those areas where permits are required to protect historic archaeological sites on aquatic lands:

Lake Washington.

Elliott Bay.

Columbia River Bar.

[Statutory Authority: RCW 27.53.030, [27.53.]060, [27.53.]080 and 1988 c 124 §§ 1, 3, 5, 6 and 7. 88-23-004 (Order 88-06), § 25-48-125, filed 11/4/88.]

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.

[Statutory Authority: RCW 27.34.220 and 27.44.020. 86-13-001 (Order 11), § 25-48-130, filed 6/5/86.]

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.

[Statutory Authority: RCW 27.34.220 and 27.44.020. 86-13-001 (Order 11), § 25-48-140, filed 6/5/86.]