

TITLE 17: CONSERVATION  
CHAPTER VI: DEPARTMENT OF NATURAL RESOURCES  
SUBCHAPTER a: LANDS

PART 4170  
RULES FOR THE PROTECTION, OF HUMAN REMAINS, GRAVE ARTIFACTS, GRAVE  
MARKERS AND UNREGISTERED GRAVES

SUBPART A: PROTECTION OF UNMARKED HUMAN BURIAL SITES  
AND UNREGISTERED GRAVES

Section

|          |  |
|----------|--|
| 4170.100 | Purpose of Rules (Repealed)  |
| 4170.110 | Definitions  |
| 4170.200 | Notification and Investigation of Unregistered Graves and Grave Contents<br>Located on Real Property         |
| 4170.210 | Determination of Kinship or Related Group  |
| 4170.220 | Tribal Consultation  |
| 4170.300 | Permit Application   |
| 4170.305 | Department Review of Permit Application  |
| 4170.310 | Issuance of Permits  |
| 4170.320 | Financial Responsibility (Repealed)  |
| 4170.330 | Suspension of Permits  |
| 4170.340 | Reports Required   |
| 4170.350 | Forms  |
| 4170.400 | Disposition of Human Remains, Grave Markers, and Grave Artifacts   |
| 4170.410 | Transfer of Jurisdiction Over Human Remains (Repealed)   |
| 4170.420 | Appeals  |
| 4170.430 | Delegation of Responsibilities (Repealed)  |
| 4170.440 | Custody and Curation (Repealed)  |
| 4170.500 | Scientific Treatment and Disposition of Human Remains Transferred to the<br>Illinois State Museum (Repealed) |

SUBPART B: PROHIBITED ACTS; PENALTIES

Section

|          |  |
|----------|--|
| 4170.600 | Prohibited Acts; Notification of Department (Repealed) |
| 4170.610 | Criminal Penalties (Repealed)                          |
| 4170.620 | Civil Penalties (Repealed)                             |
| 4170.630 | Civil Damages (Repealed)                               |
| 4170.640 | Penalty Amounts (Repealed)                             |
| 4170.650 | Rewards  |

SUBPART C: ILLINOIS INVENTORY OF BURIAL SITES

**Section**

- 4170.700 Purpose of Inventory (Repealed)  
4170.710 Inventorying of Burial Site (Repealed)  
4170.720 Confidentiality (Repealed)  
4170.800 Burial Location on Department-Owned, -Managed, or -Leased Land

**AUTHORITY:** Implementing, and authorized by the Human Remains Protection Act [20 ILCS 3440].

**SOURCE:** Adopted at 16 Ill. Reg. 14200, effective September 8, 1992; recodified from the Illinois Historic Preservation Agency to the Department of Natural Resources at 47 Ill. Reg. 12805; emergency amendment at 47 Ill. Reg. 13340, effective August 31, 2023, for a maximum of 150 days; amended at 48 Ill. Reg. \_\_\_\_\_, effective January 26, 2024.

**SUBPART A: PROTECTION OF UNMARKED HUMAN BURIAL SITES  
AND UNREGISTERED GRAVES**

**Section 4170.100 Purpose of Rules (Repealed)**

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective January 26, 2024)

**Section 4170.110 Definitions**

"Act" means the Human Remains Protection Act [20 ILCS 3440].

"Adequate historical documentation" is information verifiable through the following types of independent sources: church records, deeds, treaties, atlases, maps, Tribal knowledge, and any other written and oral sources.

"Archaeological materials" means any remains of past human life or activities, as well as the physical site, location, or context in which those remains are found.

"Attorney General" means the Attorney General of the State of Illinois.

"Coroner" has the same meaning and duties as defined in Division 3-3 of the Counties Code [55 ILCS 5/Art. 3, Div. 3-3].

"Cultural-historical affiliation" means an association with a recognized historical age and cultural group.

"Department" or "DNR" means the Illinois Department of Natural Resources.

"Department archaeologist" means the chief of the Department archeology program.

"Director" means the Director of the Department of Natural Resources.

*"Disturb" or "disturbance" includes excavating, removing, exposing, probing, defacing, mutilating, destroying, molesting, or desecrating in any way human remains, unregistered graves, grave artifacts, and grave markers.*

*"Encounter" means to come upon human remains, grave artifacts, grave markers, or unregistered graves at a location where such viewing was not expected or anticipated. [20 ILCS 3440/1]*

"Field investigation" means the examination by a professional archaeologist of the traces of human culture at any land or water location by means of surveying, sampling, excavating, or removing subsurface objects or going on a site with that intent.

*"Grave artifacts" means any item of human manufacture or use that is associated with human remains in any unregistered grave. [20 ILCS 3440/1]*

"Grave contents" means human remains, grave artifacts, or grave markers.

*"Grave markers" means any tombs, monuments, stones, ornaments, mounds, or other item of human manufacture that are associated with an unregistered grave. [20 ILCS 3440/1]*

*"Human remains" include the bones and decomposed fleshy parts of a deceased human body. [20 ILCS 3440/1]*

"Kinship" or "kin" means lineal, affinal or legal relationship, whose biological, legal or affinal relationship can be demonstrated by genealogy, legal documentation, or forensic methods.

"Owner of record" means the person in whose name the real property appears on the records of the county Recorder of Deeds.

"Permit" means a permit issued by the Department pursuant to the Act.

*"Person" means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, limited-liability company, corporation or a receiver, trustee, guardian or other representatives appointed by order of the court, the Federal and State governments including State universities,*

*created by statute or any city, town, county or other political subdivision of this State . [20 ILCS 3440/1]*

"Professional archaeologist" shall be those archaeologists that are certified pursuant to 17 Ill. Adm. Code 4190, Subsection D.

"Public lands" means any land owned or administered by the State, a State university, a municipality or a unit of local government.

"Related Group" means the governmental body or recognized leaders of a Tribal Nation, religious organization, ethnic affiliate, or any other group that can make a claim based on adequate historical documentation of the human remains, unregistered graves, and/or grave markers.

"Repatriation" for the purposes of this Part, means that the Department has recognized a claim regarding grave contents by a lineal descendant, Tribal Nation, or any other entity or related group through the presentation of adequate historical documentation and the process by which such grave contents are returned to the claimant.

"Site" means all mounds, forts, earthworks, village locations, burial grounds, ruins, mines, caves, or locations of past human life or activities which are the physical location of archaeological materials or may be the source of grave artifacts.

"Treatment plan" means a plan for the avoidance, removal, reburial, disposition, curation, or repatriation of grave contents that has been approved by the Department.

"Tribal" or "Tribal Nation" means a Native American or Alaska Native entity that is recognized as having a government-to-government relationship with the United States, with the responsibilities, powers, limitations, and obligations attached to that designation, and is eligible for funding and services from the Bureau of Indian Affairs.

*"Tribal consultation" means a form of communication centered in trust, respect and shared responsibility that upholds Tribal sovereignty. It is a free and open process where the exchange of information and opinions are shared among the participating parties. [20 ILCS 3440/1]*

"Tribal knowledge" means the generational sum of experiences, wisdom, or research present in a tribal Nation as a result of their existence and relationship with the land.

*"Undertaking" means any project, activity, or construction that can result in changes to, disturbance of, moving, or destruction of human remains, grave artifacts, grave markers or unregistered graves. [20 ILCS 3440/1]*

*"Unregistered grave" means any grave or location where a human body has been buried or deposited, is over 100 years old and is not in a cemetery registered with or licensed by the State Comptroller under the Cemetery Care Act or under the authority of the Illinois Department of Financial and Professional Regulation pursuant to the Cemetery Oversight Act, whichever is applicable. [20 ILCS 3440/1]*

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective January 26, 2024)

### **Section 4170.200 Notification and Investigation of Unregistered Graves and Grave Contents Located on Real Property**

- a) If the Department is in possession of credible information that leads the Department to conclude that there is a likelihood that unregistered graves or grave contents are located on real property, then the Department may notify the owner of the real property in writing of such information. This notification shall include the requirements under the Act to obtain a permit before any undertaking may take place on the real property that the Department determined likely to contain unregistered graves, grave markers, or grave artifacts are located.
- b) **Notification of Owner of Record of Permit Requirements.**  
The Department may recommend that a general archaeological field investigation of the suspected location of unregistered grave or grave contents be conducted by a professional archaeologist. If Native American unregistered graves or grave contents are encountered, invasive archaeological field investigations must be conducted with the approval of Tribal Nations.

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective January 26, 2024)

### **Section 4170.210 Determination of Kinship or Related Group**

- a) After grave contents from the unregistered grave are encountered the Department shall attempt to identify kinship related to the grave contents. The Department shall review any adequate historical documentation that is available to the Department to determine kinship. If kinship is established, the Department shall notify, by registered mail, those people or entities that have a kinship relation with the grave contents. Repatriation or care of the human remains shall be subject to the written permission of the kin who notify the Department within 30 days after the mailing notification that kinship is accepted.

- b) If kinship cannot be established, then the Department shall attempt to determine if there is a related group or groups that would have an affiliation with the grave contents through adequate historical documentation.
- c) If the Department determines that the grave contents are affiliated with a related group that is Native American in origin, the Department will notify any and all related Tribal Nations of the encounter of the grave contents or unregistered grave and invite the Tribal Nations to consult on the proposed treatment plan pursuant to Section 4170.220. If no Tribal Nation accepts the invitation or no Tribal National responds in writing within 30 days after receiving the invitation, then the Department will proceed with its determination as to any permit application. If a Tribal Nation or Nations accept the invitation, then the Department will consult with the Tribal Nation or Nations within 30 days after the acceptance of the invitation, unless a later date is agreed to by the Department and all of the Tribal Nation or Nations. Such consultation shall occur if the invitation is accepted before the Department issues a permit pursuant to this Part. Repatriation or reinterment is subject to Section 14 of the Act.
- d) If the Department determines that the grave contents are affiliated with a related group or groups that is not Native American in origin, the Department will notify any and all related groups of the encounter. Such notification may be by mail or by publication. Repatriation or care of the human remains shall be subject to the written permission of the related group who notify the Department in writing within 30 days after the mailing of the notification that the related group status is accepted by the group notified by the Department.
- e) If the origin of the grave contents cannot be determined, the Department may, at its discretion, give public notice of any excavation of grave contents subject to the jurisdiction of the Department pursuant to the Act. Such public notice shall include, but not be limited to, notice in a newspaper of general circulation in the county where the unregistered grave or grave contents are situated for two consecutive weeks, in an effort to determine the identity of the kin or related group of the grave contents. Any person or group claiming kinship or a related group relationship to the grave contents must produce adequate historical documentation establishing that relationship. The Department shall review and verify the claim before grave contents are transferred to the person or group claiming kinship or related group status with the grave contents.

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective January 26, 2024)

### **Section 4170.220 Tribal Consultation**

When an unregistered grave, human remains or grave contents are encountered and believed to be Native American in origin, the Department will use adequate historical documentation to determine the contemporary Tribal Nations that have an affiliation with the unregistered grave, human remains or grave contents. The Department will create a contact list of affiliated Tribal Nations. The Department's notice to the contact list shall include: details regarding the materials that have been encountered; a report of their condition; information about how the encounter occurred; which affiliated Tribal Nations have been identified; and an invitation to attend a consultation meeting that shall occur no sooner than 45 days after notification. Notice may be by letter or electronic communication. If a Tribal Nation intends to participate in the consultation meeting, then a response indicating attendance must be sent to the Department within 30 days after the notice is issued. Tribal Nations may attend the consultation in person, attend virtually, or submit written comments to the Department. The Department shall gather information related to the history of the location, details regarding the encounter and a proposed draft treatment plan for discussion with the Tribal Nations during the consultation. If an emergency exists, pursuant to Section 4170.300(c), Tribal consultation may occur sooner than this Section requires if all Tribal Nations that indicated they wish to participate and the Department agree that Tribal consultation shall occur on an expedited basis.

(Source: Added at 48 Ill. Reg. \_\_\_\_\_, effective January 26, 2024)

### **Section 4170.300 Permit Application**

- a) Application for Preservation Work to Unregistered Graves. Those wishing to probe the ground to locate and recover buried grave markers and to clean, repair or reset grave markers in an unregistered cemetery must obtain a permit from the Department. The application shall be on a form provided by the Department. The application shall provide the following information:
  - 1) The applicant's name and address;
  - 2) The proposed cemetery preservation plan, including, but not limited to the location and address of the cemetery;
  - 3) The applicant's knowledge of the nature of the remains;
  - 4) The rationale for the proposed disturbance;
  - 5) Proof of ownership of the applicant of the land that the proposed cemetery preservation undertaking is occurring on or written permission from the landowner granting permission for the proposed cemetery preservation undertaking to occur; and
  - 6) Any additional information or documentation that the Department requests to ensure the preservation or protection of unregistered graves and grave

contents.

- b) Application for Undertaking.  
*If an undertaking will occur on property that the property owner has been notified in writing by the Department that the land is likely to contain human remains, unregistered graves, grave markers, or grave artifacts, a permit shall be obtained by the landowner from the Department. If human remains, unregistered graves, grave markers, or grave artifacts were unknown and were encountered by any person, a permit shall be obtained from the Department before any work on the undertaking may continue. [20 ILCS 3440/13(a) and (b)]* The application shall be on a form provided by the Department. The applicant shall provide the following information:
- 1) The name, address, email address and telephone number of the applicant and the owner or record.
  - 2) The nature and extent of the undertaking.
  - 3) The origin of the unregistered grave and grave contents that is known to the applicant and owner of record.
  - 4) The location, address, and locational maps of the undertaking, including GPS coordinates.
  - 5) A proposed time schedule for the undertaking, including the proposed schedule for excavation or avoidance.
  - 6) Proof of ownership of the land that the undertaking is occurring on, or written permission from the landowner granting permission for the undertaking to occur.
  - 7) A statement regarding whether preservation in place of the human remains, unregistered graves or grave contents is or is not feasible. If preservation in place is not feasible, then additional information outlining economic, construction, or social needs (e.g., contemporaneous construction or development of the property, agricultural activity, mining, etc.) requiring expedition in the removal of unregistered graves or grave contents is required.
  - 8) If preservation in place is not feasible in the opinion of the permit applicant, the applicant's proposed funding source, timetable, and available professional expertise for removal of unregistered graves or grave contents.



- 9) A draft treatment plan.
- 10) Any and all information detailing whether the undertaking involves either State or Federal funding, licenses, permits, or approvals.
- 11) The names, addresses, email addresses, and telephone numbers of the individuals proposed to be responsible for conducting the removal or excavation, including those people proposed to be responsible for carrying out any terms or conditions of the permit, including detailed resumes of the key project personnel (including, e.g., the principal investigator, field director and staff directing any specialized analysis proposed), institutional affiliation, if any, and evidence of education.
- 12) Evidence that personnel named as responsible for site excavations in subsection (b)(11) of this Section are certified as Field Archaeologists Level II or III, under the Archaeological and Paleontological Resources Protection Act [20 ILCS 3435] and 17 Ill. Adm. Code 4190.
- 13) Evidence that all excavations and analysis of unregistered graves and grave contents will be performed under the supervision of a human osteologist certified under subsection (e) of this Section.
- 14) Evidence of the ability of the applicant or those individuals listed pursuant to subsection (b)(12) of this Section to initiate, conduct, and complete the proposed work within the proposed timeframe, including evidence of funding, logistical support, laboratory facilities and evidence of past timely and successful completion of similar scale projects.
- 15) Evidence that an adequate program of site security to protect unregistered graves and grave contents from theft, vandalism, or inclement weather will be maintained during all work performed under this permit.
- 16) If known, the specific boundaries of an unregistered grave.
- 17) If the draft treatment plan involves removal of grave contents and those items cannot be transferred to the Department immediately upon excavation, the university, museum, funeral home, government agency, or other scientific or educational institution proposed as a temporary repository of materials and proof that the temporary repository entity possesses adequate curatorial capability for safeguarding and preserving the grave contents and all associated records during such temporary repository.
- 18) The applicant has certified that, not later than 60 days after the date the

report of investigation is submitted to the Department, all grave contents and copies of records, data, photographs, and other documents resulting from work conducted under the requested permit will be delivered to the Department in compliance with the Department's curation and recordation policy regarding human remains, unregistered graves, grave artifacts, and grave markers.

- c) **Emergency Excavations.**  
In instances where unregistered graves or grave contents are encountered and the Department determines that it is not feasible to leave the unregistered grave or grave contents in place, and there is a high likelihood that the current conditions of the encounter, that are outside the control of the person or entity encountering the remains, may lead to destruction or irreparable damage to the unregistered grave or grave contents, or an emergency exists affecting public health, safety, or property, the Department may authorize the excavation and analysis of the unregistered graves or grave contents at no cost to the owner of record by a professional archaeologist or human osteologist approved by the Department. All costs related thereto shall be borne by the professional archaeologist or skeletal analyst or other person employing or authorizing such excavation and analysis.
- d) **Excavation by Department Personnel.** Department employees carrying out official Department duties required under the Act need not follow the permit application procedures of this Section. However, the Department shall comply with all other requirements of this Part and the Act.
- e) **Certification of Human Osteologist.** The following are the minimum standards of education and experience to be certified as a human osteologist for the purpose of conducting activities under the Act and this Part. The applicant must:
- 1) Have designed and executed a human osteological study as evidenced by a graduate thesis or dissertation, or a report equivalent in scope and quality and been awarded a graduate degree, from an accredited institution, in archaeology, anthropology, or another germane discipline with a specialization in human osteology. It is recognized that in some cases an individual may have prepared several small reports that, cumulatively, may be comparable to a graduate thesis;
  - 2) Possess six months of supervised analytical training/experience in the identification, analysis, and interpretation of human osteological remains, which may be accumulated on a part-time basis; and
  - 3) Agree in writing to conduct research in accordance with currently accepted scientific standards as outlined in the Society for Professional

Archaeologists “Standards of Research Performance” and to know and comply with the Department’s’ curation and recordation policy regarding human remains, unregistered graves, grave artifacts, and grave markers.

- f) Application for Certification. Any individual wishing to apply for certification under this Section and the Act as a human osteologist shall submit a letter of request with appropriate documentation to the Department. Documentation must be sufficient to demonstrate the applicant fulfills the requirements of subsection (e)(1), (2) and (3).

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective January 26, 2024)

### **Section 4170.305 Department Review of Permit Application**

- a) In reviewing an application for a permit pursuant to the Act and this Part, the Department shall consider:
- 1) The documentation provided by the applicant pursuant to Section 4170.300, including if the information is complete and meets the criteria set out by the Act and this Part;
  - 2) Kin, Tribal consultations, or related group opinions or comments regarding the disposition of the unregistered graves, human remains, grave artifacts, or grave markers; and
  - 3) Protection of unregistered graves and grave contents.
- b) The Department shall return a permit application to the applicant without issuing a permit if any information or documentation required under Section 4170.300 is missing or incomplete.

(Source: Added at 48 Ill. Reg. \_\_\_\_\_, effective January 26, 2024)

### **Section 4170.310 Issuance of Permits**

- a) *Each permit shall specify all terms and conditions under which the avoidance, removal, or disturbance of human remains, grave artifacts, grave markers, or unregistered graves shall be carried out. [20 ILCS 3440/13(d)]*
- b) Permit Conditions.
- 1) In all permits issued, the Department shall specify in writing:

- A) The nature and extent of work allowed and required under the permit, including the time, duration, scope, and location of the avoidance, disturbance, or removal of unregistered graves and grave contents;
  - B) The name of the persons responsible for conducting the work and, if different, the name of the persons responsible for carrying out the terms and conditions of the permit; and
  - C) The Department-approved treatment plan.
- 2) All permits shall require that a field summary be completed on the disposition of the unregistered graves and grave contents pursuant to the treatment plan and shall be delivered to the Department. The Department shall have 30 days from the date of receipt of the field summary to either approve the field summary or return the field summary for the completion of additional work or the filing of additional information. No undertaking shall resume until after the Department has approved a field summary provided by the permittee. The Department shall return any field summary that is not approved and shall set a deadline, in writing, for the submittal of a revised field summary. Failure to submit the revised field summary within the timeframe set in the permit shall be considered a withdrawal of the permit application.
  - 3) In order to minimize damage to real property, unregistered graves, and grave contents and in order to ensure the recording and preservation of those unregistered graves or grave contents, the permit may set forth requirements or limitations regarding the methods and equipment to be employed in the removal or avoidance, the area of investigation to ensure complete removal or avoidance of all unregistered graves or grave contents, and the procedures to be followed in documenting the removal or avoidance and the matters to be covered in the report or reports required to be provided pursuant to Section 4170.340.
  - 4) The permit may require that an authorized representative of the Department be present to witness and document the removal of human remains, unregistered graves, grave markers, or grave artifacts.
  - 5) Unless permit duration is defined within the terms of the permit, each permit shall expire at midnight one year after the date of its issuance.
  - 6) The Department may specify such other terms and conditions deemed necessary, consistent with this Part or the Act. The Department may add, remove, or modify permit conditions upon receiving new or updated

information.

- c) One copy of the permit shall be at the site of the project, either in the possession of the owner of record, the principal investigator of the project or a designated professional archaeologist at the project site while any undertaking is occurring. The permit shall be provided to any employee of the Department or any member of law enforcement upon request during normal business hours at the listed address of the permittee or at any time at the site when work is actively occurring on the land the permit was so issued.
- d) **Initiation Deemed Acceptance.** Initiation of work or other activities under the authority of a permit signifies the permittee's acceptance of the terms and conditions of the permit.
- e) **No Release Until Obligations Satisfied.** The permittee shall not be released from requirements of a permit until all outstanding obligations have been satisfied, whether or not the term of the permit has expired.
- f) **Transfer, Extension, or Modification.** The permittee may request that the Department transfer, extend, or modify a permit by written application only. Such transfer, extension, or modification of the permit shall become effective only upon review and written transfer, extension, or modification of the permit by the Department. If a permit is transferred, extended, or modified, the permit shall be reissued by the Department and shall include such transfer, extension, or modification. All transfers, extensions, or modifications shall comply with the Act and this Part.
- g) **Permits For Terms In Excess of One Year.** The permittee's performance under any permit issued for a period greater than one year shall be subject to review by the Department at least annually.

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective January 26, 2024)

#### **Section 4170.320 Financial Responsibility (Repealed)**

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective January 26, 2024)

#### **Section 4170.330 Suspension of Permits**

- a) **Suspension of Permits.** The Department may suspend a permit if any of the following conditions occur:
  - 1) Public health or safety is endangered by the continuation of activities authorized by the permit;

- 2) Information provided by the permittee to the Department was willfully misrepresented or false; or
- 3) The permittee is in violation of:
  - A) any conditions set forth in the permit as issued by the Department;
  - B) the Act; or
  - C) any of the rules of this Part.
- b) Such suspension shall remain in effect until the basis for the suspension has been mitigated to the satisfaction of the Department.

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective January 26, 2024)

#### **Section 4170.340 Reports Required**

- a) Field Summary. A Field Summary shall include the following:
  - 1) The location of and count of all encountered unregistered graves.
  - 2) The field methodologies used for the identification and removal of unregistered graves and grave contents.
  - 3) A chronology of all actions taken during the course of the investigation and removal or avoidance of any unregistered grave or grave contents that is covered by a permit issued pursuant to the Act.
  - 4) A listing of all individuals involved in the actions taken as reported in subsection (a)(2) and (3).
  - 5) Current storage location of all encountered human remains, grave artifacts or grave markers.
  - 6) Within 30 days of the conclusion of the field investigation of the unregistered grave or grave contents, the individual providing such services shall file a field summary with the Department. Additional time to file a field summary with the Department may be granted at the discretion of the Department. Any extension of time to file a field summary shall only be by written consent of the Department.
- b) Report of Investigation  
*Within 60 days of the completion of the undertaking, the permit holder shall*

*submit a report, on a form provided by the Department, of the results to the Department.* [20 ILCS 3440/13(d)] A Report of Investigation shall include the following:

- 1) Transmittal Statement by the Permittee. The permittee shall provide a statement that will provide:
  - A) The final disposition of the grave contents; and
  - B) Written documentation of the transfer of any excavated or removed grave contents to the Department.
- 2) Reports by Professional Archaeologist and/or Human Osteologist. The professional archaeologist and/or human osteologist identified in the permit shall also provide the Department with copies of the reports, in the format required by the Department, containing the following information:
  - A) Title Page. Each report shall have a title page which specifies the authors, principal investigator, institution or association, contractor and source of funds, title of report including the nature and location of work, and the date the report was prepared.
  - B) Abstract. The abstract shall clearly summarize the purposes, location, result of fieldwork, laboratory analysis, if applicable, and any recommendations of the report and shall include enough information that it could be quoted as a summary statement.
  - C) Table of Contents. The table of contents is necessary for reports exceeding 10 pages in length and should provide page locations for the various report subdivisions as well as for figures, tables, references cited, and appendices.
  - D) Introduction. The introduction shall briefly summarize the purpose of the investigations and the scope of work (contract requirements), including any agencies involved, dates of work, principal personnel and landowners.
  - E) Physical Setting. The physical setting as it relates to the understanding of the nature of the unregistered graves shall be described. Information shall be presented on the geomorphology, soils, vegetation, current land use, potential for preservation in place, and any other pertinent data. A map showing the location of the project in the State should be included, as well as a United States Geological Survey (USGS) quadrangle map; section,

township, and range; GPS coordinates; and any additional maps that clarify location and setting.

- F) Context. A summary of any previous archaeological and/or historical record of the unregistered graves shall be provided. This section shall include a description of the information sources consulted, including published material, and adequate historical documentation.
- G) Methods. A statement of procedures used to document and analyze the unregistered graves, field and laboratory data, and rationale for the procedures utilized shall be included in the report. The overall field method and the techniques used in the survey and/or excavation shall be specified. Maps showing the areas covered by on-site inspection must be included. If multiple techniques were used, maps or text should specify the techniques used in each subarea. Each map must be clear, of an appropriate scale, and shall contain a north arrow, figure caption, and a legend of symbols used. The techniques and equipment used to document and analyze grave contents and associated data should be specified.
- H) Results. The results of field and/or laboratory investigations should be presented (along with supportive data) and a synthesis of the work given. This section must include site descriptions of unregistered graves surveyed or excavated. The descriptions should include a complete discussion of the site's historical or archaeological context.
- I) Description of Unregistered Graves and Grave Contents. The report shall include, but not be limited to:
  - i) The number and context of unregistered graves (including type of burial, positions, etc.);
  - ii) a description and analysis of all associated grave markers and grave artifacts and/or features;
  - iii) a scale map with the positions of each unregistered grave;
  - iv) an inventory of the bones and teeth recovered;
  - v) a description of the general condition of the remains;
  - vi) a description and analysis of any traumas and pathological



- conditions;
  - vii) assessments of age, sex, stature, and population affiliation;
  - viii) an evaluation of cultural/historical, ethnic, and Tribal affiliation;
  - ix) a description and analysis of nonmetric traits; and
  - x) evidence used in the identification of specific individuals.
- J) **Supporting Data.** Supporting data for the report must include lists and descriptions of material remains, photographs of the sites and the project area figures of excavation details (profiles, plan maps, etc.). The results should evaluate the unregistered graves; cultural historical, ethnic, and Tribal affiliation; and cultural/historical context of all of the former in relationship to the overall scope of the project.
- K) **Identification.** The report shall, if possible, clearly present the evidence to establish kin, related group, and/or cultural-historical affiliation.
- L) **Recommendations.** Recommendations and supporting evidence regarding the possibility of the presence of unregistered graves or grave contents that were not encountered at the permitted location.
- M) **Supplementary Statements.** The location where the materials and records have been deposited and are being cared for must be specified in the report. The nature of the records and curation facility must also be noted.
- N) **References Cited.** References to the files, literature, webpages, and oral reports which are applicable to the project must be included in the references cited.

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective January 26, 2024)

### **Section 4170.350 Forms**

Any form required by the Department pursuant to the Act or this Part may be requested by contacting the Department at [DNR.ILHRPA@illinois.gov](mailto:DNR.ILHRPA@illinois.gov), or may be found on the Department's website at [www.dnr.illinois.gov](http://www.dnr.illinois.gov).

(Source: Added at 48 Ill. Reg. \_\_\_\_\_, effective January 26, 2024)

**Section 4170.400 Disposition of Human Remains, Grave Markers and Grave Artifacts**

- a) All grave contents shall be turned over to the Department within 30 days of the acceptance of the report of investigation by the Department.
- b) **Items Identified by Kin.** If kin can be identified, the identified kin shall have the authority concerning the ultimate disposition of the human remains, grave markers, or grave artifacts in the possession of the Department.
- c) **Items Identified of a Related Group.** If human remains, grave markers, or grave artifacts in the possession of the Department are identified as being part of a related group, the Department shall consult with the identified related groups. The disposition of the human remains, grave markers, or grave artifacts shall be in accordance with the desires of such related groups.
- d) **No Kin or Related Group Identified.** Whenever the Department is unable to identify kin or a related group, or the kin or related group identified fails to make a recommendation regarding the disposition of human remains, grave markers, or grave artifacts, the Department shall treat the human remains, grave markers, and grave artifacts in accordance with its curation and recordation policies regarding human remains, unregistered graves, grave artifacts, and grave markers.
- e) **Other Disposition.** Persons or groups may submit to the Department adequate historical documentation demonstrating their relationship to specific human remains, grave markers, or grave artifacts. The Department will review these documents, and after a determination by the Department that relationship exists, the Department will work towards repatriation of those items to affiliated kin or related groups.

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective January 26, 2024)

**Section 4170.410 Transfer of Jurisdiction Over Human Remains (Repealed)**

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective January 26, 2024)

**Section 4170.420 Appeals**

- a) Any permittee who receives notice of suspension or revocation, any permittee contesting a condition of a permit, or any related group or kin contesting the disposition of human remains, unregistered graves, grave markers, or grave artifacts may request an administrative hearing.
- b) **Suspension Appeal**

- 1) If a permit is suspended or revoked, the permit holder will be issued a Notice of Suspension/Revocation through U.S. mail. An affidavit of mailing shall be proof that the notice was received. Notification will contain the factual and legal reason for the suspension or revocation and shall be sent by standard U.S. mail.
- 2) Any person whose permit is suspended or revoked shall have the right to appeal by filing two copies of the Petition for Hearing. Both copies of the Petition for Hearing shall be mailed to or filed with:

Illinois Department of Natural Resources  
Office of Legal Counsel  
One Natural Resources Way  
Springfield, IL 627092-1271

- 3) Petitions must be sent to the Department and postmarked no later than 30 days after the Notice of Denial was mailed for the petition to be considered.
- 4) If no petition is mailed within 30 days of the Notice of Suspension/Revocation being mailed by the Department, the suspension or revocation will be considered final without further notice.
- 5) The petition shall be styled "In Human Remains Act Permit Suspension/Revocation of (name), PETITION FOR HEARING". The petition shall contain sufficient facts in justification of a hearing and shall be signed by the Petitioner. The party filing the petition shall be designated the Petitioner. The Department shall be designated the Respondent.
- 6) The hearing will be conducted in accordance with the Department's rules for contested hearings at 17 Ill. Adm. Code 2530, Subpart D.

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective January 26, 2024)

#### **Section 4170.430 Delegation of Responsibilities (Repealed)**

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective January 26, 2024)

#### **Section 4170.440 Custody and Curation (Repealed)**

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective January 26, 2024)

**Section 4170.500 Scientific Treatment and Disposition of Human Remains Transferred to the Illinois State Museum (Repealed)**

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective January 26, 2024)

**SUBPART B: PROHIBITED ACTS; PENALTIES****Section 4170.600 Prohibited Acts; Notification of Department (Repealed)**

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective January 26, 2024)

**Section 4170.610 Criminal Penalties (Repealed)**

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective January 26, 2024)

**Section 4170.620 Civil Penalties (Repealed)**

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective January 26, 2024)

**Section 4170.630 Civil Damages (Repealed)**

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective January 26, 2024)

**Section 4170.640 Penalty Amounts (Repealed)**

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective January 26, 2024)

**Section 4170.650 Rewards**

At the discretion of the Department, pursuant to Section 9 of the Act, the Department may advertise a reward for information leading to the arrest and conviction of any person who violates the Act. The Director may certify to the State Comptroller that a person is eligible to receive payment. Officers and employees of federal, State, or local government who furnish information or render service in the performance of their official duties shall not be certified eligible to receive payment of rewards.

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective January 26, 2024)

**SUBPART C: ILLINOIS INVENTORY OF BURIAL SITES****Section 4170.700 Purpose of Inventory (Repealed)**

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective January 26, 2024)

**Section 4170.710 Inventorying of Burial Site (Repealed)**

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective January 26, 2024)

**Section 4170.720 Confidentiality (Repealed)**

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective January 26, 2024)

**Section 4170.800 Burial Location on Department-Owned, -Managed, or -Leased Land**

The Department may identify locations for repatriated human remains, grave artifacts, and grave markers on Department-Owned, -Managed, or -Leased land using adequate historical documentation and Tribal consultation. The method of repatriation shall be with Tribal approval.

(Source: Added at 48 Ill. Reg. \_\_\_\_\_, effective January 26, 2024)