

Virginia Antiquities Act of 1991

§ 10.1-2300. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Field investigation" means the study of the traces of human culture at any site by means of surveying, sampling, excavating, or removing surface or subsurface material, or going on a site with that intent.

"Object of antiquity" means any relic, artifact, remain, including human skeletal remains, specimen, or other archaeological article that may be found on, in or below the surface of the earth which has historic, scientific, archaeological or educational value.

"Person" means any natural individual, partnership, association, corporation or other legal entity.

"Site" means a geographical area on dry land that contains any evidence of human activity which is or may be the source of important historic, scientific, archaeological or educational data or objects.

"State archaeological site" means an area designated by the Department in which it is reasonable to expect to find objects of antiquity.

"State archaeological zone" means an interrelated grouping of state archaeological sites.

"State archaeologist" means the individual designated pursuant to § [10.1-2301](#).

"State-controlled land" means any land owned by the Commonwealth or under the primary administrative jurisdiction of any state agency. State agency shall not mean any county, city or town, or any board or authority organized under state law to perform local or regional functions. Such land includes but is not limited to state parks, state wildlife areas, state recreation areas, highway rights-of-way and state-owned easements.

(1977, c. 424, § 10-150.3; 1984, c. 750; 1988, c. 891, § [10.1-900](#); 1989, c. 656; 2005, c. [457](#).)

§ 10.1-2301. Duties of Director.

The Director shall:

1. Coordinate all archaeological research on state-controlled land and in state archaeological sites and zones;

2. Coordinate a survey of significant archaeological sites located on state-controlled land, and upon request, survey and officially recognize significant archaeological sites on privately owned property;
3. Identify, evaluate, preserve and protect sites and objects of antiquity which have historic, scientific, archaeological or educational value and are located on state-controlled land or on state archaeological sites or zones;
4. Protect archaeological sites and objects located on state-controlled land or on state archaeological sites or zones from neglect, desecration, damage and destruction;
5. Ensure that archaeological sites and objects located on state-controlled land or on state archaeological sites or zones are identified, evaluated and properly explored so that adequate records may be made;
6. Encourage private owners of designated state archaeological sites to cooperate with the Commonwealth to preserve the site;
7. Encourage a statewide archaeological education program to inform the general public of the importance of its irreplaceable archaeological heritage; and
8. Designate the State Archaeologist to (i) assist the Director by coordinating, overseeing, or otherwise carrying out the provisions of this chapter and (ii) perform such other duties as required by the Director. The State Archaeologist shall be a technically trained archaeologist and shall have both a practical and theoretical knowledge of archaeology.

(1977, c. 424, §§ 10-150.2, 10-150.8; 1984, c. 750; 1988, c. 891, § 10.1-901; 1989, c. 656; 2005, c. [457](#).)

§ 10.1-2302. Permit required to conduct field investigations; ownership of objects of antiquity; penalty.

- A. It shall be unlawful for any person to conduct any type of field investigation, exploration or recovery operation involving the removal, destruction or disturbance of any object of antiquity on state-controlled land, or on a state archaeological site or zone without first receiving a permit from the Director.
- B. The Director may issue a permit to conduct field investigations if the Director finds that it is in the best interest of the Commonwealth, and the applicant is a historic, scientific, or educational institution, professional archaeologist or amateur, who is qualified and recognized in the area of field investigations or archaeology.
- C. The permit shall require that all objects of antiquity that are recovered from state-controlled land shall be the exclusive property of the Commonwealth. Title to some or all objects of antiquity which are discovered or removed from a state archaeological site not located on state-controlled land may be retained by the owner of such land. All objects of antiquity that are

discovered or recovered on or from state-controlled land shall be retained by the Commonwealth, unless they are released to the applicant by the Director.

D. All field investigations, explorations, or recovery operations undertaken pursuant to a permit issued under this section shall be carried out under the general supervision of the Director and in a manner to ensure that the maximum amount of historic, scientific, archaeological and educational information may be recovered and preserved in addition to the physical recovery of objects.

E. If the field investigation described in the application is likely to interfere with the activity of any state agency, no permit shall be issued unless the applicant has secured the written approval of such agency.

F. Any person who violates the provisions of this section shall be guilty of a Class 1 misdemeanor.

(1977, c. 424, § 10-150.5; 1984, c. 750; 1988, c. 891, § 10.1-903; 1989, c. 656.)

§ 10.1-2303. Control of archaeological sites; authority of Director to contract.

A. The Commonwealth of Virginia reserves to itself, through the Director, the exclusive right and privilege of field investigation on sites that are on state-controlled land. The Director shall first obtain all permits of other state agencies required by law. The Director is authorized to permit others to conduct such investigations.

B. All objects of antiquity derived from or found on state-controlled land shall remain the property of the Commonwealth.

(1977, c. 424, §§ 10-150.4, 10-150.6; 1984, c. 750; 1988, c. 891, § 10.1-904; 1989, c. 656.)

§ 10.1-2304. Designating archaeological sites and zones.

The Director may designate state archaeological sites and state archaeological zones on private property or on property owned by any county, city or town, or board or authority organized to perform local or regional functions in the Commonwealth provided that the Director secures the express prior written consent of the owner of the property involved. No state archaeological site or zone located on private property may be established within the boundaries of any county, city or town which has established a local archaeological commission or similar entity designated to preserve, protect and identify local sites and objects of antiquity without the consent of the local governing body. Field investigations may not be conducted on a designated site without a permit issued by the Director pursuant to § [10.1-2302](#).

(1977, c. 424, § 10-150.7; 1984, c. 750; 1988, c. 891, § 10.1-905; 1989, c. 656.)

§ 10.1-2305. Permit required for the archaeological excavation of human remains.

A. It shall be unlawful for any person to conduct any type of archaeological field investigation involving the removal of human skeletal remains or associated artifacts from any unmarked human burial regardless of age of an archaeological site and regardless of ownership without first receiving a permit from the Director.

B. Where unmarked burials are not part of a legally chartered cemetery, archaeological excavation of such burials pursuant to a permit from the Director shall be exempt from the requirements of §§ [57-38.1](#) and [57-39](#). However, such exemption shall not apply in the case of human burials within formally chartered cemeteries that have been abandoned.

C. The Department shall be considered an interested party in court proceedings considering the abandonment of legally constituted cemeteries or family graveyards with historic significance. A permit from the Director is required if archaeological investigations are undertaken as a part of a court-approved removal of a cemetery.

D. The Board shall promulgate regulations implementing this section that provide for appropriate public notice prior to issuance of a permit, provide for appropriate treatment of excavated remains, the scientific quality of the research conducted on the remains, and the appropriate disposition of the remains upon completion of the research. The Department may carry out such excavations and research without a permit, provided that it has complied with the substantive requirements of the regulations promulgated pursuant to this section.

E. Any interested party may appeal the Director's decision to issue a permit or to act directly to excavate human remains to the local circuit court. Such appeal must be filed within fourteen days of the Director's decision.

(1989, c. 656.)

§ 10.1-2306. Violations; penalty.

It shall be unlawful to intentionally deface, damage, destroy, displace, disturb or remove any object of antiquity on any designated state archaeological site or state-controlled land.

Any person who violates this section shall be guilty of a Class 1 misdemeanor.

(1977, c. 424, § 10-150.10; 1988, c. 891, § 10.1-906; 1989, c. 656.)