

Permits for Archeological Investigations

Part 1: Overview

A Permit for Archeological Investigations (“Permit;” also known as “ARPA Permit”) is required for an archeological investigation conducted by non-NPS personnel on fee-simple park lands unless carried out under a supervised contract with NPS for archeological services. Non-NPS personnel includes independent researchers, institutions, and personnel from other Federal agencies.

When individuals conduct archeological activities on NPS lands without a valid Permit, they are in violation of the Archaeological Resources Protection Act (ARPA), the Antiquities Act, and other statutes concerning federal or federally-controlled property. They are subject to criminal and/or civil penalties, as well as forfeiture of personal property and artifacts.

The NPS does not issue Permits for activities carried out by NPS archeologists, or to archeologists working on archeological projects under a contract. Contracts for archeological investigations that are not managed by an NPS cultural resource manager benefit from review by an NPS archeologist. The Secretary of the Interior’s standards for archeological investigations apply equally to NPS archeologists, archeologists working on NPS archeological projects under a contract, and all permit-holders.

Permits are required not only for ground-disturbing investigations that remove artifacts, but also for investigations that do not involve ground disturbance or artifact collection. Examples of ground-disturbing investigations include excavation, shovel testing, trenching, coring, and pedestrian survey with artifact removal. Non-invasive examples of archeological investigations include remote sensing, terrestrial LiDAR documentation, photo-documentation, and underwater and terrestrial survey without artifact removal.

Other types of ground-disturbing activities, such as geological coring, that are not archeological in nature, require other types of permits. These activities must also comply with National Historic Preservation Act (NHPA) Section 106¹ and the National Environmental Policy Act.

This guidance is organized according to the responsibilities of the parties involved: Applicants, NPS Archeologists, and Federal Land Managers (Regional Directors, park superintendents, and/or unit managers).

Authority for Issuing a Permit

A Permit (sometimes called an ARPA Permit) may be issued under the Archaeological Resources Protection Act (ARPA) or the Antiquities Act or both. Archeological projects carried out on federal lands between 1906 and 1979 were permitted under the legal authority of the Antiquities Act ([54 USC 320301-320303: Monuments, Ruins, Sites, and Objects of Antiquity](#) and [18 USC 1866\(b\)](#)) and Antiquities

¹ The National Historic Preservation Act was repealed 2014 in order to become positive law in 54 USC. The name of the public law is still customarily used, as is “Section 106” and “Section 110.”

Act regulations. The Antiquities Act authorized the Secretaries of the Departments managing federally-owned or controlled public land — primarily Interior, Agriculture, and War — to grant Permits for archeological activities on those lands. The Antiquities Act regulations stipulated that the Smithsonian Institution approve the project before a Permit was granted.

Beginning in 1927, the Departmental Consulting Archeologist (DCA) coordinated with the Smithsonian Institution on behalf of the Interior Department bureaus to issue Permits. In 1958, the DCA was given direct authority to issue Permits on behalf of the Secretary of the Department of the Interior. This authority was transferred to Department of the Interior bureau chiefs in 1984. Within the NPS, Permit authority is delegated to the Regional Directors. The Chief Archeologist provides guidance on appeals of decisions to deny, suspend, or revoke permits; and requests to search for treasure trove.

At present, most of the Permits are issued under the 1979 Archaeological Resource Protection Act (ARPA). ARPA and the ARPA regulations contain guidance for issuing and enforcing Permits, and define "archeological resources" as "...any material remains of human life or activity which are at least 100 years of age and which are of archeological interest" ([43 CFR 7.3\(a\)](#)). Permits for investigation of material remains that are older than 50 years, and defined as archeological resources under NPS regulations ([36 CFR 1.4\(a\): What terms do I need to know?](#)), but are younger than 100 years, may be issued under the Antiquities Act. In both cases, the permitting process is the same.

Who Needs a Permit?

Permits are required for all archeological investigations that are not initiated by or under the control of the NPS that take place on fee-simple national parklands. For example, Permits are required for:

- independent archeological investigations, including field schools;
- archeological investigations to fulfil requirements for NHPA Section 106 compliance for projects initiated by other parties, such as commercial enterprises, or for Federal undertakings initiated by the NPS but contracted to a second party, such as construction;
- for archeological investigations initiated by other Federal agencies;
- Projects initiated by or paid for by friends group or cooperative association, or through a cooperative agreement with the park unit. (A cooperator may be any state or local government, tribal government, public or private agency, organization, institution, corporation, individual, or other entity who enters into a cooperative agreement with a unit of the NPS.)
- Archeological investigations of sunken or terrestrial military craft act that are under the jurisdiction of the NPS require a Permit. Multiple authorizations may be required for disturbance of a sunken military craft. The U.S. Navy has agreements to streamline permitting requirements. Applicants may approach either the U.S. Navy or the NPS to initiate a joint permitting process and receive further guidance.

Who Doesn't Need a Permit?

Persons carrying out official duties under direction of an NPS archeologist are exempt from permitting requirements. NPS archeologists, or by archeologists working on archeological projects under a contract and supervised or monitored by NPS archeologists, do not require a Permit.

The park manager is responsible to ensure that archeological projects are in alignment with National Historic Preservation Act (NHPA) Section 106 and ARPA regulations and do not conflict with management goals. Failure on the part of park managers to comply with NHPA Section 106 can result in criminal violations of ARPA and prosecution in Federal court.

Non-archeologist park staff administering an NPS archeological contract are responsible for compliance with NHPA Section 106 and ARPA regulations. They should coordinate with the park or regional archeologist to ensure that the project is in compliance with relevant laws and conforms to the Secretary of the Interior's Standards for Archeology and Historic Preservation (https://www.nps.gov/history/local-law/arch_stnds_0.htm).

Personnel responsible for remediation projects under the Comprehensive Environmental Response, Compensational Liability Act (CERCLA), are not required to obtain a Permit for Archeological Investigations for the portion of removal or remedial action related to archeological site contamination ([42 USC 9621\(e\)\(1\): Cleanup Standards](#)). If circumstances permit, however, project managers are encouraged to apply for a Permit for any archeological activity on fee-simple park lands carried out as part of the undertaking. Any remedial action, however, must comply with the substantive portions of both ARPA and NHPA. Offsite remedial activity, such as building a road to remove contaminated materials also requires Section 106 compliance and, if archeological activities are involved, a Permit for Archeological Investigation.

What Activities Need a Permit?

All types of archeological investigations on parklands require NPS authorization in the form of a Permit. Such activities include ground-disturbing activities such as excavation, shovel testing, trenching, coring; underwater and terrestrial survey without artifact removal; underwater archeology; and non-ground-disturbing activities such as rock art documentation, remote sensing, metal detecting, photo-documentation, geophysical research, geospatial recording, and other non-invasive, non-ground disturbing, or non-collection research strategies. Any activity that has the potential for ground disturbance must also comply with NHPA Section 106.

What Activities Don't Need a Permit?

Permits are not required for:

- Activities carried out in the park under other permits, leases, licenses or entitlements for use when those activities are exclusively for purposes other than the excavation or removal of archeological resources ([43 CFR 7.5\(b\)\(1\) Permit requirements and exceptions](#)). (Any ground disturbance or data collection requires the park involved to comply with NHPA Section 106 and NEPA, however).
- Permits are not currently required for NPS contracts for archeological services. If the contract is not administered by an NPS archeologist, it is very beneficial for an NPS archeologist to review the contract.
- NHPA Section 106 compliance is not required for the act of issuing a Permit for Archeological Investigations in and of itself, though archeological projects, as undertakings (that require the issuance of a permit), must comply with NHPA Section 106. A Federal undertaking is defined as a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out

with Federal financial assistance; **those requiring a Federal permit, license or approval**; and those subject to state or local regulation administered pursuant to a delegation or approval by a Federal agency (36 CFR [800.16\(y\)](#)). While the issuance of a Permit is a Federal undertaking, ARPA specifically exempts the act of issuing a Permit from compliance with NHPA Section 106. "Issuance of a permit in accordance with the Act [ARPA] and this part does not constitute a undertaking requiring compliance with section 106 of [NHPA]" ([43 CFR 7.12: Relationship to section 106 of the National Historic Preservation Act.](#)) The *project* requiring the Permit, however, must comply with NHPA Section 106.

Other Permits and Permissions That May be Needed

A Permit for Archeological Investigations may not be the only permit required for an archeological investigation. Activities that are associated with archeological projects on parklands but that are not a component of the research project may require additional NPS permits.

Both applicants and NPS managers should consider whether project activities will require additional permissions and permits. It is the responsibility of the Principal Investigator or project manager to obtain any necessary additional permits.

Permission from Nonfederal Landowners

NPS units sometimes contain non-federally owned lands. Non-federally owned lands may include privately owned lands, state lands, tribal lands, or lands under the authority of other federal agencies. Archeological investigations that take place on non-federally owned lands that are managed by the NPS require written permission from private landowners, authorized tribal representatives, or state authorities as well as an NPS Permit for Archeological Investigations.

Special Use Permit

Activities associated with archeological fieldwork that have the potential to impact the park environment, such as dry-screening or water-screening, or establishing a field camp, may also require a Special Use Permit in addition to a Permit for Archeological Investigations. For example, Special Use Permits may be issued for establishment of a camp associated with the excavation or survey. A Special Use Permit may also be needed for project-related activities such as water-screening of archeological samples.

Special Use Permits are issued by the manager of the park where the activity will take place. Guidance on the need for Special Use Permits, and the conditions under which these permits are issued are found in the [NPS Management Policies \(2006\)](#).

Section 8.6. Further information may be found in [Director's Order DO #53](#). The "Special Park Uses" application form for a Special Use Permit is available from the park unit where the research will be conducted.

Scientific Research and Collecting Permit

A Scientific Research and Collecting Permit is required for most activities pertaining to natural resources in parks that involve fieldwork or specimen collection, or that have the potential to disturb resources or visitors. Archeological activities that involve collection of non-archeological data, such as biomass

studies to establish carrying capacity or sampling trees for dendrochronological studies, requires a Scientific Research and Collecting Permit. Archeological investigations that involve sampling or measuring natural resources may require both a Permit for Archeological Investigations and a Scientific Research and Collecting Permit. The park must ensure that any activity that has the potential for ground disturbance complies with NHPA Section 106.

Scientific Research and Collecting Permits are issued by the manager of the park where the research will take place. The [NPS Research Permit and Reporting System website](#) provides information about preparing an application for a Scientific Research and Collecting Permit.

Archeological Collections Research Authorization

Research on archeological collections from national parks does not require a Permit for Archeological Investigations, but does require an NPS Archeological Collections Research Authorization from the manager of the park that is responsible for the collection and coordination with the repository for research-related visits. Researchers should contact the park manager to obtain authorization to conduct research on archeological collections from a specific park.

Access to, and use of, archeological collections recovered from parklands do not require a formal permit. Such use, however, must be authorized by the park manager who, according to [36 CFR Part 79, Curation of Federally Owned and Administered Archaeological Collections](#), works with the park curator or collections manager, NPS collections manager, or museum or facility holding the park's collections. Park personnel are encouraged to use the [NPS Museum Handbook, Part III \(1998\)](#) Chapter 1, Part K, Checklist: Evaluating a Request to Use Museum Objects (scroll to page 1:54) and the [NPS Museum Handbook, Part II \(2000\)](#) Appendix D, Figure D.16, Researcher Registration Form (scroll to page D:153) to authorize use of collections.

Treasure Trove Contract

Treasure trove usually refers to gold or silver coin, plate, bullion, or negotiable currency that is found buried underground or submerged under water, or concealed elsewhere (for example, in a house or other structure), and for which the owner of the object(s) is unknown. As a general policy, the NPS does not allow treasure trove activities on parklands, and does not release accidentally discovered treasure trove to the finder.

Searching for or claiming discovered treasure trove on federally-owned land requires authorization in the form of a contract with the General Services Administration (GSA). Treasure trove requests are processed as contracts with the GSA, not NPS. Individuals requesting permission to search for treasure on Federal land must contact the Administrator, General Services Administration, 1800 F Street, NW, Washington, DC, 20006, by mail.

Although GSA is authorized to issue contracts to treasure trove applicants, such contracts for searching on parklands also require NPS permission. GSA personnel contact the park superintendent of the park unit for permission when a request to search for treasure trove on parklands has been received. The park must ensure that any activity that has the potential for ground disturbance complies with NHPA Section 106.

Department of the Navy Archeological Research Permits

American sunken military craft are the property of the Navy unless property rights are extinguished. Requests to investigate sunken military craft on NPS land are submitted to the NPS using an application for a Permit for Archeological Investigation. NPS personnel will forward the request to the Naval History and Heritage Command for consideration.

For more information about Navy Archeological Research Permits, visit the [Naval History and Heritage Command webpage](#).

Commercial Applications and Benefits Sharing

Benefits sharing occurs when NPS receives monetary or non-monetary benefits from the commercial use of a discovery or invention resulting from research originating under an NPS permit or authorization. Any artifacts or other resources collected or otherwise studied or used under a Permit, and research results derived from specimens or resources are to be used for scientific or educational purposes only. They may not be used for commercial or other revenue-generating purposes unless the Permit holder has a written agreement to share benefits with the NPS, or an agreement in which the NPS declines to share benefits. Selling artifacts and providing unauthorized transfers or loans of artifacts to third parties is prohibited. These conditions remain in force after the expiration of the Permit.

For more information about benefits sharing, visit the [Benefits Sharing in the National Parks webpage](#).