**R453. Cultural and Community Engagement, Historic Preservation.**

**R453-1. Ancient Human Remains.**

**R453-1-1. Purpose.**

The purpose of this rule is to ensure that ancient human remains are given respectful, lawful, and scientifically-sound treatment, that landowners are not harmed or burdened by the discovery of ancient human remains on their property, and to ensure that steps are taken to determine lawful ownership of recovered remains.

**R453-1-2. General Authority.**

The authority for this rule is Section 9-8a-309, effective May 7, 2025.

**R453-1-3. Definitions.**

(1) "Antiquities Section" means the Antiquities Section of the State Historic Preservation Office.

(2) "ancient" means one-hundred years of age or older.

(3) "Native American" means of or relating to a tribe, people, or culture that is indigenous to the United States.

(4) "human remains" means all or part of a physical individual, in any stage of decomposition, and objects on or in association with the physical individual that were placed there as part of the death rite or ceremony of a culture.

(5) "nonfederal land" includes land owned or controlled by the state, a county, city, or town, an Indian tribe, if the land is not held in trust by the United States for the Indian tribe or the Indian tribe's members, a person other than the federal government; or school and institutional trust lands as defined in Section 53C-1-103.

(6) "state land" means any land owned by the state including the state's legislative and judicial branches, departments, divisions, agencies, boards, commissions, councils, and committees, institutions of higher education as defined under Section 53B-3-102. "State land" does not include land owned by a political subdivision of the state, land owned by a school district; private land, school and institutional trust lands as defined in Section 53C-1-103.

(7) "excavate" means the scientific disturbance or removal of surface or subsurface archaeological resources by qualified archaeologists in compliance with Title 9, Chapter 8a, Part 3, Antiquities.

(8) "director" means director of the State Historic Preservation Office.

(9) "local law enforcement agency" means the police department, sheriff's office, or other agency having jurisdiction.

**R453-1-4. Response to Notification of a Discovery of Ancient Human Remains.**

Human remains that are discovered in conjunction with a project or undertaking subject to Title 9, Chapter 8a, Part 4, Historic Sites, or Section 106 of the National Historic Preservation Act, are the responsibility of the project proponents, not the Antiquities Section. The Antiquities Section may however advise, assist, and cooperate with responsible agencies in meeting their obligations regarding ancient human remains. For ancient human remains recovered as part of a compliance project from lands covered by Section 9-8a-309, the Antiquities Section will, following appropriate analyses, and if asked, assume the role of the landowner for purposes of determination of ownership as per Subsection 9-9-403(8).

Upon notification that ancient human remains have been discovered, the Antiquities Section will gather information and consult as necessary with affected agencies and individuals and within two business days determine a course of action with approval of the landowner to leave remains in place or excavate and remove remains and notify the affected agencies and individuals of the decision.

**R453-1-5. Excavation and Removal of Ancient Human Remains.**

If the landowner grants permission for excavation and removal, the Antiquities Section, or its agent, will conduct respectful and scientifically-sound investigations of the remains and will remove the remains from the site within five days of receiving permission to excavate. The Antiquities Section may establish a perimeter around the area of the remains for the protection of staff and the remains. Only Antiquities Section personnel and those individuals with permission from the Antiquities Section will be allowed into the area surrounding the remains until the excavation is completed. If agreed to by the landowner, an alternative agreement may be reached as provided for in Section 9-8a-309(3). If extraordinary circumstances as defined in Subsection 9-8-309(1)(c)(i) exist or arise requiring a time extension, the Antiquities Section will notify the landowner immediately.

If the landowner does not grant permission to excavate and remove the ancient human remains, the Antiquities Section will inform the landowner of the legal restrictions regarding human remains as specified in Section 76-5-802 and Section 76-5-803.

The Antiquites Section will have temporary custody of the remains to identify cultural affiliation and ownership. Those determined to be Native American will be subject to Title 9, Chapter 9, Part 4, Native American Grave Protection and Repatriation Act. For the purposes of determining ownership of remains excavated under Title 9, Chapter 9, Part 4, Native American Grave Protection and Repatriation Act, the Antiquities Section will serve in the capacity of the landowner and will make lineal descent and cultural affiliation ownership determinations in consultation with the Division of Indian Affairs and allowing interested individuals and tribes to assert claims of ownership.

**KEY: ancient human remains, archaeology**

**Date of Last Change: December 15, 2025**

**Authorizing, and Implemented or Interpreted Law: 9-8a-309; 9-9-403; 76-5-802; 76-5-803**