

**Document:** Proposed Rule

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**TITLE 312 NATURAL RESOURCES COMMISSION**

**Proposed Rule**

LSA Document #00-243

**DIGEST**

Adds 312 IAC 22 to provide standards for the treatment of ancient human remains, burial objects, and artifacts. Repeals 310 IAC 20. Effective 30 days after filing with the secretary of state.

**310 IAC 20**

**312 IAC 22**

SECTION 1. 312 IAC 22 IS ADDED TO READ AS FOLLOWS:

**ARTICLE 22. HUMAN REMAINS, BURIAL OBJECTS, AND ARTIFACTS**

**Rule 1. Definitions**

**312 IAC 22-1-1 Application of definitions**

**Authority:** IC 14-21-1-25; IC 14-21-1-31

**Affected:** IC 14-21-1

**Sec. 1. The definitions contained in this rule apply throughout this article and are in addition to those set forth in 312 IAC 1.** *(Natural Resources Commission; 312 IAC 22-1-1)*

**312 IAC 22-1-2 “Agricultural purpose” defined**

**Authority:** IC 14-21-1-25; IC 14-21-1-31

**Affected:** IC 14-21-1

**Sec. 2. “Agricultural purpose” includes the following:**

- (1) Farming.**
- (2) Dairying.**
- (3) Pasturage.**
- (4) Agriculture.**
- (5) Horticulture.**
- (6) Floriculture.**
- (7) Vitaculture.**
- (8) Ornamental horticulture.**
- (9) Olericulture.**
- (10) Pomiculture.**
- (11) Animal husbandry.**
- (12) Poultry husbandry.**

*(Natural Resources Commission; 312 IAC 22-1-2)*

**312 IAC 22-1-3 “Artifact” defined**

**Authority:** IC 14-21-1-25; IC 14-21-1-31

**Affected:** IC 14-21-1

**Sec. 3. “Artifact” means an object made or shaped by human workmanship before December 11, 1816.** *(Natural Resources*

*Commission; 312 IAC 22-1-3)*

**312 IAC 22-1-4 “Burial ground” defined**

**Authority:** IC 14-21-1-25; IC 14-21-1-31

**Affected:** IC 14-21-1

**Sec. 4. “Burial ground” means ground in which human remains are buried, including the land associated with or incidental to the burial of human remains.** *(Natural Resources Commission; 312 IAC 22-1-4)*

**312 IAC 22-1-5 “Burial object” defined**

**Authority:** IC 14-21-1-25; IC 14-21-1-31

**Affected:** IC 14-21-1

**Sec. 5. “Burial object” means an item intentionally placed in a burial ground at or near the time of burial.** *(Natural Resources Commission; 312 IAC 22-1-5)*

**312 IAC 22-1-6 “Cultural” defined**

**Authority:** IC 14-21-1-25; IC 14-21-1-31

**Affected:** IC 14-21-1

**Sec. 6. “Cultural” means patterned behavior consisting of beliefs, values, customs, art, morals, or laws practiced in whole or in part by a corporate group of society as a measure of inclusiveness that is verifiable by archaeological, historical, or anthropological study.** *(Natural Resources Commission; 312 IAC 22-1-6)*

**312 IAC 22-1-7 “Division” defined**

**Authority:** IC 14-21-1-25; IC 14-21-1-31

**Affected:** IC 14-9-4-1; IC 14-21-1

**Sec. 7. “Division” means the division of historic preservation and archaeology.** *(Natural Resources Commission; 312 IAC 22-1-7)*

**312 IAC 22-1-8 “Division director” defined**

**Authority:** IC 14-21-1-25; IC 14-21-1-31

**Affected:** IC 14-21-1

**Sec. 8. “Division director” means the director of the division.** *(Natural Resources Commission; 312 IAC 22-1-8)*

**312 IAC 22-1-9 “Historic property” defined**

**Authority:** IC 14-21-1-25; IC 14-21-1-31

**Affected:** IC 14-21-1

**Sec. 9. “Historic property” means any historic site, historic structure, or other personal or real property located on or in a historic site or historic structure.** *(Natural Resources Commission; 312 IAC 22-1-9)*

**312 IAC 20-1-10 “Historic site” defined**

**Authority:** IC 14-21-1-25; IC 14-21-1-31

**Affected:** IC 14-21-1

**Sec. 10. “Historic site” means any site that is important to the general, archaeological, agricultural, economic, social, political, architectural, industrial, or cultural history of Indiana. A historic site includes any adjacent property that is necessary to the preservation or restoration of the site.** *(Natural Resources Commission; 312 IAC 22-1-10)*

**312 IAC 22-1-11 “Historic structure” defined**

**Authority:** IC 14-21-1-25; IC 14-21-1-31

**Affected:** IC 14-21-1

**Sec. 11. “Historic structure” means any structure that is important to the general, archaeological, agricultural, economic, social, political, architectural, industrial, or cultural history of Indiana. A historic structure includes any adjacent property that is necessary to the preservation or restoration of the structure. (Natural Resources Commission; 312 IAC 22-1-11)**

**312 IAC 22-1-12 “Human remains” defined**

**Authority: IC 14-21-1-25; IC 14-21-1-31**

**Affected: IC 14-21-1**

**Sec. 12. “Human remains” means any part of the body of a human being in any stage of decomposition or state of preservation. However, this article does not apply to the human remains of individuals dying after December 31, 1939. (Natural Resources Commission; 312 IAC 22-1-12)**

**312 IAC 22-1-13 “Investigation” defined**

**Authority: IC 14-21-1-25; IC 14-21-1-31**

**Affected: IC 14-21-1**

**Sec. 13. “Investigation” means an archaeological or historical investigation that does the following:**

**(1) Principally employs amateur archaeologists.**

**(2) Is not under the control or supervision of a principal investigator.**

**(3) Uses systematic methods and techniques to locate, identify, evaluate, recover, treat, analyze, and conserve artifacts and associated contexts.**

**(4) Results in the production of a report detailing its various activities and findings.**

*(Natural Resources Commission; 312 IAC 22-1-13)*

**312 IAC 22-1-14 “Plan” defined**

**Authority: IC 14-21-1-25; IC 14-21-1-31**

**Affected: IC 14-21-1**

**Sec. 14. “Plan” means an archaeological plan for the systematic recovery, analysis, and disposition by scientific methods of material evidence and information about the life and culture in past ages. (Natural Resources; 312 IAC 22-1-14)**

**312 IAC 22-1-15 “Principal investigator” defined**

**Authority: IC 14-21-1-25; IC 14-21-1-31**

**Affected: IC 14-21-1**

**Sec. 15. “Principal investigator” means the individual who is responsible for coordinating, developing, and completing an archaeological project under IC 14-21-1 and 312 IAC 20. (Natural Resources Commission; 312 IAC 22-1-15)**

**312 IAC 22-1-16 “Register” defined**

**Authority: IC 14-21-1-25; IC 14-21-1-31**

**Affected: IC 14-21-1-15**

**Sec. 16. “Register” means the register of Indiana historic sites and historic structures established under IC 14-21-1-15. (Natural Resources Commission; 312 IAC 22-1-16)**

**312 IAC 22-1-17 “Related field” defined**

**Authority: IC 14-21-1-25; IC 14-21-1-31**

**Affected: IC 14-21-1**

**Sec. 17. “Related field” means anthropology, physical anthropology, or another discipline to archaeology where archaeological or bioarchaeological course work and fieldwork are part of the background and research. (Natural Resources Commission; 312 IAC 22-1-17)**

**312 IAC 22-1-18 “Religious” defined**

**Authority: IC 14-21-1-25; IC 14-21-1-31**

**Affected: IC 14-21-1**

**Sec. 18. “Religious” means a system of beliefs, symbols, rituals, or ideology practiced in whole or in part by a corporate group of society that:**

- (1) serves to define human, sacred, or supernatural relations and the rationale for human existence; and**
- (2) is verifiable by archaeological, historical, or anthropological study.**

*(Natural Resources Commission; 312 IAC 22-1-18)*

**312 IAC 22-1-19 “Review board” defined**

**Authority: IC 14-21-1-25; IC 14-21-1-31**

**Affected: IC 14-21-1-20**

**Sec. 19. “Review board” means the historic preservation review board established under IC 14-21-1-20.** *(Natural Resources Commission; 312 IAC 22-1-19)*

**312 IAC 22-1-20 “Scientific investigation” defined**

**Authority: IC 14-21-1-25; IC 14-21-1-31**

**Affected: IC 14-21-1**

**Sec. 20. “Scientific investigation” means an archaeological, anthropological, physical anthropological, or historical investigation that does the following:**

- (1) Is conducted under the control or supervision of a principal investigator.**
- (2) Employs specialized, systematic methods and techniques to locate, identify, evaluate, recover, treat, analyze, and conserve any artifacts, burial objects, and buried human remains and associated contexts.**
- (3) Produces a report detailing its various activities and findings.**

*(Natural Resources Commission; 312 IAC 22-1-20)*

**312 IAC 22-1-21 “Site” defined**

**Authority: IC 14-21-1-25; IC 14-21-1-31**

**Affected: IC 14-21-1**

**Sec. 21. “Site” means any aboriginal mound, fort, earthwork, village location, burial ground, ruin, mine, cave, battleground, shipwreck, or other similar location on land or under water or any location that contains or once contained a structure.**

*(Natural Resources Commission; 312 IAC 22-1-21)*

**312 IAC 22-1-22 “Structure” defined**

**Authority: IC 14-21-1-25; IC 14-21-1-31**

**Affected: IC 14-21-1**

**Sec. 22. “Structure” means any manmade construction.** *(Natural Resources Commission; 312 IAC 22-1-22)*

**312 IAC 22-1-23 “Traditional” defined**

**Authority: IC 14-21-1-25; IC 14-21-1-31**

**Affected: IC 14-21-1**

**Sec. 23. “Traditional” means a cultural or religious practice or behavior pattern that is:**

- (1) shared by a corporate group;**
- (2) passed from generation to generation as part of the socialization process; and**
- (3) verifiable by archaeological, historical, or anthropological study.**

*(Natural Resources Commission; 312 IAC 22-1-23)*

**Rule 2. Intentional and Accidental Discoveries of Human Remains and Artifacts; Permits**

**312 IAC 22-2-1 Application**

**Authority: IC 14-21-1-25; IC 14-21-1-31**

**Affected: IC 14-21-1-27; IC 14-22-1; IC 14-34; IC 23-14**

**Sec. 1. (a) This article establishes standards for each of the following:**

- (1) Investigations.**
- (2) Scientific investigations.**
- (3) The accidental discovery or purposeful disturbance of archaeological sites and human remains on any property.**
- (4) The issuance of permits.**
- (5) Permit conditions required to satisfy IC 14-22-1 and this article.**

**(b) A person must satisfy this article where:**

- (1) an investigation or scientific investigation is required;**
- (2) a permit must be issued or conditioned;**
- (3) the director issues an order to locate, identify, evaluate, recover, treat, or protect artifacts, burial objects, or burial grounds; or**
- (4) human remains require treatment or reburial.**

**(c) Except as required by IC 14-21-1-27, this article does not apply to the following:**

- (1) Surface coal mining regulated under IC 14-34.**
- (2) Cemeteries and human remains subject to regulation under IC 23-14.**
- (3) Disturbing the earth for an agricultural purpose.**
- (4) Collecting any object, other than human remains that is visible in whole or in part on the surface of the ground, regardless of the time the object was made.**

**(d) This article sets forth how the department shall protect human remains discovered as a result of an accidental discovery, the conduct of an investigation, the conduct of a scientific investigation, or a violation of IC 14-21-1. The department may, according to the context, condition, or nature of the discovery of the human remains, do any of the following:**

- (1) Take custody of the human remains.**
- (2) Assign or remand custody or ownership of the human remains to an institution that satisfies 312 IAC 22-3-9(f).**
- (3) Designate or prescribe the conditions or scheduling for the reburial of remains under 312 IAC 22-3-9(b).**

*(Natural Resources Commission; 312 IAC 22-2-1)*

### **312 IAC 22-2-2 Administration**

**Authority: IC 14-21-1-25; IC 14-21-1-31**

**Affected: IC 4-21.5-1-15; IC 14-21-1**

**Sec. 2. (a) The division is responsible for conduct of the technical and professional functions of the department under this article.**

**(b) The review board or the division director may make an initial order or determination under this article.**

**(c) The commission is the ultimate authority for a final order or determination under this article.** *(Natural Resources Commission; 312 IAC 22-2-2)*

### **312 IAC 22-2-3 Permits**

**Authority: IC 14-21-1-25; IC 14-21-1-31**

**Affected: IC 14-21-1-26; IC 14-21-1-28**

**Sec. 3. (a) No person may disturb the ground, or continue the disturbance following an accidental discovery, for the purpose of discovering or removing artifacts, burial objects, grave markers, or human remains without a prior permit issued by the department under IC 14-22-1-26, IC 14-22-1-28, and this article.**

**(b) Except as provided in section 7 of this rule, an applicant for a permit must comply with the following:**

- (1) A plan, which includes the information required under 312 IAC 22-3-2 through 312 IAC 22-3-8, shall be submitted with each permit application.**
- (2) An application to conduct an investigation or a scientific investigation shall be filed at least thirty (30) days before the**

proposed commencement of the project.

(c) An application for a permit to conduct an investigation or a scientific investigation shall be reviewed by the division to determine whether the permit is issued. A favorable determination must be made with respect to each of the following factors before a permit can be issued:

- (1) The application is found to be complete, technically accurate, and feasible.
- (2) The applicant has demonstrated that the information derived will contribute to:
  - (A) Indiana's history or archaeology; or
  - (B) understanding the physical or cultural nature of past human populations.
- (3) The requirements of 312 IAC 22-3-9 are satisfied.
- (4) The applicant will provide for the treatment of human remains in conformance with section 1(d) of this rule.
- (5) The rights and interests of landowners are considered, including written documents that demonstrate each of the following have been adequately addressed by the applicant:
  - (A) A determination of the ownership of any human remains, burial object, or artifact which is recovered.
  - (B) Consent of the landowner for access by the applicant to the site for the purpose of conducting any activities set forth in the permit, including the plan.
  - (C) Consent of the landowner for access by the department to the site to determine compliance with the conditions of the permit.

*(Natural Resources Commission; 312 IAC 22-2-3)*

#### **312 IAC 22-2-4 Notification and permit conditions**

**Authority:** IC 14-21-1-25; IC 14-21-1-31

**Affected:** IC 14-21-1; IC 23-14

Sec. 4. (a) Except as provided in subsections (c) through (d), a person who discovers an artifact or a burial object while disturbing the ground for a purpose other than the discovery of artifacts or burial objects must do the following:

- (1) Immediately cease disturbing the ground.
- (2) Notify the department within two (2) business days after the time of disturbance.

(b) After a notification made under subsection (a) is received, the department may do either of the following:

- (1) Authorize the person to continue the ground disturbing activity with or without conditions.
- (2) Require that continued ground disturbance activity be conducted only under a plan approved under this article. However, this subdivision does not apply if the department does not respond within thirty (30) days from the date that the department receives the notification.

(c) A person who disturbs any human remains must do the following:

- (1) Immediately cease disturbing the ground.
- (2) Notify the department within two (2) business days after the time of the disturbance.

(d) After a notification made under subsection (c) is received, the department may do any of the following:

- (1) Require the person to submit additional information to enable the department an informed determination whether the disturbed human remains are exempt from IC 14-21-1 and this article. Exempt human remains shall be treated and reburied under IC 23-14.
- (2) Authorize the person to continue the ground disturbing activity with or without conditions.
- (3) Require that continued ground disturbance activity be conducted only under a permit issued under this article.

*(Natural Resources Commission; 312 IAC 22-2-4)*

#### **312 IAC 22-2-5 Permit determinations and revocations**

**Authority:** IC 14-21-1-25; IC 14-21-1-31

**Affected:** IC 4-21.5; IC 14-21-1

Sec. 5. (a) Where an application for a permit is received by the department that is not complete, the division may:

- (1) provide instructions to the applicant for completion of the application; or
- (2) return the application with a notification that a permit will not be issued until sections 2 through 3 of this rule are satisfied. A determination under this subdivision is an agency order under IC 4-21.5-1-4 and is subject to administrative

review.

**(b) The department may inspect the site of an investigation or a scientific investigation to determine whether a person is in compliance with IC 14-21-1, this article, and the terms of a permit issued under this article.**

**(c) The department may, under IC 4-21.5-3-8, revoke a permit, if the division determines the permittee has violated IC 14-21-1, this article, or the terms of a permit issued under this article. The director may, under IC 4-21.5-4, seek appropriate emergency or temporary relief with respect to a permit or an activity for which a permit is required. (Natural Resources Commission; 312 IAC 22-2-5)**

### **312 IAC 22-2-6 Disturbing the ground in the absence of or violation of a plan**

**Authority: IC 14-21-1-25; IC 14-21-1-31**

**Affected: IC 14-21-1-26; IC 14-21-1-28**

**Sec. 6. (a) A person who disturbs the ground for the purpose of discovering artifacts or burial objects must do so in accordance with a plan approved by the department in a permit issued under IC 14-21-1 and this article.**

**(b) Criminal sanctions for violation of IC 14-21-1 and this article are set forth in IC 14-21-1-26 and IC 14-21-1-28. (Natural Resources Commission; 312 IAC 22-2-6)**

### **312 IAC 22-2-7 Emergency permits**

**Authority: IC 14-21-1-25; IC 14-21-1-31**

**Affected: IC 4-21.5-4; IC 14-21-1**

**Sec. 7. (a) The division director may, under IC 4-21.5-4, issue an emergency permit to conduct a scientific investigation where imminent or irreparable damage to an historic site or a burial ground is likely to occur due to natural or cultural causes before a permit can be processed under section 3(b) of this rule.**

**(b) An emergency permit must satisfy each of the following:**

- (1) The performance standards contained in IC 14-21-1.**
- (2) The requirements of 312 IAC 22-3-2 through 312 IAC 22-3-9.**
- (3) To the extent feasible, the requirements of section 3(c) of this rule.**
- (4) Any other conditions set forth by the department in the emergency permit.**

**(c) An emergency permit issued under this section expires on the elapse of ninety (90) days unless an earlier expiration date is set forth in the emergency permit. (Natural Resources Commission; 312 IAC 22-2-7)**

## **Rule 3. Participation; Plans; Personnel; Project Facilities; Analysis; Curation; Treatment and Disposition of Human Remains; Project Documentation; Reporting**

### **312 IAC 22-3-1 Application**

**Authority: IC 14-21-1-25; IC 14-21-1-31**

**Affected: IC 14-21-1**

**Sec. 1. (a) This rule establishes the standards applicable to the following:**

- (1) Participation.**
- (2) Plans.**
- (3) Personnel.**
- (4) Project facilities.**
- (5) Analyses.**
- (6) Curation.**
- (7) Treatment and disposition of human remains.**
- (8) Project documentation.**
- (9) Reporting.**

- (b) The requirements of this rule shall be applied in a manner that recognizes each of the following:
- (1) The important and complex nature of historic sites and burial grounds.
  - (2) The need to provide for scientific investigations that contribute to the understanding of the past.
  - (3) An understanding that important site information in the form of materials and features may be present beyond artifacts, burial objects, and human remains.
  - (4) The need to use specialized methods and techniques in:
    - (A) archaeology;
    - (B) anthropology;
    - (C) geology;
    - (D) biology;
    - (E) physical anthropology; and
    - (F) forensic sciences;for the recovery and analysis of site information.
  - (5) A realization of the paramount role of:
    - (A) archaeologists;
    - (B) cultural anthropologists;
    - (C) physical anthropologists; and
    - (D) related professionals;with specialized training in data recovery, processing, analysis, and reporting to develop, coordinate, or direct scientific investigations.
  - (6) A recognition of the expertise and interest of amateur archaeologists in the participation in site discovery projects and scientific investigations.
  - (7) An understanding of the need to protect:
    - (A) a historic site that is listed on or eligible for listing on the state register of historic sites and structures or the National Register of Historic Places; or
    - (B) a burial ground.

*(Natural Resources Commission; 312 IAC 22-3-1)*

### **312 IAC 22-3-2 Participation**

**Authority:** IC 14-21-1-25; IC 14-21-1-31

**Affected:** IC 14-21-1

**Sec. 2. (a) A scientific investigation must be carried out under the direction of a principal investigator where any of the following conditions are present:**

- (1) The investigation must be conducted to satisfy a state or federal law other than this article.
- (2) The investigation will be conducted on a property owned or leased by the state or one (1) of its agencies.
- (3) The investigation will be funded in whole or in part by the state.
- (4) The investigation will be conducted on a site that is listed on or eligible for listing on the state register of historic sites and structures or the National Register of Historic Places.
- (5) The investigation is likely to result in the discovery of buried human remains.

**(b) A participant in an investigation or scientific investigation who has a supervisory or decision making responsibility must adhere to a code of conduct that does each of the following:**

- (1) Promotes the scientific investigation and conservation of past cultures so the investigation is conducted in the interests of qualified research, environmental review, or historic preservation review related compliance, or site management or protection.
- (2) Demonstrates sensitivity for treating other human beings with respect and dignity.
- (3) Considers the interest and expertise of amateur archaeologists and professional archaeologists.

**(c) A scientific investigation that is approved by the division as part of a federal or state environmental review requirement does not require a separate permit under this article. This subsection does not relieve a person of the responsibility for reporting and responding under IC 14-21-1 and this article to any accidental discovery. *(Natural Resources Commission; 312 IAC 22-3-2)***

### **312 IAC 22-3-3 Plans**

**Authority: IC 14-21-1-25; IC 14-21-1-31**

**Affected: IC 14-21-1**

**Sec. 3. (a) A plan must be submitted with any application for a permit for an investigation or a scientific investigation. The plan shall provide a coherent approach to the type of project or investigation, the environmental and cultural setting, and the type of archaeological or human remains known to exist or yet unidentified in the project area. A plan shall consider the time constraints upon the applicant, the rights and interests of landowners, personnel needed to accomplish the work, and the season and environmental conditions within which work would be accomplished.**

**(b) A plan shall consider the appropriate use of each of the following persons:**

**(1) Professionals in:**

- (A) archaeology;**
- (B) anthropology;**
- (C) physical anthropology;**
- (D) medicine;**
- (E) forensic science;**
- (F) biology;**
- (G) cultural geography;**
- (H) geology; and**
- (I) paleontology.**

**(2) Amateur archaeologists.**

**(c) A plan for a scientific investigation that will address an archaeological site, result in the recovery of artifacts, or result in the recovery of burial objects or buried human remains shall satisfy the requirements under subsections (b) and (d) and section 4 of this rule.**

**(d) A plan for a scientific investigation where buried human remains are likely to be recovered or disturbed shall additionally provide a scientific justification for the recovery or disturbance of those human remains that does each of the following:**

- (1) Demonstrates the need to recover or disturb the buried human remains to protect, treat, or conserve the remains or important scientific information that might otherwise be lost through unavoidable natural or human activities.**
- (2) Defines a methodology governed by systematic scientific methods that incorporates recording, recovery, and conservation methods and techniques used by professional archaeologists and related professionals who routinely locate, identify, record, recover, analyze, treat, conserve, and curate human remains.**
- (3) Demonstrates the disturbed or recovered human remains are and will be treated in a dignified and respectful fashion that recognizes their cultural, religious, or traditional importance to living human groups.**

**(e) A plan submitted to conduct an investigation, other than a scientific investigation, shall include each of the following:**

- (1) The location of the project area, including the county, township, range, and section and, if available, the street address.**
- (2) A description of the project area, including the natural environment and cultural environment.**
- (3) The portion of the United States Geological Survey Quadrangle Section map (1:24000) that locates the area and an accurate map of the area of investigation.**
- (4) A clearly and concisely written plan supported by appropriate references and other written material that justifies the need to undertake the recovery of buried artifacts.**
- (5) A demonstration that the recovery, if undertaken, will contribute to the understanding, interpretation, or conservation of Indiana's historic and archaeological resources.**
- (6) An identification of the methods to be employed that will enable the recording and recovery of artifacts and associated contexts in a systematic and controlled fashion.**
- (7) A process that will result in minimal damage to organic and fragile materials during recording and recovery.**
- (8) Provision for notes, drawings, photographs, collections of artifacts, descriptive lists of recovered artifacts and samples, and documents that will enable the permittee to produce a report of the findings.**
- (9) Standards for plan and profile maps of all excavation units and exposed or excavated features or cultural strata.**
- (10) The names of persons or organizations who may work during the investigation and recovery of artifacts.**
- (11) The name and address of the person who will have supervisory or decision making responsibility for the investigation.**
- (12) The beginning date and ending date of the investigation.**

- (13) The place where any recovered artifacts and curated or associated contexts will be cleaned, processed, and housed.
  - (14) A proposal for the conservation of artifacts and associated context through:
    - (A) the documentation of an agreement with an established institution; or
    - (B) if the permittee will provide for conservation, a conservation plan that describes how the recovered artifacts and associated context will be conserved to prevent degradation and the loss of integrity.
  - (15) A proposal for access to the completed project for continued or future research.
  - (16) A strategy for the timely termination of the project and the protection of the site if the project:
    - (A) discovers human remains or burial objects; or
    - (B) identifies buried deposits that have been defined by the department as nonrecoverable without the assistance or direction of a principal investigator under section 2(a) of this rule.
- (f) A final report of findings must be submitted under this section in accordance with the following specifications:
- (1) The use of standard quality paper on white bond, eight and one-half (8½) inches wide and eleven (11) inches long.
  - (2) Inclusion of a title page with the:
    - (A) project title;
    - (B) project supervisor;
    - (C) name of the organization; and
    - (D) if applicable, name of the agency or institutional affiliation, any coauthors, and date of issuance of the report.
  - (3) Inclusion of a table of contents, as well as any appropriate figures and appendices.
  - (4) Acknowledgements to persons and organizations assisting in the project.
  - (5) Appropriate reference to the plan approved as part of the permit, including a statement of investigation goals and methods.
  - (6) Data analysis.
  - (7) Results of the investigations.
  - (8) Conclusions and recommendations.
  - (9) Bibliographic references.
  - (10) Completed Historic Sites and Structures Inventory-Archaeology Site Forms.
  - (11) Copies of completed notes, drawings, a descriptive list of all recovered artifacts and samples and photographs generated by the project.
  - (12) Location where the recovered artifacts and associated contexts will be housed, and the name of the person responsible for curation, if the plan provides for curation.

*(Natural Resources Commission; 312 IAC 22-3-3)*

#### **312 IAC 22-3-4 Personnel qualifications**

**Authority:** IC 14-21-1-25; IC 14-21-1-31

**Affected:** IC 14-21-1

**Sec. 4. (a)** A person who conducts an investigation or a scientific investigation under this article must satisfy the qualification standards established by 312 IAC 21-3-4.

**(b)** In addition to the requirements of subsection (a), the department may require the use of professionals with specialized expertise as appropriate to serve in a capacity equivalent to that of a principal investigator in the exercise of a particular permit involving the removal of human remains or as appropriate to the removal of particular human remains. Persons who may possess the required expertise include those in the areas of archaeology, anthropology, physical anthropology, paleopathology, or another closely related field. Qualifications for these professionals include the following requirements:

- (1) A graduate degree in anthropology or another closely related field as anticipated in this subsection.
- (2) Satisfaction of either of the following:
  - (A) Three (3) years of supervisory experience in archaeology, anthropology, physical anthropology, paleopathology, or a closely related field where the principal focus of professional study has been the recovery, evaluation, analysis, and curation of artifacts, materials and information, burial objects, and human remains discovered in historic, archaeological, or historic burial ground sites, and whose professional work has resulted in the study of paleopathology and human osteology. This work:
    - (i) shall include cranial, postcranial, and dental analysis, and destructive and nondestructive scientific testing of human remains; and
    - (ii) must have resulted in the preparation of a research-oriented monograph, thesis, or dissertation.

**(B) Accreditation by the Forensic Anthropology Section of the American Academy of Forensic Sciences.**

**(c) A field or laboratory supervisor may submit draft and final reports that address the recovery, evaluation, analysis, or curation of human remains. To qualify as a field or laboratory supervisor, a person must satisfy either of the following requirements:**

- (1) A master's degree in archaeology, anthropology, physical anthropology, or paleopathology or a related field and one (1) year of supervisory experience in the excavation or laboratory techniques pertinent to the recovery, evaluation, analyses, and curation of human remains from an historic, archaeological, or a burial ground located within an historic site.**
- (2) Accreditation by the Forensic Anthropology Section of the American Academy of Forensic Sciences.**

**(d) A field or laboratory technician is an assistant supervisor or field or laboratory field or laboratory crew member with experience in archaeological or physical anthropological techniques related to the recovery and preparation for analysis of human remains recovered from historic, archaeological, or historic burial ground sites. A laboratory technician must:**

- (1) be experienced in laboratory analyses and techniques; and**
- (2) hold a bachelor's degree in anthropology, or a closely related field, or possess equivalent background, with one (1) year of field recovery, preparation, or analyses.**

**(e) Qualification for specialists in the fields of medicine, forensic medicine, pathology, or related sciences who are employed during the course of scientific investigations to provide biological, genetic, or chemical information will be based on verifiable professional accreditation or qualifying graduate degrees. (*Natural Resources Commission; 312 IAC 22-3-4*)**

#### **312 IAC 22-3-5 Project facilities**

**Authority: IC 14-21-1-25; IC 14-21-1-31**

**Affected: IC 14-21-1**

**Sec. 5. A person who performs an investigation or a scientific investigation under this article must demonstrate both of the following with respect to project facilities:**

- (1) Adequate facilities and equipment will be provided to conduct any nonfield portions of the plan in a manner which is no less effective than the requirements of 312 IAC 21-3-5.**
- (2) If the recovery of human remains is part of the plan, sufficient arrangements will be made for any special or technical analyses. These arrangements must include reference to paleopathology, osteology, radiometry, radiology, biochemistry, and any other discipline needed to properly evaluate the human remains relative to their cultural and chronological context and condition when recovered.**

*(Natural Resources Commission; 312 IAC 22-3-5)*

#### **312 IAC 22-3-6 Analyses**

**Authority: IC 14-21-1-25; IC 14-21-1-31**

**Affected: IC 14-21-1**

**Sec. 6. (a) A person who performs an investigation or a scientific investigation under this article must demonstrate both of the following:**

- (1) The analysis requirements will be met in a manner which is no less effective than the analysis requirements contained in 312 IAC 21-3-6.**
- (2) If the recovery of human remains is part of the plan, the analysis requirements will be met in a manner which is no less effective than those contained in section 9(a) through 9(c) of this rule.**

**(b) The director may require analyses in addition to those required in section 9(b) through 9(c) of this rule for a scientific investigation that requires the application of specialized technology or methods to resolve issues of genetic affinity or scientific research in the study of past human populations. (*Natural Resources Commission; 312 IAC 22-3-6*)**

#### **312 IAC 22-3-7 Curation; scientific investigations**

**Authority: IC 14-21-1-25; IC 14-21-1-31**

**Affected: IC 14-21-1**

**Sec. 7. (a) The curation of artifacts, materials, and specimens recovered during a scientific investigation is controlled by**

**312 IAC 21-3-8(a) through 312 IAC 21-3-8(b).**

**(b) In addition to the requirements contained in subsection (a), section 9(g) through 9(h) of this rule applies to the recovery of buried human remains. (*Natural Resources Commission; 312 IAC 22-3-7*)**

**312 IAC 22-3-8 Documentation and reporting**

**Authority: IC 14-21-1-25; IC 14-21-1-31**

**Affected: IC 14-21-1**

**Sec. 8. (a) Project documentation and reporting for a scientific investigation is controlled by 312 IAC 21-3-8(a) through 312 IAC 21-3-8(d).**

**(b) In addition to the requirements of subsection (a), this subsection applies if human remains are recovered, evaluated, or analyzed. Documentation shall be provided that details or integrates the results of the study of the human remains to satisfy section 9(b) through 9(c) of this rule with evaluations (based upon the context and condition of those remains) as to their value for ascertaining genetic affinity or scientific value and recommendations for their long term curation.**

**(c) Project documentation and reporting for investigations is controlled by section 3 of this rule. (*Natural Resources Commission; 312 IAC 22-3-8*)**

**312 IAC 22-3-9 Treatment and disposition of human remains**

**Authority: IC 14-21-1-25; IC 14-21-1-31**

**Affected: IC 14-21-1; IC 23-14**

**Sec. 9. (a) In determining whether human remains, which are subject to IC 14-21-1 and this article, should be reburied or should be curated and retained for further analysis and study, the following factors shall be considered by the director:**

- (1) Whether there was a scientific investigation of the burial content and context, including the physical remains and associated artifacts, burial objects, and grave markers.**
- (2) Whether physical anthropological analysis of the remains consistent with prevailing technology will minimally address cultural or genetic affinity through the analysis of biological data.**
- (3) Whether ethnic, ethnohistorical, historical, anthropological, or archaeological documents or records establish the validity or verification of interests.**
- (4) Whether another factor that may be considered under IC 14-21-1 bears upon the propriety of retention or reburial.**

**(b) Subject to verification under subsection (a), the director may require the reburial of human remains. Before reburial occurs, the director shall determine whether scientific value exists that warrants further examination, and, if further examination is needed, the schedule within which the examination must be completed. Factors that may be required during the examination are as follows:**

- (1) An analysis of dentition, including measurements, casting, attrition, pathologies, premortem modifications, and postmortem modifications.**
- (2) An analysis of cranial and postcranial remains for an overall biological assessment of growth, pathologies, trauma, postmortem modifications, nonmetric genetic markings, and measurements.**
- (3) The removal of samples for destructive analyses to ascertain the age of an interment (through Carbon 14 or similar analyses), bone histology, isotope, or trace element analysis, including radiological analyses as applicable to the context and condition of the remains.**
- (4) Other specialized testing determined by the director to be appropriate because of unique or unusual conditions, circumstances, or contexts.**

**(c) Conditional analyses of human remains that are accidentally disturbed or deliberately disturbed in violation of IC 14-21-1 shall be conducted in a timely fashion based upon the availability of qualified professional persons and of facilities suitable for the scientific investigation of human remains.**

**(d) In addition to the requirements of IC 14-21-1 and this article, the reburial of human remains must conform to IC 23-14, except where either of the following is determined:**

- (1) Conditions encountered at a burial ground have integrity so that:**

**(A) in-place scientific investigation may occur; and**

**(B) removal of the human remains is not in the best interests of the protection or preservation of those remains.**

**(2) Where reinterment conditions should replicate those prescribed by cultural, religious, or traditional values and where the reinterment context is the same as disinterment. For example, reinterment may take place on Native American reservation land in Indiana dedicated as a burial ground.**

**(e) A person may petition the director for the reburial of human remains. Any approval of a petition is conditioned upon compliance with IC 14-21-1, this article, and terms contained in the approval. The director may require that the petitioner satisfy the costs of reburial. A person who removes human remains in violation of IC 14-21-1, this article, or a petition approved under this subsection, must satisfy reburial costs. A plan approved in association with a scientific investigation may be required by the director to identify who will satisfy costs associated with the discovery, recovery, analysis, and curation of any human remains. To the extent allowed by law, however, the director may modify the allocation of reburial costs under this subsection if required to prevent manifest injustice.**

**(f) Human remains that are retained for a future scientific investigation may be held only by a public institution, private institution, university, or college that has a faculty or research staff, laboratories, analytical facilities, and curatorial facilities dedicated to the study of the physical and cultural nature of past human populations. Any future scientific investigation of the human remains must be conducted under the direction of a principal investigator or similar professional from a related field in a manner consistent with the scientific investigation of human remains as required in this article. (Natural Resources Commission; 312 IAC 22-3-9)**

SECTION 2. 310 IAC 20 IS REPEALED.

***Notice of Public Hearing***

*Under IC 4-22-2-24, notice is hereby given that on March 26, 2001 at 2:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Room W272, Indianapolis, Indiana the Natural Resources Commission will hold a public hearing on proposed new rules to provide standards for the treatment of ancient human remains, burial objects, and artifacts. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W272 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

Michael Kiley  
Chairman  
Natural Resources Commission