

DEPARTMENT OF STATE
DIVISION OF HISTORICAL AND CULTURAL AFFAIRS
Statutory Authority: 7 Delaware Code, Section 5302 (7 **Del.C.** §5302)

PROPOSED

PUBLIC NOTICE

902 Curation Fee For Archaeological Collections

Title:

Curation Fee for Archaeological Collections

Brief Synopsis:

The purpose of these proposed regulations is to establish a fee structure to help offset the ever-rising costs associated with the long-term care, management and conservation of the State's preexisting and future archaeological collections and associated documents. These collections are generated through federally-mandated regulation, municipal directive and by professional, semi-professional and avocational endeavors within the State. Archaeological collections are regarded as an irreplaceable, non-renewable resource.

The Department of State has charged the Division of Historical and Cultural Affairs with the duties relative to archaeology in the state (7 **Del.C.** Ch. 53, and 29 **Del.C.** §8705) and defines the Division as a qualified repository for the State's archaeological collections (7 **Del.C.** §5311). To care for Delaware's archaeological collections the Division adheres to modern professional practices and collections standards. Foremost of these are the federal regulations defined in Title 36 CFR Part 79, Curation of Federally-Owned and Administered Archaeological Collections. These regulations provide methods to fund curatorial services (36 CFR §79.7) and specify, in general, that charging costs for curatorial activities is a reasonable means of funding long-term care of collections.

The statutory authority through which these proposed regulations are created are pursuant to 7 **Del.C.** §5302 which authorizes the Division, with the approval of the Department of State, to promulgate regulations as it deems necessary for the effective execution of its purpose under the chapter, Archaeological Resources in the State. New archaeological collections accepted by the Division will be subject to the curation fee established here, unless waived by the Division Director. This fee will be applied in its entirety to the long-term care, management and conservation of the State's preexisting and future archaeological collections and associated documents.

Statutory Basis or Legal Authority to Act:

7 **Del.C.** Ch. 53, 7 **Del.C.** §5302, 29 **Del.C.** §8705

Other Regulations that may be affected by the Proposal:

None

Notice of Public Comment:

PLEASE TAKE NOTICE, pursuant to 29 **Del.C.** Ch. 101, the Division of Historical and Cultural Affairs proposes regulations pursuant to its authority under 7 **Del.C.** Ch. 53, 7 **Del.C.** §5302, 29 **Del.C.** §8705. The Division will receive and consider all written comments on the proposed rules and regulations related to implementation of a Curation Fee for Archaeological Collections. Submit comments to the Division in care of Timothy A. Slavin, Director, Division of Historical and Cultural Affairs, 21 The Green, Dover, DE 19901. The final date to submit comments is May 31, 2018. Anyone wishing to obtain a copy of the proposed rules and regulations should notify Timothy A. Slavin at the above address or call 302-736-7400. This notice will be published in two newspapers of general circulation.

902 Curation Fee For Archaeological Collections

1.0 Introduction

- 1.1 The Division of Historical and Cultural Affairs is responsible for the long-term curation of Delaware's archaeological artifact collections and associated documents. These collections are generated through federally-mandated regulation, municipal directive, and by professional, semi-professional and avocational endeavors within the State. Archaeological collections are regarded as an irreplaceable, non-renewable resource.
- 1.2 Most new archaeological collections are accessioned into Delaware's qualified repositories as a result of investigations conducted for compliance with provisions of the National Historic Preservation Act of 1966 and

as amended in Title 54 United States Code, Subtitle III - National Preservation Programs, Division A - Historic Preservation (54 USC §§306108, 306101) governing federal and federally-assisted construction projects.

- 1.3 To care for Delaware's preexisting and future archaeological collections, the Division adheres to modern professional practices and collections standards. Foremost of these are the federal regulations defined in Title 36 CFR Part 79, Curation of Federally-Owned and Administered Archaeological Collections. These regulations provide for methods to fund curatorial services (36 CFR §79.7) and specify, in general, that charging costs for curatorial activities is a reasonable means of funding the long-term care of collections.
- 1.4 This fee will be applied in its entirety, to the long-term care, management, and conservation of the archaeological collections and associated documents.

2.0 Statutory Authority

- 2.1 These regulations are created pursuant to 7 Del.C. §5302 which authorizes the Division, with the approval of the Department of State, to promulgate regulations as it deems necessary for the effective execution of its purposes under the chapter, Archaeological Resources in the State.
- 2.2 7 Del.C. Ch. 53 defines the Department's duties relative to archaeology in the State.
- 2.3 29 Del.C. §8705 delegates the Department's responsibility for 7 Del.C. Ch. 53, thus relating archaeological resources and activities in the State to the Division.
- 2.4 7 Del.C. §5311 defines the Division as a qualified repository for the State's archaeological collections.

3.0 Definitions

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

"Archaeological artifacts" means man-made objects, such as, but not limited to, fragments of glass and ceramic vessels or stone tools, found on archaeological sites, and providing information on the function and time period of a site.

"Archaeological collections" means the objects, material remains and artifacts recovered from an archaeological context, along with the associated documents, that are curated by the Division. These collections document the pre-history, history and material culture of the people of Delaware.

"Archaeological investigation" means any surface collection, subsurface tests, excavation, or other activity that result in the disturbance, removal, or collection of archaeological resources.

"Archaeological resource" means any artifact or material remains of past human life or activities which are at least 50 years old and are of archaeological interest, including but not limited to pottery, basketry, whole or fragmentary tools, implements, containers, weapons, weapon projectiles, by-products resulting from manufacture or use of man-made or natural materials, surface or subsurface structures or portions thereof, earthworks, fortifications, ceremonial structures or objects, cooking pits, refuse pits, hearths, kilns, post molds, middens, and shipwrecks; the site, location, or context in which such artifacts or material remains are situated; and any portion or piece of any of the foregoing.

"Associated documents" means the original paper, photographic and digital documents generated in the evaluation, testing, excavation, mapping, analysis, synthesis, and reporting on an archaeological investigation.

"Cultural resource management firms" means private companies that are hired to perform professional archaeological services.

"Curation" means the preservation, care, and management of a collection according to professional standards.

"Data recovery" means an archaeological treatment of a threatened site involving the detailed excavation and analysis of a National Register-listed or eligible site, based on a research design developed as a result of an evaluation-level survey.

"Department" means the Department of State.

"Director" means the Director of the Division of Historical and Cultural Affairs of the Department of State.

"Division" means the Division of Historical and Cultural Affairs of the Department of State.

"Evaluation-level survey" means an investigation to determine the eligibility of an archaeological site or property for listing in the National Register of Historic Places.

"Flat" means a box container (measuring 21 by 20 by 3 inches) made of archival-quality plastic or acid-free cardboard used in the curation of artifacts.

"Half-standard box" means a box container (measuring 16 by 8 by 10 inches) made of archival-quality plastic or acid-free cardboard used in the curation of documents.

"Identification-level survey" means an investigation to locate and identify archaeological sites. This level of investigation provides a preliminary assessment of a site's integrity, horizontal boundaries, and possibly, its data potential.

"National Register of Historic Places" or "National Register" means the National Register of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, engineering, and culture that the United States Secretary of the Interior is authorized to expand and maintain pursuant to Chapter 3021 of the National Historic Preservation Act of 1966, as amended (54 USC § 300101 et seq.).

"Oversized artifact" means an artifact that does not fit into a flat or standard box due to its size or weight.

"Qualified repositories" means the University of Delaware and the Division of Historical and Cultural Affairs, which are designated as properly qualified repositories within the meaning of 7 Del.C. Ch. 53.

"Specialized storage" means curating an artifact in a location or environment that is different than the general artifact collection.

"Standard box" means a box container (measuring 16 by 13 by 10 inches) made of archival-quality plastic or acid-free cardboard used in the curation of artifacts and associated documents.

4.0 Fee for Artifact Curation and Associated Documents

4.1 Applicability

4.1.1 Federal agencies and state agencies, acting on behalf of the federal government, which recover archaeological artifacts and create associated documents through an archaeological investigation in the State, will be charged a curation fee.

4.1.2 State agencies, municipalities, universities, colleges, schools, museums, historical societies, for-profit, non-profit, semi-professional, and avocational organizations or companies, which recover archaeological artifacts and create associated documents through an archaeological investigation in the State, will be charged a curation fee.

4.1.3 Individuals and cultural resource management firms, acting on behalf of an individual, organization or company, which recover archaeological artifacts and create associated documents through an archaeological investigation in the State, will be charged a curation fee.

4.1.4 Individuals that seek to donate archaeological artifacts and associated documents collected in the State through curiosity or hobby, will not be charged a curation fee.

4.2 Pro-rating and waiving of fee

4.2.1 The Division Director may pro-rate or waive the fee.

4.3 Rates to be charged

4.3.1 The rate for a flat or standard box of artifacts, full or partially full, is \$350.

4.3.2 The rate per standard box of documents is \$400.

4.3.3 The rate per half-standard box of documents is \$200.

4.3.4 The rate per oversized artifact or per artifact requiring specialized storage is \$500.

4.4 Fee Increase

4.4.1 Fee rates will increase by 5% every five years from the effective date, but are not to exceed \$1000.

5.0 Implementation of Fee

5.1 Effective date

5.1.1 This fee schedule is to take effect on July 1, 2018.

5.1.2 This fee shall not apply to collections derived from investigations for which the associated phase of fieldwork (identification-level survey, evaluation-level survey or data recovery) started prior to the effective date.

6.0 Collection and Use of Fee

6.1 Collection of Fee

6.1.1 The archaeological curation fee shall be paid prior to or at the time an archaeological collection is hand-delivered to the approved curatorial facility.

6.2 Methods of Fee Collection

6.2.1 The archaeological curation fee shall be paid by check or electronic payment, including debit and credit card.

6.2.1.1 Checks shall be made payable to the State of Delaware.

6.2.1.2 Checks may be mailed or hand-delivered to the Division office prior to curation.

6.2.1.3 Checks may be hand-delivered to the approved curatorial facility at the same time that the archaeological collection is hand-delivered.

6.2.1.4 Electronic payment shall be accepted only at the Division office.

6.3 Use of fee

6.3.1 The Division shall retain the revenue received from the archaeological curatorial fee.

6.3.2 The Division shall use this revenue to maintain and conserve the archaeological collections and associated documents.

6.3.3 The Division shall use this revenue only for the operational, equipment or personnel costs directly associated in the maintenance and conservation of the archaeological collections and associated documents.

21 DE Reg. 869 (05/01/18) (Prop.)