

**NORTH CAROLINA ADMINISTRATIVE CODES
TITLE 07 – NATURAL AND CULTURAL RESOURCES
SUBCHAPTER 04R – ARCHAEOLOGY AND HISTORIC PRESERVATION SECTION
SECTION .1600 – ARCHAEOLOGICAL PERMITS**

07 NCAC 04R .1601 DEFINITIONS

The following definitions, as well as the definitions set forth in G.S. 70-12, shall apply to Section .0800 and this Section, unless otherwise indicated:

- (1) "Abandoned shipwrecks" means sunken vessels, ships, boats, and other watercraft and their associated cargoes, tackle, and materials that have remained unclaimed for 10 years as set forth in G.S. 121-22.
- (2) "Applicant" means a person or entity applying for a permit or license to conduct any archaeological investigations on State lands or archeological sites, or any type of exploration, recovery, or salvage operations of any part of an Abandoned shipwreck or its contents.
- (3) "Emergency archaeological investigation" means any surface collection, subsurface test, excavation, or other activity that results in the disturbance or removal of archaeological resources occurring on State lands or Abandoned shipwrecks undertaken because of:
 - (a) the accidental discovery of archaeological resources during construction or other ground disturbing activities; or
 - (b) threat of damage or destruction to archaeological resources caused by events including vandalism, fire, erosion, land clearing, road construction, dredging, flood, or hazardous contamination.
- (4) "Ground disturbance" means any activity that compacts or disturbs the ground including disturbance upon State lands or Abandoned shipwrecks related to the construction, alteration, trenching or expansion of dikes, borrow pits, utility lines, airports, bridges, housing developments, boat basins and channels, and the placement of fill or spoil dirt.
- (5) "Land controlling agency" means the State agency with management responsibilities for State land.
- (6) "Permit" means written authorization in accordance with these Rules to conduct archaeological investigation on State lands or Abandoned shipwrecks.
- (7) "Protected Area" means an area identified by the Department of Natural and Cultural Resources as having scientific, archaeological, or historical value, as evaluated by criteria set forth in 36 C.F.R. 60.4.
- (8) "Principal Investigator Archaeologist" means a person possessing the following:
 - (a) a postgraduate degree or equivalent training and experience in archaeology, anthropology, history, or another related field with a specialization in archaeology;
 - (b) a minimum of one year's experience in conducting archaeological field research; and

- (c) a minimum of five years' experience in theoretical and methodological design and in collecting, handling, analyzing, evaluating, and reporting archaeological data.
- (9) "Risk of harm" means any disclosure of the nature or location of any archaeological resource that results or may result in the loss or destruction of archaeological context or information or the loss of historical, scientific, environmental, monetary, or religious attributes and values attributable to in archeological sites and artifacts.
- (10) "State Archaeologist" means the head of the Office of State Archaeology (Archaeology Section), Division of Historical Resources, Office of Archives and History, Department of Natural and Cultural Resources.
- (11) "State lands" shall mean "land" as defined in G.S. 70-12.
- (12) "Archaeological artifacts" means those materials showing human workmanship or modification or having been used or intended to be used or consumed by humans, including relics, monuments, tools and fittings, utensils, instruments, weapons, ammunition, and treasure trove and precious materials including gold, silver, bullion, pottery, ceramic, and similar or related materials.

History Note: Authority G.S. 70-12; 70-13; 70-14; 121-4; 121-22; 121-23; 143B-62(1)(h); Eff. June 1, 2017.

07 NCAC 04R .1602 ARCHAEOLOGICAL INVESTIGATIONS ON STATE LANDS

(a) Any person conducting archeological investigations on State lands or Abandoned shipwrecks shall obtain a permit. Upon consultation with the Department of Administration and subject to the criteria and discretion set forth in this Section, Article 2 of G.S. 70 and Article 3 of G.S. 121, the State Archaeologist, as designee of the Secretary of the Department of Natural and Cultural Resources, may grant permits to any person wishing to conduct terrestrial or underwater archaeological investigations on State lands, the exploration, recovery, or salvage of abandoned shipwrecks, and of underwater archaeological artifacts of state-owned bottoms in navigable waters.

(b) No archaeological investigation, exploration, recovery, or salvage operations shall be conducted on State lands or Abandoned shipwrecks without a permit from the Department of Natural and Cultural Resources.

(c) After issuance, no permit or any part thereof shall be assigned or sublet.

(d) Permits shall be either General or Specific, as follows:

- (1) General Permits shall be issued to those land controlling agencies that employ Principal Investigator Archaeologists on a full time permanent basis to conduct archaeological investigations on State lands or Abandoned shipwrecks under the agency's control in accordance with the rules in this Section; and
- (2) Specific Permits shall be issued to Principal Investigator Archaeologists and shall include all permits other than General Permits.

(e) No permit shall be required for employees of the Department of Natural and Cultural Resources to conduct investigations being conducted as part of the Department's responsibilities.

History Note: Authority G.S. 70-13; 70-14; 121-23; 121-25; 143B-10; 143B-62(1)(h); Eff. June 1, 2017.

07 NCAC 04R .1603

APPLICATION FOR ARCHAEOLOGICAL PERMITS

(a) General Permit. Applications for a land controlling agency shall include the following information:

- (1) a written description of the lands controlled by the agency, including the county and township;
- (2) a description of the nature and objectives of the investigation(s);
- (3) the name, address, telephone number, and qualifications of the principal investigator archaeologist;
- (4) evidence that the requirements of Rule .1604 of this Section are met;
- (5) the facility for curation of all artifacts, records, data, photographs, and other documents or information resulting from the investigations;
- (6) written protocols and procedures for access to records and artifacts of the facility where such records and artifacts are to be curated;
- (7) facilities and plans for stabilization and preservation of perishable or unstable artifacts;
- (8) the person or position in the institution or agency with responsibility for curation of artifacts and records and other documentation or information as to who shall determine access to this material; and
- (9) the principal investigator archeologist's plans, if any, for dissemination of the results of the investigation in addition to the reporting requirements of Rule .1611 of this Section.

(b) Specific Permit. Applicants for Specific Permits shall submit applications to the State Archaeologist at least 30 days prior to the proposed start date of the archaeological investigations. Each Specific Permit application shall include:

- (1) a written description of the location of the proposed investigation, including the county and township;
- (2) a 1: 24,000 or larger scale map depicting the location of the proposed investigation;
- (3) a description of the nature, objectives and scope of the proposed investigation, including the methods to be employed and the requirements for clearing of vegetation;
- (4) the schedule for the investigation, including hours of the day and days of the week, as well as beginning and completion dates. The schedule shall include 60 days for review and comment of the draft report by the State Archaeologist and the land-controlling agency and a maximum of 30 days for response, revisions, and submittal of the final report by the applicant;
- (5) the name, address, telephone number, institutional affiliation, and qualifications of the principal investigator archaeologist;

- (6) the name, address, telephone number, and qualifications of the field director, if different from the principal investigator;
- (7) the approximate number of people proposed to carry out the investigation;
- (8) evidence of the applicant's capability to initiate, conduct, and complete the proposed investigations, such as prior training or participation in the type of investigation proposed in the application;
- (9) written criteria for evaluation of requests for access to records and artifacts at the facility where the records and artifacts are to be curated;
- (10) the facility identified for curation of all artifacts, records, data, photographs, and other documents or information resulting from the investigation;
- (11) written concurrence from the land-controlling agency regarding the applicant's proposed curatorial arrangements;
- (12) facilities and plans for stabilization and preservation of perishable or unstable artifacts;
- (13) the person or position in the institution or agency with responsibility for curation of artifacts and records, and other documentation or information as to who will determine access to this material;
- (14) a description of the type and timing of all access needs on State property, vehicular or otherwise, required to conduct the investigations;
- (15) a description of how the project will be coordinated with the site-specific land manager, including the applicant's documentation that initial contact has been made and the name of the person contacted;
- (16) a description of the provisions to be made to secure the permit area to assure the safety of non-project personnel who may visit the permit area during and after project hours;
- (17) an indication of the length of time each excavation unit will be open and a schedule for reclaiming all areas disturbed by any aspect of the archaeological investigations; and
- (18) the applicant's plans, if any, for dissemination of the results of the investigations in addition to the reporting requirements noted in Rule .1612 of this Section.

(c) Applications shall be sent to the State Archaeologist, Office of State Archaeology, 4619 MSC, Raleigh, NC 27699-4619, via U.S. Mail.

History Note: Authority G.S. 70-13; 70-14; 121-4(13); 121-23; 121-25; 143B-10; 143B-62(1)(h); Eff. June 1, 2017.

07 NCAC 04R .1604

REQUIREMENTS FOR AND ISSUANCE OF PERMITS

(a) Applicants for permits to conduct archaeological investigations shall certify on the application that they:

- (1) have a postgraduate degree, or equivalent training and experience, in archaeology, anthropology, history, or another related field with a specialization in archaeology;

- (2) have a minimum of one year's experience in conducting archaeological field research;
- (3) have obtained and submitted for review by the State Archaeologist a criminal record check by the State Bureau of Investigation as set forth in G.S. 70-13.1 and G.S. 121-25.1;
- (4) have funds, equipment, and facilities to undertake and complete the operation, provide supervision of all phases of the operation, and demonstrate the ability to carry out acceptable investigations that meet current professional standards, like those established by the Society for Historical Archaeology, the Conference on Underwater Archaeology, or the American Museum Association;
- (5) will undertake the proposed activity for the purpose of furthering archaeological knowledge;
- (6) will employ accepted techniques of survey, excavation, recovery, recording, preservation, and analysis used in investigations as follows:
 - (A) for investigations on State lands, the Secretary of Interior's Standards for Archaeology and Historic Preservation which is incorporated by reference, including subsequent amendments and editions, available for free at https://www.nps.gov/history/local-law/arch_stnds_0.htm, and available for inspection at no cost in the Office of State Archaeology; and
 - (B) for Abandoned shipwrecks, applicants shall use the Abandoned Shipwreck Act Guidelines which is incorporated by reference, including subsequent amendments and editions, available for free at https://www.nps.gov/history/local-law/arch_stnds_0.htm, and available for inspection at no cost in the Office of State Archaeology; and
- (7) will conserve the archaeological artifacts recovered during the proposed project and ensure that those artifacts and all original archaeological records and data associated with the undertaking shall be conserved and curated in accordance with the National Park Service Standards as set forth in 36 CFR.

(b) General Permits shall be issued or denied to a land-controlling agency within 90 days following submission of the completed application provided the terms and requirements of the rules in this Section pertaining to General Permits are fulfilled.

(c) The Specific Permit shall be issued or denied within 90 days following submission of the completed application provided the terms and requirements of the rules in this Section pertaining to Specific Permits are fulfilled.

(d) A Specific Permit shall not be issued to any person or entity conducting an Emergency archaeological investigation until the State Archaeologist receives and accepts a final report in accordance with Rules .1611 and .1612 of this Section.

(e) No General or Specific Permit shall be considered valid until a signed and dated original copy is returned to the State Archaeologist by the permittee.

History Note: Authority G.S. 70-11; 70-13; 70-13.1; 121-4(13); 121-23; 121-25; 121-25.1; 143B-10; 143B-62(1)(h); Eff. June 1, 2017.

07 NCAC 04R .1605

DURATION, EXTENSION, AND RENEWAL OF PERMITS

(a) A Permit issued under this Section shall be extended or renewed in accordance with this Rule. Requests to extend or renew a Permit shall be submitted in writing to the State Archaeologist. The requests shall include:

- (1) the permittee's name, address, and telephone number;
- (2) a copy of the original permit;
- (3) whether the request is for an extension or renewal;
- (4) the time limit requested for an extension, not to exceed six months;
- (5) a statement describing the need for the extension or renewal; and
- (6) a statement certifying compliance with Rule .1604 of this Section.

(b) General Permits shall be valid for a period of five years from the date of issuance. General Permits may be extended for up to six months as requested by the permittee or renewed for five additional years. General Permits shall be extended only once, but may be renewed any number of times.

(c) Specific Permits shall be valid for a period of three years from the date of issuance. Specific Permits may be extended for up to six months as requested by the permittee or renewed for three additional years. Specific Permits may be extended only once, but may be renewed any number of times.

(d) Requests shall be approved or denied by the State Archaeologist based on:

- (1) the information submitted in the request under Paragraph (a); and
- (2) evaluation of past performance under the permit, such as compliance with the terms and conditions under the Permit and the progress of work completed under the Permit.

*History Note: Authority G.S. 70-13; 70-14; 121-23; 121-25; 143B-62(1)(h);
Eff. June 1, 2017.*

07 NCAC 04R .1606

TERMS AND CONDITIONS OF PERMITS

(a) All permits shall specify:

- (1) the nature and extent of the investigations allowed under the permit, including the time, duration, scope, location, and purpose of the investigations;
- (2) the name of the individual responsible for conducting the investigations and, if different, the name of the individual responsible for carrying out the terms and conditions of the permit;
- (3) the name of the land-controlling agency, university, museum, or other scientific or educational institution in which any collected materials and data will be deposited; and
- (4) the reporting requirements and schedule as set forth in Rules .1611 and .1612; and

- (5) other terms and conditions as determined by the Department to be necessary to ensure public safety, protect natural and cultural resources, safeguard land uses, and limit activities to investigations authorized under the permit.

(b) Inspections may occur at the archeological investigation site to ensure that the terms and conditions of the permit are being met.

(c) The permittee shall obtain and submit evidence of liability insurance upon acceptance of the terms and conditions of the permit.

(d) Archaeological investigations conducted under a permit shall comply with all applicable state, federal, and local rules and regulations.

(e) All access to State-owned lands during permitted investigations shall be controlled by and coordinated with the land-controlling agency and the site-specific land manager, such as superintendents, wardens, or facilities managers.

(f) Applicants shall restore all project lands to their pre-project condition by the conclusion of the field investigations.

(g) The land-controlling agency shall report in writing to the Secretary of the Department of Administration and State Archaeologist any change the Principal Investigator Archaeologist named in a General Permit within 10 days of that change.

*History Note: Authority G.S. 70-13; 70-14; 121-23; 121-25; 143B-62(1)(h);
Eff. June 1, 2017.*

07 NCAC 04R .1607

PERMIT DENIAL, SUSPENSION AND REVOCATION

(a) A permit may be denied if the State Archeologist finds that:

- (1) the proposed investigations would represent an adverse effect, as defined in 36 C.F.R. 800.5(a)(1), to a unique or fragile natural resource, such as endangered plant or animal species;
- (2) the proposed investigations would interfere with the operation and management of an area;
- (3) the proposed investigations would pose a threat to public safety;
- (4) the applicant has not completed the terms and conditions of a previous permit; or
- (5) the results of the required criminal record check reveal one or more convictions listed in G.S. 70-13.1 or G.S. 125-25.1.

(b) A permit may be suspended or revoked if the State Archaeologist, in consultation with the Department of Administration, finds that:

- (1) the terms and conditions of the permit have been or are being violated;
- (2) the permit applicant is convicted of a crime enumerated in G.S. 70-13.1 or G.S. 125-25.1;
- (3) the permit holder fails to comply with the rules in this Section or applicable State or federal laws; or
- (4) disclosure of information that the Department has determined would create a risk of harm in accordance with G.S. 70-18.

*History Note: Authority G.S. 70-13; 70-14; 121-23; 121-24; 121-25; 143B-10; 143B-62(1)(h);
Eff. June 1, 2017.*

07 NCAC 04R .1609 EMERGENCY ARCHAEOLOGICAL INVESTIGATIONS

(a) Emergency archaeological investigations on State lands or Abandoned shipwrecks shall not require a Permit. Emergency archaeological investigations shall include any unforeseen discovery of artifacts or records found during any land disturbing activity, whether or not through a permit issued under this Section, conducted on State lands or Abandoned shipwrecks.

(b) Upon discovery or the need for an Emergency archaeological investigation, the State Archaeologist shall be notified. The State Archaeologist shall oversee the administration of Emergency archaeological investigations. The State Archaeologist shall designate a Principal investigator archaeologist to lead the investigation. Reporting requirements for emergency archaeological investigations shall be those set forth in Rule 1611 and .1612.

(c) All artifacts and associated records recovered during emergency archaeological investigations shall remain the property of the State of North Carolina and shall be maintained in a repository approved by the State Archaeologist. Facilities where State-owned collections are maintained shall comply federal curation standards as set forth at 36 C.F.R. 79.

*History Note: Authority G.S. 70-13; 70-14; 121-23; 123-25; 143B-10; 143B-62(1)(h);
Eff. June 1, 2017.*

07 NCAC 04R .1611 REPORTING REQUIREMENTS FOR GENERAL PERMITS; REVIEW

(a) Reports of archaeological investigations conducted under the terms of a General Permit shall be submitted to the State Archaeologist (OSA).

(b) Final reports concerning archaeological investigations and emergency archaeological investigations shall be submitted by the end of the calendar year that follows the year in which the archaeological investigations were completed.

(c) The principal investigator archaeologist may request to extend the submission of the final report as set forth in Paragraph (d) of this Rule. The request shall be in writing to the State Archaeologist and include a copy of the permit. The State Archaeologist may extend the date to submit the final report based on the following factors:

- (1) environmental changes;
- (2) changes in the project specifications by the project sponsor; or
- (3) unforeseen discoveries of complex or fragile archaeological materials, including human remains.

(d) The principal investigator archaeologist shall provide in the report to OSA:

- (1) information concerning the physical location of artifacts, records, and all other documentation for all archaeological investigations;
- (2) itemized list of all recovered archaeological resources by type, variety, material, or other description and a list of accession numbers or other identifiers applied to the recovered resources;

- (3) an itemized list of records, photographs, and other documents and a list of accession numbers or other identifiers applied to the records and data; and
- (4) a summary of the results of all archaeological investigations as part of the report(s) required by the permit.

(e) The State Archaeologist and head of the land-controlling agency shall review at least once a year the permittee's performance under any General Permit issued for a period greater than one year. The State Archaeologist shall review the final reports for General Permits to ensure that the reports meet the federal Secretary of the Interior's Standards for Archaeology and Historic Preservation and may request revisions of the final report if said standards are not met.

(f) The State Archaeologist shall have 60 days following receipt of any report to review and return written comments on the report to the land-controlling agency and the principal investigator archaeologist.

(g) The principal investigator shall revise and submit the final report, in accordance with the State Archaeologist written comments, within 30 days of receipt of review and comments by the State Archaeologist.

History Note: Authority G.S. 70-13; 70-14; 121-4; 121-23; 121-25; 143-10; 143B-62(1)(h); Eff. June 1, 2017.

07 NCAC 04R .1612 REPORTING REQUIREMENTS FOR SPECIFIC PERMITS; REVIEW

(a) Permittees shall prepare and submit to the State Archaeologist and the head of the land-controlling agency reports for all archaeological investigations conducted under Specific Permits in accordance with this Rule.

(b) The permittee shall maintain a daily log of all project activities, including the types of equipment used and site conditions. The permittee shall provide copies of the daily log to the State Archaeologist upon request.

(c) The permittee shall submit a letter to the State Archaeologist within 60 days after completion of the on-site archaeological investigation describing the activities conducted under the investigation. The letter to the State Archaeologist shall include the date for submission of the draft report as required by Paragraph (d) of this Rule.

(d) The permittee shall submit draft reports according to the schedule established in the permit or, in the case of emergency archaeological investigations, by the date specified in the letter as required in Paragraph (c) of this Rule. Draft reports submitted for emergency archaeological investigations shall include information on storage and curation of artifacts, records, and other data in accordance with the specifications in Rule .1603(b)(9) through (13) of this Section.

(e) The permittee shall submit final reports no later than 90 days after submission of the draft report.

(f) If the specified submission date for a draft report of emergency archaeological investigations extends beyond one year from the date of submission a letter, as set forth in Paragraph (c) of this Rule, shall be submitted a year from the issuance date of the permit.

(g) The permittee or, in the case of an emergency archaeological investigation, the Principal Investigator Archaeologist, shall provide in the final report the following information:

- (1) the physical location of artifacts, records, and all other documentation;
- (2) an itemized list of all recovered archaeological resources by type, variety, material, or other description and a list of accession numbers or other identifiers applied to the recovered resources; and
- (3) an itemized list of records, photographs, and other documents and a list of accession numbers or other identifiers applied to the records and data.

(h) The permittee shall be responsible for the accuracy and validity of the data contained in the final report submitted to the Department of Natural and Cultural Resources.

(i) Permits issued for a period greater than one year shall be reviewed at least once a year through interim reports submitted by the permittee and by compliance inspections conducted at the investigation location. The review shall be conducted with the State Archaeologist and the head of the land-controlling agency or his or her designee. The interim report shall include: the name of the permittee, the location where the investigation is being conducted, the permit number, the name of the Principal Investigator Archaeologist, a description of the project goals, a description of the methods of research, all archaeological findings, and the project schedule.

(j) The State Archaeologist and the land-controlling agency shall review all draft and final reports for Permits to ensure that the investigations serve the public interest and the reports meet the federal Secretary of Interior's Standards for Archaeology and Historic Preservation which are incorporated by reference, including subsequent amendments and editions, for free at https://www.nps.gov/history/local-law/arch_stdns_0.htm, and available for inspection at no cost at the Office of State Archaeology. The State Archaeologist may request revisions of the draft or final reports. Terms and conditions of a Permit shall be considered satisfied only after report revisions have been completed and the report has been accepted by the State Archaeologist.

(k) The State Archaeologist and the land-controlling agency have 60 days after receipt to review and comment on draft reports and return written comments to the permittee.

(l) The Principal Investigator Archaeologist shall revise and submit the final report, in accordance with the State Archaeologist written comments, within 30 days of receipt of review and comments by the State Archaeologist.

History Note: Authority G.S. 70-13; 70-14; 121-4; 121-23; 121-25; 143B-10; 143B-62(h); Eff. June 1, 2017.

07 NCAC 04R .1613

CUSTODY OF RESOURCES UNDER TERMS OF PERMITS

(a) The archaeological resources that are collected, excavated, or removed from State lands or Abandoned shipwrecks and related records and data shall remain the property of the State of North Carolina.

(b) The location of all records, artifacts, or other materials shall not be changed from that approved in the permit without prior approval of the State Archaeologist and, in the case of Specific Permits, the land-controlling agency. This restriction shall not apply to the temporary removal and relocation of artifacts or records for the purposes of scientific, historical, or educational research or for purposes of public display or education, so long as the artifacts or records remain:

- (1) In the case of General Permits, under the custody or control of the Principal Investigator Archaeologist or the land-controlling agency; or

- (2) In the case of Specific Permits, under the custody or control of the museum, university, or

scientific or educational institution approved in the permit.

(c) Transfers of records and artifacts between universities, museums, and scientific or educational institutions shall be approved by the State Archaeologist. In the case of General Permits this Paragraph shall not apply to the movement of artifacts in the custody of a land-controlling agency so long as the artifacts remain under the control of the Principal Investigator Archaeologist and the land-controlling agency.

(d) All requests to relocate or transfer records, artifacts, or other materials related to a permit issued under this Section shall be in writing to the State Archaeologist. The requests shall include:

- (1) the permittee's name, address, and telephone number;
- (2) a copy of the permit;
- (3) a statement specifying whether the request is for relocation or transfer;
- (4) a description of items being relocated or transferred;
- (5) a statement describing the reason needed for the relocation or transfer;
- (6) the name, address, and telephone number of the institution where the items will be relocated or transferred; and
- (7) a letter from the permittee certifying that the receiving institution meets the qualifications for curation and preservation of the items as set forth in 36 C.F.R. 79

(e) Following a review of the application materials, the State Archaeologist shall notify the permittee in writing of its decision to approve or deny the request. Requests for relocation or transfer may be denied by the State Archaeologist if it:

- (1) would harm the safety of the item, such as by theft, vandalism, or risk of accidental damage; or
- (2) result in damage to the item, such as fading, breaking or, cracking due to overexposure from light, air, moisture, or additional movement.

History Note: Authority G.S. 70-13; 70-14; 121-23; 121-25; 143B-10; 143B-62(1)(h); Eff. June 1, 2017.