#### 950 CMR 70.00: MASSACHUSETTS HISTORICAL COMMISSION

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## 70.01: Introduction

950 CMR 70.00 are hereby issued pursuant to the authority of M.G.L. c. 9, § 27C.

#### 70.02: Scope and Purpose

950 CMR 70.00 establishes a uniform system for compliance with the so called "Antiquities Act", M.G.L. c. 9, §§ 26 through 27C. The purpose is to standardize the procedures for conducting archeological field investigations in Massachusetts in order to insure the conservation of archeological resources and the highest quality of archeological research. 950 CMR 70.00 is intended to protect the public's interest in archeological resources by controlling activities which will disturb archeological properties, and thus destroy the contextual relationships and associated scientific values of the properties. 950 CMR 70.00 are intended to strengthen and support the archeological community's efforts towards the conservation of archeological properties by setting standards whereby archeological sites will be wisely used. 950 CMR 70.00 recognizes that archeological performance are established in order to insure the conservation of archeological properties, and also to insure full value for public expenditures in archeology. 950 CMR 70.00 recognizes the valuable work of avocational archeologists, and are written to allow their continued participation on field investigations conducted under permit.

#### 70.03: Applicability

(1) No person, corporation, agency, or any other entity, or authority of the Commonwealth or any of its political subdivisions shall conduct field investigation activities on any land owned or controlled by the Commonwealth, its agencies or political subdivisions or on any historical or archeological landmarks or on any lands restricted by M.G.L. c. 184, § 31 without first securing a permit from the State Archeologist. Any individual, corporation, institution, school, agency, or other entity who plans to conduct Destructive Archeological Field Investigations must secure a permit from the State Archeologist if the field investigations will be located on state, county or municipal property; or on lands which are controlled by state, county or municipal easements; or on lands which are being evaluated by state, county or municipal authorities as a part of proposed land modification projects; or on properties which are designated as Massachusetts Historical or ArcheologicalLandmarks as provided by M.G.L. c. 184, § 31; or on any other lands owned or controlled by the Commonwealth, its agencies or political subdivisions.

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#### 70.03: continued

(2) All specimens collected through field investigation activities conducted under permit as provided in 950 CMR 70.00 shall be the property of the Commonwealth.

#### 70.04: Definitions

<u>Applicant</u> means the person(s) or institutions(s) seeking a permit in accordance with M.G.L. c.9, § 27C.

<u>Data Recovery</u> means the systematic removal of the scientic, prehistoric, historic, and/or archeological data that provide an archeological site with its research or data value. Data Recovery means the extensive and intensive excavation of an archeological site for the purposes of the scientific understanding of past cultures.

<u>Field Investigation</u> means the study of traces of human culture or other remains of any land or water site by means of surveying, digging, sampling, excavating or removing surface or subsurface objects, or the entrance onto a site with that intent. Archeological field investigations can be either *Destructive or Non-Destructive*. *Non-Destructive* field investigations are studies which do not alter the physical structure, associations, setting, context or aspects of a site. *Non-Destructive* field investigation can involve a variety of investigative methods such as: archival and documentary research, photography, measured drawing, mapping, walking-over, visual inspection, magnetometer studies, subsurface radar studies, and other remote sensing studies. *Destructive* field investigations are studies which alter the physical structure, associations, setting, context or aspects of a site. There are four levels of *Destructive* field investigations which range from the least to the most destructive: Reconnaissance Survey, Intensive Survey, Site Examination, and Data Recovery (see individual definitions).

<u>Intentive Survey</u> means a systematic and detailed archeological field investigation for the purpose of locating and identifying the sites which exist in a given area.

<u>Inventory</u> means the Inventory of Historic Assets of the Commonwealth which is kept by the Massachusetts Historical Commission and the State Archeologist as provided by M.G.L. c. 9, § 26A.

Inventory Form means Form D of the Massachusetts Historical Commission (see Appendix A).

 $\underline{MHC}$  means the Massachusetts Historical Commission and the State Review Board (as provided by 36 CFR 61.5).

<u>National Register</u> means the National Register of Historic Places which is maintained by the Secretary of the Interior under provisions of the National Historic Preservation Act of 1966.

<u>Northeast</u> means the area of continental North America which is east of the Mississippi River, and was glaciated.

<u>Permittee</u> means the members of a Research Team who receive permit to conduct a field investigation as provided by 950 CMR 70.00.

<u>Permit Application</u> means the form prepared by the State Archeologist to be used in order to request a permit as provided by 950 CMR 70.00 (see Appendix B).

Principal Investigator means the individual directly responsible for an archaeological field investigation.

<u>Reconnaissance Survey</u> means a field investigation which entails small-scale archival and field research relative to the overall complexity of the target area and its resources, designed to provide a general impression of the area's archeological properties.

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#### 70.04: continued

<u>Research Design</u> means a plan outlining the proposed approach to a Reconnaissance Survey, Intensive Survey, Site Examination Project or Data Recovery Project. Minimally, the research design should specify research questions, research methods, and some anticipated results of the study.

<u>Research Team</u> means the group of individuals who are scheduled in the Permit Application to participate in the Field Investigation.

<u>Site</u> means any aboriginal mound, fort, earthwork, village, location, burial ground, historic or prehistoric ruin, quarry, cave or other location one hundred and fifty years old or more, which is or may be the source of valuable archeological data. Valuable archeological data means information that is significant to national, state or local historical or prehistorical research. An archeological site is the geographic locus of the material remains of human activity.

<u>Site examination</u> means an archeological field investigation at an archeological site which gives a preliminary definition of the size, data contents and spatial arrangement of artifacts and features for the purposes of assessing a site's integrity, research potential, and significance, and in order to make an opinion of the potential eligibility of the site for inclusion in the National Register.

Special Permit means a permit issued by the State Archeologist to excavate human skeletal remains.

<u>Specimen</u> means all relics, artifacts, remains, objects, or any other evidence of a historical, prehistorical, archeological, anthropological or paleontological nature 150 years old or more which may be found below or on the surface of the earth, and which have scientific, historical or archeological value, including but not limited to objects of antiquity, aboriginal, colonial or industrial relics, and archeological or paleontological samples.

Summary Report means a report required as part of completion of a field investigation.

U.S.G.S Quad means a 7<sup>1</sup>/<sub>2</sub>' topographic quadrangle of the United States Geological Survey.

#### 70.10: Professional Qualifications

(1) Qualifications of the Research Team

(a) The Research Team should consist of a group of investigators whose cumulative professional backgrounds and experience will be appropriate to the proposed undertaking. The Research Team should assess the adequacy of its qualifications to meet the demands of the Research Design, and take steps to redress any deficiencies or inadequacies either by bringing in associates who have the needed qualifications, or by modifying the scope of the project. Research Teams will normally consist of a principal investigator, field supervisors, laboratory supervisors, field crew, laboratory crew, and professional consultants with a variety of academic backgrounds. Research Teams will normally be interdisciplinary in nature, and may include anthropologists, historic archeologists, prehistoric archeologists, industrial archeologists, technological historians, social historians, agricultural historians, historians, geologists, palynologists, ecologists, geographers, architectural historians, folk lorists, pedologists, etc. as appropriate to the research design. Because archeological field investigations will destroy archeological properties, the Research Team should consist of individuals whose backgrounds in research, field work, and analysis will ensure careful and scientific recording of the non-renewable archeological properties.

(b) The Research Team should include one or more individuals who meet all of the following standards. (Note: Not all members of the Team need meet these standards):

## 70.10: continued

1. A graduate degree in archeology, anthropology, material culture studies or a closely related field;

2. At least 16 months of professional experience or specialized training in archeological field, laboratory or library research including:

a. at least four months of field experience in general North American archeology;

b. at least six months of experience in a supervisory role in northeastern archeology;

3. At least six months field and laboratory experience in sites and specimens of the type and period of the site which is the object of study (i.e. six months experience in industrial archeology if the site is industrial; six months experience in northeastern historical archeology if the site is historical; or six months experience in the prehistoric archeology of glaciated North America if the site is prehistoric).

(2) Qualifications of the Principal Investigator. The Professional Qualifications required for a principal investigator to receive a permit to conduct an archeological field investigation are:

(a) A graduate degree in an academic field which is appropriate for the needs of the Research Design; and

(b) A demonstrated ability to carry research to completion evidenced by timely completion of thesis, research reports, field investigations carried out under previous permits, or similar documents.

## 70.11: Applications for Permits

(1) Non-Destructive Field Investigations: Individuals or Institutions who plan to conduct Non-Destructive Field Investigations do not require a permit from the State Archeologist. However, the State Archeologist should receive written notice of the proposed Non-Destructive Field Investigation. Minimal standards for field investigation and reporting should be maintained. The State Archeologist will cooperate in the planning, conducting and reporting of Non-Destructive Field Investigations. Copies of the final report resulting from the field investigation, and site locational information which is revealed during the field investigation should be submitted to the State Archeologist.

(2) Destructive Field Investigations: Archeological Field Investigations are complex multi-disciplinary studies. An application for a Permit to conduct an Archeological Field Investigation will be evaluated on the soundness of the research proposal and the qualifications of the Research Team to undertake the field investigation. Applications for permits are (a) 950 CMR 70.11(2)(a) General Information, (b) 950 CMR 70.11(2)(b) Qualifications, and (c) 950 CMR 70.11(2)(c) Research Design.

A complete application for an archeological permit to conduct field investigation shall consist of: (a) General Information:

1. A copy of the appropriate U.S.G.S quadrangle(s) with the project area clearly marked;

2. A completed and signed Permit Application (see Appendix B).

(b) Qualifications:

1. A personnel chart which indicates the individuals who will be involved in the field investigation including the principal investigator, supervisors, crew and consultants. Curricula vitarum of key personnel should be included.

2. A project schedule which describes the amount and the nature of effort that individuals on the Research Team will expend during the field investigation.

(c) Research Design:

1. A statement of purpose of the field investigation;

2. A description of the documentary research work which will be performed as a part of the field investigation;

3. A description and justification of the field methods and strategies which will be used as a part of the field investigation;

4. A description of the laboratory tests and analyses which will be used as a part of the field investigation;

## 70.11: continued

- 5. A summary of the results expected from the field investigation;
- 6. A description of the report which will be prepared as a part of the field investigation;

7. A justification for the field investigation which describes why the archeological property should be disturbed at this time.

#### 70.12: Response to Permit Applications

(1) The State Archeologist shall review all Permit Applications. In reviewing the application, the State Archeologist shall consider the adequacy of the Research Design, the adequacy of the Research Team *vis a vis* the Research Design, the past performance of the Principal Investigator, and the justification for the use of the archeological property.

(2) Upon receipt of a Permit Application, the State Archeologist will review the application and supporting documentation, and will inform the applicant in writing within ten working days whether the application is complete. The State Archeologist will review and act upon complete permit applications without delay. Every reasonable effort shall be made to either grant or deny a permit within 20 working days. Unless the State Archeologist denies a permit within 60 days after receipt of a Complete Permit Application, the permit will be considered granted.

(3) When the State Archeologist denies an applicant a permit to conduct a field investigation she/he shall issue a written statement describing the deficiencies in the Permit Application and the reasons for denial of permit.

(4) An applicant may appeal a denial of a permit by the State Archaeologist by filing a Notice of Appeal with the Massachusetts Historical Commission within 21 days. The Commission may appoint a Hearing Officer to conduct a hearing and may base its decision on the report of the Hearing Officer. Although M.G.L. c. 30A, § 9 does not require application of the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.00, because the Commission is not an agency "within the executive offices", nevertheless the Formal Rules, 801 CMR 1.01, shall apply to all Commission adjudicatory proceedings.

#### 70.13: Standards for Field Investigation

An archeologist performing field investigation under permit as provided by M.G.L. c. 9, § 27C, either as a principal investigator or a member of a research team, has a responsibility to attempt to design and conduct projects that will add to our understanding of past cultures and/or that will develop better theories, methods, or techniques for interpreting the archeological record, while causing minimum attrition of the resource base.

(1) The permittee has a responsibility to prepare adequately for any research project. The permittee shall:

(a) Assess the adequacy of her/his qualifications for the demands of the project, and minimize inadequacies by acquiring additional expertise, by bringing in associates with the needed qualifications, or by modifying the scope of the project;

(b) Be well informed about relevant previous research;

(c) Develop a scientific plan of research which specifies the objectives of the project, takes into account previous relevant research, employs a suitable methodology, and provides for economical use of the resource base consistent with the objectives of the project;

(d) Ensure the availability of adequate staff and support facilities to carry the project to completion, and of adequate curatorial facilities for specimens and records.

(2) In conducting research, the permittee shall follow her/his scientific research design, except to the extent that unforeseen circumstances warrant its modification. The permittee shall consult with the State Archeologist in order to modify significantly the research design.

## 70.13: continued

(3) Procedures for field investigation shall meet the following minimal standards:

(a) If specimens are collected, a system for identifying and recording their proveniences must be maintained;

(b) Uncollected entities such as environmental or cultural features, depositional strata, and the like, must be fully and accurately recorded by appropriate means, and their locations recorded;

(c) If fragile specimens are uncovered or removed from their depositional contexts, the permittee shall provide appropriate conservation services in order to preserve or minimize deterioration of the specimens.

(d) The methods employed in data collection must be fully and accurately described. Significant stratigraphic and/or associational relationships among artifacts, other specimens, and cultural and environmental features must also be fully and accurately recorded;

(e) All records should be intelligible to other archeologists. If terms lacking commonly held referents are used, they should be clearly defined;

(f) Insofar as possible, the interests of other researchers should be considered.

(4) During accessioning, analysis and storage of specimens and records in the laboratory, the permittee shall take precautions to ensure that correlations between the specimens and the field records are maintained, so that provenience, contextual relationships and the like are not confused or obscured.

(5) Specimens and research records resulting from a project shall be deposited at an institution with permanent curatorial facilities. The State Archeologist shall keep a record of the disposition of collections resulting from field investigations conducted under permit.

(6) The Permittee shall disseminate the results of his/her research to the appropriate constituencies with reasonable dispatch. The usual period of performance for completion of a field investigation and the submission of a summary report will be one year, unless otherwise specified in the permit.

(7) Site locational information revealed during field investigations under permit provided by M.G.L. 9, § 27C is confidential between the permittee and the State Archeologist. The State Archeologist may use his/her discretion in revealing site locations to appropriate individuals.

(8) Violation of the Standards for Field Investigation is grounds for revocation of a permit to conduct archeological field investigation.

#### 70.14: Standards for Reports

Archeological field investigations shall be conducted with the object of disseminating the knowledge gained by the investigation. Two copies of the summary report of the field investigation, containing relevant maps, documents, drawings and photographs shall be submitted to the MHC, within the period of time specified in the permit after consultation between the applicant and the State Archeologist.

(1) Inventory Forms (see Appendix A) shall be completed, insofar as possible, for each site encountered during field investigations performed under permit by the State Archeologist.

(2) At a minimum, summary reports for reconnaissance and intensive surveys should include:

(a) A description of the area;

(b) A description and justification of the research design, methodology and research techniques used;

(c) A U.S.G.S. quadrangle, or relevant portion(s) of U.S.G.S. quadrangle(s), with the project and investigation areas marked;

(d) More precise maps showing the project area, locations of fieldwork and areas of known and expected archeological resources;

## 70.14: continued

(e) A description of the known and expected archeological properties and their potential or known eligibility for the National Register;

(f) Quantitative and qualitative summaries of artifacts and features recovered during a field investigation;

(g) A complete listing of sources, including individuals, records and literature, which were consulted during the field investigation;

(h) Photographs of visible cultural features or structures.

(3) At a minimum, a summary report for a Site Examination level Field Investigation should include:

- (a) A description of the project and U.S.G.S. quadrangle showing the investigation area;
- (b) A more precise map showing the locations of fieldwork and known sites;
- (c) Maps of the site areas showing specific testing locations;

(d) A description and justification of the research design including specific mention of the survey, excavation and laboratory methodologies and techniques;

(e) A list and justification of the sites suggested as eligible for the National Register;

(f) A list and justification of the sites considered not eligible for the National Register;

(g) A description of the spatial, contextual and structural characteristics, and present condition of each site which was located and examined;

(h) A quantitative and qualitative summary of the artifacts and features found at each site;

- (i) A description and justification of the method and intensity of investigation at each site;
- (j) Photographs and sketch maps of each site;

(k) A summary of previous investigations, if any, at each site including the date(s), organization(s) and reference(s);

(l) A discussion of the known and expected artifact and feature categories at each site and their known or potential research value;

(m) A summary explicitly outlining how the known or expected materials can contribute to the investigation of research topics important in prehistory or history.

(4) Additions or deletions to the information which should be included in a summary report will be developed by the Permittee in consultation with and with the approval of the State Archeologist.

(5) Report standards and inclusions for summarizing results of Data Recovery Projects will be developed on a project by project basis by the Permittee in consultation with the State Archeologist.

# 70.20: Exceptions

(1) No permittee conducting field investigation under permit as provided by 950 CMR 70.00 shall be authorized to excavate human skeletal remains. The provisions of 950 CMR 70.20 do not supersede other legislative and regulatory requirements regarding the discovery, reporting, excavation or reinterrment of human skeletal remains.

(2) Human skeletal remains shall be excavated only after securing a Special Permit from the State Archeologist. The State Archeologist shall issue a Special Permit only if the remains are imminently and irrevocably threatened by non-archeological activities. Avoidance of burials and preservation *in situ* are preferred alternatives.

### 70.30: Penalties

(1) Any person, corporation, or authority of the Commonwealth or any of its political subdivisions who shall conduct field investigations on land owned or controlled by the Commonwealth, its agencies, or any political subdivisions thereof, or in which the Commonwealth has an interest, without first obtaining a permit thereof as provided by M.G.L. c. 9, § 27C shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$500 or by imprisonment for not more than six months.

(2) Any person, corporation, agency or authority of the Commonwealth who shall appropriate, deface, destroy or otherwise alter any site, specimen or landmark except in the course of activities authorized under permit as provided by M.G.L. c. 9, § 27C, shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$500 or by imprisonment for not more than six months. All specimens, objects and materials collected or excavated in violation of 950 CMR 70.30 shall be forfeited to the Commonwealth.

70.90: Appendix A

PREH	FORM D - ARCHAEOLOGICAL SURVEY PREHISTORIC ARCHAEOLOGICAL SITES Massachusetts Historical Commission Office of the Secretary State Human Restary					NO. ///////////// NORTHING	
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	6b.Estimated Occupation Range						
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CONI	/Types /TNo						
- -	18. ACCESSIBILITY TO PUBLIC						
/Free Access / Need Owner Permission / Restricted / No Access					12/8	2	

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RESEARCH STATUS	19. PREVIOUS WORK	BY WHOM/AFFILIA	(TION			DATE	
	[]"Pot hunted"	BY WHOM/AFFILIA	TION			DATE	
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	20. PRESENT LOCATION OF MATERIALS (INCLUDE ADDRESSES)						
	21. REFERENCES/REPORTS						
	22. RECOVERED DATA (i	dentify in DETAI	L, including	features, pits,	burials, fauna	l material, e	
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	24. ATTACH PORTIO	N OF USGS QUA	D WITH SITE	AREA MARKED	TO THIS FORM		
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IDENTIFICATION	1. SITE NA	AME(S)	MAS NO. OTHER NO.				
	2. TOWN/C	ITY	COUNTY				
	3. STREET & NUMBER (IF NOT AVAILABLE, GIVE DETAILED DESCRIPTION OF HOW TO REACH SITE)						
	4. OWNER(S) AND ADDRESS(ES)						
	5. SITE LOCATED BY //CRM Survey //Avocational Collector //Field School //Other (Specify) Describe Sampling Strategy used to Locate Site:						
	6a.PERIOD(	S) (Check all applicable boxes) C18th C19th C.	/ 20th C. / Unknown				
	6b. ESTIMATED OCCUPATION RANGE						
	7. DATING METHOD		_/No				
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COND	17. ANY THREATS TO SITE DESCRIBE POTENTIAL THREATS:						
	18. ACCESSIBILITY TO PUBLIC						

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70.90: continued

	19. PREVIOUS WORK	BY WHOM/AFFI	LIATION			DATE		
RESEARCH STATUS	"Pot hunted"	BY WHOM/AFFI	BY WHOM/AFFILIATION			DATE		
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	_/Excavation BY WHOM/AFFILIATION					DATE		
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## 70.91: Appendix B

## APPENDIX B

## COMMONWEALTH OF MASSACHUSETTS

## SECRETARY OF STATE: MASSACHUSETTS HISTORICAL COMMISSION

## PERMIT APPLICATION: ARCHEOLOGICAL FIELD INVESTIGATION

## A. General Information

Pursuant to M.G.L. c. 9 § 27C and according to the regulations outlined in 950 CMR 70.00, a permit to conduct a field investigation is hereby requested.

	1.	Name					
	2.	Institution/Address					
	3. Project Location						
	4.	. Town					
	5.	<ol> <li>Attach a copy of a U.S.G.S. quadrangle with the project area clearly marked.</li> <li>Property Owner(s)</li></ol>					
	6.						
	7.	The applicant affirms that the owner has been notified and has agreed that the applicant may perform the proposed field investigation.					
	8.	The proposed field investigation is for a: (circle one)	<ul><li>a. Reconnaissance Survey</li><li>b. Intensive Survey</li><li>c. Site Examination</li><li>d. Data Recovery</li></ul>				
B. Profess	iona	1 Qualifications					
	1.	Attach a personnel chart and project schedule as des	cribed in 950 CMR 70.11(2)(b).				
	2. Ar	Include copies of curricula vitarum of key persor cheologist.)	nnel (unless already on file with the State				
C. Resear	ch E	esign					
		Attach a narrative description of the proposed Resea 0 CMR 70.11.	rch Design according to the requirements of				
		The Applicant agrees to perform the field investigation MR 70.13	on according to the standards outlined in 950				
		The Applicant agrees to submit a Summary Report, p 950 CMR 70.14, by	repared according to the standards outlined				

4. The specimens recovered during performance of the proposed field investigation will be curated at \_\_\_\_\_\_.

(M.G.L. c. 9, § 27C) curatorial facility

date

# 950 CMR: OFFICE OF THE SECRETARY OF THE COMMONWEALTH

APPLICANT DATE

# REGULATORY AUTHORITY

950 CMR 70.00: M.G.L. c. 9, § 27C.