

ASM POLICY REGARDING EXCAVATION OF HUMAN REMAINS ON PRIVATE LAND

*Arizona Board of Regents Policy Manual, Rules Implementing A.R.S. §41-865
Disturbing Human Remains or Funerary Objects on Lands Other than State Lands*

Rules and Interpretations

8-101(F): “Landowner is the individual, partnership, or corporation having legal title to the property on which Human Remains are reported to be present; or a lessee, or an agent designated to act on behalf of the landowner or lessee with respect to actions that might disturb Remains as defined here and with respect to compliance with the provisions of A.R.S. §41-865 and these rules.”

"Agent" is interpreted to mean, but is not limited to, archaeological contractor.

8-103(A): “Any Landowner having intention to disturb Remains on lands other than State Lands or federal lands, or having unintentionally disturbed such Remains, shall immediately cease any disturbance of Remains and shall promptly notify the Coordinator in writing of such disturbance or intent to disturb.”

8-103(A)(1): “In the Notice of Intent to Disturb, the Landowner shall identify the proposed action, the location of the proposed action, the observed characteristics of the Remains, and shall request permission to disturb such Remains.”

"Proposed action" is interpreted to mean why Remains are to be disturbed and how Remains will be treated per requirements for Report of Remains identified below.

8-109(A): “Upon request by Landowners and to the extent resources are available, Arizona State Museum personnel, or consultants qualified to produce a Report of Remains, may provide assistance in prior evaluation of the potential for disturbance of Remains.”

"Consultant" is interpreted to mean, but is not limited to, archaeological contractor. A consultant may provide assistance in prior evaluation, but in so doing the consultant must be qualified to produce a Report of Remains.

8-109(B): “Groups claiming responsibility for Remains prior to removal may request assistance by Arizona State Museum personnel or consultants qualified to produce a Report of Remains, in the removal, documentation or preservation of Remains according to standard archaeological procedures.”

A consultant must be qualified to produce a Report of Remains, in the removal,

documentation or preservation of Remains according to standard archaeological procedures.

8-101(I): "Report of Remains" means a written report describing the following:

1. "Removal of Remains": Identification of the names and Group or institutional affiliations of individuals participating in removal; date(s) of activity and the site. Context and identification of Remains including the location from which Remains were removed, specifically identified by county and legal description and including ASM site number if available; cultural identification of the Remains and descriptions of features or materials used in making that determination; map showing geographic location from which Remains were removed; specific context of Remains, type of feature; photograph or, alternatively, detailed drawings showing all Remains identified and removed; inventory of Remains, including number of human bones and bone fragments and inventory of any associated objects, identified as specifically as possible.

2. "Disposition of Remains": Identification of names and Group or institutional affiliations of individuals participating in disposition; date(s) of disposition; and type of disposition (reburial, curation, or other). Identification of Remains including the confirmation that Remains were received as listed in the removal inventory; or a complete list of Remains received for disposition. If the location of disposition is reburial on tribal lands where permanent protection is feasible or if the final disposition is curation in a repository, the reservation or repository should be identified; and if disposition is reburial on state or private lands, specific location of the reburial with a legal description and a map showing the reburial location should be provided.

The definition of a Report of Remains does not require a "qualified" agent but other sections of the rules require such in relation to a Report of Remains. Moreover, much of 8-101(I)(1) necessitates standard archaeological procedures.

Decision

Rules implementing A.R.S. §41-865 provide that an agent acting on behalf of a Landowner be qualified to produce a Report of Remains according to standard archaeological procedure. Therefore, ASM requires that an agent requesting disturbance of Human Remains on behalf of a Landowner must have a demonstrated record of excavation of Human Remains according to standard archaeological practice, have a demonstrated record of previous compliance with §A.R.S. 41-865 and implementing rules, or qualify for listing on an Arizona Antiquities Act permit.

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Revised --