

TITLE 4 CULTURAL RESOURCES
CHAPTER 10 CULTURAL PROPERTIES AND HISTORIC PRESERVATION
PART 17 STANDARDS FOR MONITORING

4.10.17.1 ISSUING AGENCY: Cultural Properties Review Committee. Contact State Historic Preservation Division, Department of Cultural Affairs.
[4.10.17.1 NMAC - N, 1/01/06]

4.10.17.2 SCOPE: This rule applies to all public and private entities, including but not limited to, individuals, corporations, partnerships, trusts, associations, educational institutions, foundations, museums and any agency of the federal government conducting or proposing to conduct archaeological investigations on any lands owned, controlled or operated by the state of New Mexico.
[4.10.17.2 NMAC - N, 1/01/06]

4.10.17.3 STATUTORY AUTHORITY: Section 18-6-5 (NMSA 1978) of the Cultural Properties Act.
[4.10.17.3 NMAC - N, 1/01/06]

4.10.17.4 DURATION: Permanent.
[4.10.17.4 NMAC - N, 1/01/06]

4.10.17.5 EFFECTIVE DATE: January 1, 2006, unless a later date is cited at the end of a section.
[4.10.17.5 NMAC - N, 1/01/06]

4.10.17.6 OBJECTIVE: To establish standards and procedures for monitoring land-disturbing projects that affect or may affect archaeological sites, cultural properties or areas of historic and scientific interest on lands owned, controlled or operated by a department, agency, institution or political subdivision of the state.
[4.10.17.6 NMAC - N, 1/01/06]

4.10.17.7 DEFINITIONS:

A. "Archaeological site" or "site" means a location where there exists material evidence of the past life and culture of human beings in the state. A significant archaeological site typically is 50 or more years old. Examples of archaeological sites include without limitation campsites, pueblos, homesteads, artifact scatters, resource procurement or processing areas, agricultural fields, locales with one or more features in association with other cultural materials, and locales that have the potential for subsurface features or cultural deposits.

B. "Areas of historic and scientific interest" means areas lacking surface evidence of cultural properties but where there is a high probability of finding subsurface material remains and cultural deposits or areas suitable for geomorphological or paleoenvironmental study.

C. "Committee" or "CPRC" means the cultural properties review committee, created pursuant to Section 18-6-9 of the Cultural Properties Act.

D. "Cultural property" or "cultural resource" means a structure, place, site or object having historic, archaeological, scientific, architectural or other cultural significance.

E. "Excavation" means displacing, disturbing or moving earth, soil, dirt, other deposits or material remains from their current contexts or significant orientation in, or on, the ground within the boundaries of an archaeological site, isolate or area of historic and scientific interest using hand tools or mechanical earth-moving equipment.

F. "Historic preservation division" or "HPD" means the division within the department of cultural affairs created pursuant to Section 18-6-8A of the Cultural Properties Act.

G. "Human burial" or "unmarked human burial" means a human body or human skeletal remains and includes any funerary object, material object or artifact buried, entombed or sepulchered with that human body or skeletal remains.

H. "Isolate" means a single object or artifact or a few artifacts greater than 50 or more years old that lack clear association. Examples of isolates include a single flake, projectile point, potsherd, sherds from a single broken pottery vessel, pieces of glass from a single bottle or a single feature that lacks integrity.

I. "Material remains" means any tangible evidence of past human life or activities. Such evidence includes without limitation:

(1) naturally occurring objects or raw materials extracted for use in the production of human-made objects or for other uses by humans that can be found within an archaeological site, or another context from which intended or actual human use can be reasonably inferred;

(2) items manufactured or modified by humans, including whole or fragmentary tools, implements, containers, and other objects such as pottery, ceramics, basketry, cordage, weavings, textiles, glassware, flaked stone, ground stone, pecked stone, worked bone, metal, wood, hide, feathers and pigments;

(3) byproducts, waste products and debris resulting from the manufacture or use of human-made items or from the human use of natural materials;

(4) organic material deposited through human actions, organic material remaining from the decay of perishable objects manufactured or modified by humans, and organic material deposited through natural processes when found within an archaeological site including without limitation soil or sediment samples, botanical and animal remains and coprolites; or

(5) human remains including without limitation bone, mummified flesh, teeth, the remains of cremations, any associated artifacts and objects, and the soil, sediments, or other matrix in which the human skeletal or mummified remains and associated artifacts and objects were deposited or are now associated.

J. "Monitoring" means the presence of and visual inspection by a supervisory archaeologist on the ground immediately prior to and during ground-disturbing actions to ensure site protection, avoidance of site deposits or recovery of information from newly discovered cultural properties.

K. "Museum of Indian arts and culture-laboratory of anthropology" or "MIAC" means the museum division within the department of cultural affairs, museum of New Mexico, that serves as the repository for archaeological materials and associated records and documents taken or collected from state land.

L. "New Mexico cultural resource information system" or "NMCRIS" means the statewide archaeological and cultural properties database maintained by archaeological records management section (ARMS) within the historic preservation division that maintains the database and associated records and documents pursuant to Section 18-6-7A of the Cultural Properties Act.

M. "Permit" means the written authorization required for all public and private entities to conduct archaeological investigations of a particular kind, within a defined geographic location and for a specified period of time, all of which are specified in the written authorization.

N. "State agency" means a department, agency, institution or political subdivision of the state.

O. "State archaeologist" means the archaeologist designated pursuant to Section 18-6-15 of the Cultural Properties Act.

P. "State historic preservation officer" or "SHPO" means the individual appointed pursuant to Section 18-6-8 of the Cultural Properties Act and serves as the director of the historic preservation division.

Q. "State land" means property owned, controlled, or operated by a department, agency, institution or political subdivision of the state. Examples of state land, include but are not limited to: state trust lands managed by the commissioner of public lands; New Mexico department of transportation rights of way and easements; state parks; state monuments; state game and fish lands; county and municipal property including open space areas, leased lands, and rights of way; and lands owned or managed by public schools and state colleges and universities. [4.10.17.7 NMAC - N, 1/01/06]

4.10.17.8 MONITORING: There are two types of monitoring activities: monitoring to implement site avoidance or site protection measures, and monitoring of construction activities through an archaeological site, other cultural property or areas of historic and scientific interest where there is high probability of finding subsurface features and cultural deposits. Both types of monitoring shall be conducted under a permit issued by the CPRC, with the concurrence of the state archaeologist and SHPO, authorizing monitoring activities.

A. General permits. Monitoring may be conducted under a general permit when applicants propose to:

(1) supervise implementation of site avoidance or protection measures pursuant to 4.10.17.10 NMAC and authorized pursuant to 4.10.8 NMAC; or

(2) oversee land-disturbing projects when a monitoring plan is prepared in conformance with 4.10.17.11 NMAC and authorized pursuant to 4.10.8 NMAC.

B. Project-specific permits. Monitoring may be conducted under a project-specific permit when a monitoring plan is prepared in conformance with 4.10.17.11 NMAC and authorized pursuant to 4.10.8 NMAC. [4.10.17.8 NMAC - N, 1/01/06]

4.10.17.9 PERSONNEL REQUIREMENTS:

A. The SHPO shall maintain a directory of qualified supervisory personnel including but not limited to archaeologists who act in the capacity of principal investigator, project director, field supervisor and crew chief (4.10.8 NMAC).

B. All monitoring activities on state land shall be performed by an archeologist listed in the SHPO directory. This individual shall be on site and physically present on the ground immediately prior to and during all surface-disturbing actions to ensure site protection, avoidance of site deposits, identification of new cultural deposits and features or recovery of information from newly discovered cultural properties. [4.10.17.9 NMAC - N, 1/01/06]

4.10.17.10 MONITORING FOR SITE AVOIDANCE OR PROTECTION:

A. The state agency determines when monitoring is needed to supervise implementation of site avoidance or protection measures.

(1) The state agency may reach this determination in discussion with the SHPO or as part of consultation with the SHPO pursuant to Section 18-6-8.1 of the Cultural Properties Act NMSA 1978, Section 18-4-7 of the Prehistoric and Historic Sites Preservation Act NMSA 1978, Section 18-6A-5 of the Cultural Properties Protection Act NMSA 1978, or Section 106 of the National Historic Preservation Act of 1966 as amended (16 USC 470f).

(2) The permittee may provide a written request to the state agency to conduct monitoring. The request shall state for whom the monitoring is proposed, why the monitoring is necessary, where the project is located, a list of archaeological sites, other cultural properties or areas of historic and scientific interest to be protected, the method of protection and the expected date(s) for the monitoring. If the state agency is the project sponsor or has directed the permittee to conduct the work, no written request of the agency is required. If the state agency does not have an archaeologist on staff, the permittee shall submit the request to HPD with a letter from the state agency approving consideration of the request.

(3) All monitoring activities require the approval of the state agency or HPD if the state agency does not have an archaeologist on staff prior to initiating the activity.

B. Report. Document the results of the monitoring and submit the report to the state agency for review and comment pursuant to 4.10.8.18 NMAC. Letter reports are prohibited. Submit the following information as a report:

(1) a NMCRIS investigation abstract including the block for monitoring;

(2) append a copy of a USGS 7.5-minute (1:24,000) USGS topographic quadrangle map with the locations of all archaeological sites, other cultural properties and areas of historic and scientific interest that were monitored during the project; and

(3) append an updated laboratory of anthropology (LA) archaeological site record or a new LA archaeological site record pursuant to 4.10.15 NMAC if new features, material remains or other cultural resources are exposed or noted during the monitoring; additional forms may be used at the discretion of the permittee.

[4.10.17.10 NMAC - N, 1/01/06]

4.10.17.11 MONITORING OF ARCHAEOLOGICAL SITES AND AREAS OF HISTORIC AND SCIENTIFIC INTEREST:

A. Purpose. When the purpose of the monitoring is to observe ground-disturbing activities through an archaeological site, cultural property or in an area of historic and scientific interest, the permittee shall develop a monitoring plan to guide the steps to be taken in the event features and cultural deposits are exposed by the construction activities. The plan shall detail the proposed field studies to document the discovery and assess its integrity and information potential. The plan shall also discuss proposed data recovery measures, including but not limited to, excavation of exposed features and associated deposits, collection of material remains, field and laboratory analyses, and preparation of a report on the findings.

B. Monitoring plan. The level of detail shall be proportionate to the scale of the project and shall be executed in conformance with the excavation standards in 4.10.16 NMAC. At a minimum, the monitoring plan shall include the following components listed below.

(1) Include a statement of the purpose for the monitoring project.

(2) Discuss the general project location, project sponsor or client and land owners.

(3) Prepare a project map with the location of all archaeological sites, other cultural properties or limits of areas of historic and scientific interest; include land ownership boundaries if more than one owner, north arrow (true or magnetic north), name of USGS 7.5-minute (1:24,000) quadrangle and key to map symbols; identify archaeological sites by LA site number.

(4) Provide a succinct discussion of each site or area to be monitored, noting the types of features, distribution of material remains, and the site's immediate environmental setting as it informs on the proposed monitoring activity.

(5) Explain the overall strategy to document discoveries and recover information. Discuss procedures to:

(a) identify and record features and cultural deposits;
(b) excavate features and associated deposits, including the size of excavations units, screen size and use of arbitrary or natural levels;

(c) collect artifacts and samples for laboratory analysis;

(d) recording system, including examples of forms if not on file with HPD;

(e) provisions to be followed if human burials are exposed pursuant to 4.10.11 NMAC;

(f) backfill and stabilize the site; and

(g) process and analyze artifacts and specimens.

(6) **Schedule.** Explain the expected time frame to implement the field, analysis and reporting phases of the project.

(7) **Personnel.** Identify all supervisory personnel and analysts who will perform the fieldwork, laboratory analyses and prepare the report. Include subcontractors if any and off-site laboratories for specialized analyses. If specific personnel or subcontractors have not been identified for all activities, provide a list of personnel or subcontractors who may be retained, or list the minimum qualifications of the personnel that will be retained.

(8) **Curation.** Identify the proposed repository; if the repository will not be the MIAC, provide justification pursuant to 4.10.8 NMAC.

(9) **References cited.**

(10) **Appendices as needed.**

[4.10.17.11 NMAC - N, 1/01/06]

4.10.17.12 STANDARDS FOR MONITORING REPORTS UNDER A PLAN: Prepare a monitoring report consistent with the standards in this section for review by the state agency and HPD for all monitoring projects conducted under an approved monitoring plan.

A. Preliminary report. A preliminary report may be prepared when requested by the state agency or if specified in the monitoring plan. At a minimum, include the following information.

(1) **Brief description of the project.** Identify project location, the NMCRIS number, LA site numbers for monitored sites, state agency and project sponsor, list of project personnel, dates of fieldwork and the state permit number.

(2) **Project map.** Show land ownership boundaries, project area boundaries, boundaries of all tested or excavated sites, north arrow (true or magnetic), name of source USGS 7.5 minute (1:24,000) quadrangle map and key to map symbols.

(3) **Monitoring activities.** Discuss activities performed at each site and the condition of site at the conclusion of tests or excavations. Information may be summarized in a table.

(4) **Site map.** Include a scaled site map for each site with site boundaries, property ownership boundaries, site datum, location of all collection units, point-provenienced artifacts, hand excavation units, auger holes, shovel tests and units excavated with mechanical earth-moving equipment.

(5) **Changes in the plan.** Identify departures from the approved monitoring plan. Explain substantial differences between the work proposed and the work that was performed in the field. Identify and explain any changes in proposed analysis strategy.

(6) **Final report schedule.** Indicate the proposed date when the final report will be submitted to the state agency if it differs from the schedule approved in the monitoring plan.

B. Final Report. The length of the discussion shall be appropriate to the complexity and scale of the project. State agencies may have additional report requirements. Include the following information listed below.

(1) **Title page.**

(2) **Project description and background.** Provide a brief description of the project, identifying project location, purpose of the monitoring, LA archaeological site record numbers for the monitored sites, state agency, project sponsor, list of project personnel, dates of fieldwork, and the state permit number.

(3) **Field methods.** Discuss methods implemented during the monitoring project. Identify and explain any substantial differences between the work proposed in the monitoring plan and the work performed in the field. Discuss the results of the monitoring.

(4) **Site descriptions.** Provide a brief description of each site monitored, any new sites discovered and results of monitoring.

(5) **Analyses.** Describe and discuss analyses performed on material remains recovered from each site and the condition of site at conclusion of monitoring. Information may be summarized in a table. Include a scaled site map with site boundaries, property ownership boundaries, site datum and location of all areas investigated.

(6) **Summary and recommendations.** Evaluate the effectiveness of the monitoring program and make recommendations regarding future work, protection measures or other management needs.

(7) **References cited.**

(8) **Appendices.** At a minimum, provide:

(a) a list of collected artifacts and specimens;

(b) reports from laboratories and consultants;

(c) a map of site locations. Mark as confidential all pages that discuss or depict exact locations of archaeological sites pursuant to Section 18-6-11.1 NMSA 1978.

(9) **Attachments.**

(a) Submit updated LA archaeological site records for each site consistent with the standards in 4.10.15 NMAC. A site plan map and a reproduction of a 7.5-minute USGS map showing the site location(s) shall be attached to each LA site form. Include any other site-specific records generated, such as artifact analysis forms. If coded analysis forms are attached, place a copy of the code key with every site form.

(b) **Oversize maps and plans.** Attach oversize (greater than 11x17 inches) maps and plans of individual sites to the report, not to the LA site record. Oversize project maps should be attached as appendices and not attached to the body of the report.

(c) **Other location materials.** Attach engineering plan maps, aerial photographs and other non-standards source graphics to the report.

(10) **Photographic materials.** Do not append photographs to site forms or report. All archivally packaged photographic materials and photographic logs shall be submitted to the approved curatorial facility consistent with the standards for that repository pursuant to 4.10.8.19 NMAC.

C. Report review. The report shall be reviewed in conformance with 4.10.8.18 NMAC. If collections were made during monitoring, the permittee shall curate the collections in accordance with the procedures outlined in 4.10.8.18 NMAC.

[4.10.17.12 NMAC - N, 1/01/06]

4.10.17.13 POPULAR REPORTS. A popular report is not required under this rule, but the permittee should consider writing a short popular summary suitable for distribution in a newspaper, newsletter or magazine. The purpose of the report is to provide information to the interested general public about the state's heritage and contributions from on-going research and studies on state land. The public disclosure of the location of archaeological sites on state and private lands is prohibited by Section 18-6-11.1 NMSA 1978. The public disclosure of the location of archaeological sites on federal lands is prohibited by 36 CFR 296.18. The report may be brief, approximately 250 to 500 words in length. Longer articles or other types of public education and outreach approaches may be used if proposed in the monitoring plan. Include photographs or graphs as appropriate. The popular report shall be submitted to the state agency with the final monitoring report.

[4.10.17.13 NMAC - N, 1/01/06]

4.10.17.14 UNANTICIPATED DISCOVERIES. In the event the permittee encounters discoveries not anticipated by the monitoring plan, all construction in the vicinity of the discovery shall cease, the discovery protected and a buffer of at least 50 feet established around the discovery. The permittee shall notify the state agency and HPD within 24 hours of the discovery. The permittee, state agency and HPD shall discuss appropriate procedures to respond to the discovery within two working days. The permittee shall implement the agreed upon procedures.

[4.10.17.14 NMAC - N, 1/01/06]

4.10.17.15 DEVIATIONS: The CPRC, SHPO and state archaeologist reserve the right to waive or deviate from this rule or any parts of this rule under circumstances deemed necessary by the CPRC, SHPO and state archaeologist. Any waiver or deviance from this rule shall occur while maintaining the spirit, intent and objective of this rule and the Cultural Properties Act.

[4.10.17.15 NMAC - N, 1/01/06]

HISTORY OF 4.10.17 NMAC: [RESERVED]