

Colorado Statutes - **CRS 24-80-401-411**:

Title 24 Government - State:

State History, Archives, and Emblems:

Article 80 State History, Archives, and Emblems:

Part 4--

HISTORICAL, PREHISTORICAL, AND ARCHAEOLOGICAL RESOURCES

Editor's note: This part 4 was originally enacted as article 12 of chapter 131 in C.R.S. 1963. The substantive provisions of this article were repealed and reenacted in 1973, causing some addition, relocation, and elimination of sections as well as subject matter. For prior amendments, consult the red book table distributed with the session laws and C.R.S. 1963.

Section

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24-80-401. Title to historical, prehistorical, and archaeological resources.

- (1) The state of Colorado reserves to itself title to all historical, prehistorical, and archaeological resources in all lands, rivers, lakes, reservoirs, and other areas owned by the state or any county, city and county, city, town, district, or other political subdivision of the state. Historical, prehistorical, and archaeological resources shall include all deposits, structures, or objects which provide information pertaining to the historical or prehistorical culture of people within the boundaries of the state of Colorado, as well as fossils and other remains of animals, plants, insects, and other objects of natural history within such boundaries.
- (2) As used in this part 4, "historical, prehistorical, and archaeological resources" includes, in addition to the specific site or deposit, rights-of-way access on state-owned land from a maintained public road for the exploration, protection, preservation, interpretation, and enhancement of the site or deposit proper.

Source: L. 73: R&RE, p. 1381, § 1. **C.R.S. 1963:** § 131-12-1. **L. 90:** (1) amended, p. 1278, § 1, effective May 9.

ANNOTATION

Law reviews. For article, "1974 Land Use Legislation in Colorado", see 51 Den. L. J. 467 (1974).

24-80-402. Administration of part 4.

In addition to any other powers and duties conferred by law, the state historical society of Colorado, referred to in this part 4 as the "society", shall administer the provisions of this part 4, and the duties and powers of the state archaeologist described in this part 4 shall be exercised under the direction of its board of directors.

Source: L. 73: R&RE, p. 1381, § 1. **C.R.S. 1963:** § 131-12-2.

24-80-403. Office of state archaeologist - purpose.

There is hereby established the office of state archaeologist, which shall be a section within the society in the department of higher education. The purpose of the office of state archaeologist shall be to coordinate, encourage, and preserve by the use of appropriate means the full understanding of this state's archaeological resources as the same pertain to man's cultural heritage, the study and understanding of which within the state of Colorado will result in an ultimate benefit to the citizens of this state.

Source: L. 73: R&RE, p. 1382, § 1. **C.R.S. 1963:** § 131-12-3.

24-80-404. State archaeologist - appointment - qualifications.

The board of directors of the society is hereby authorized to and shall appoint a state archaeologist pursuant to the provisions of section 13 of article XII of the state constitution. The state archaeologist shall be the head of the office of state archaeologist. He shall be a graduate of a recognized college or university with a post-graduate degree in archaeology or anthropology and shall have had sufficient practical experience and knowledge in archaeology to qualify for the purposes of this part 4. The activities of the state archaeologist shall be closely coordinated with the other activities of the society.

Source: L. 73: R&RE, p. 1382, § 1. **C.R.S. 1963:** § 131-12-4.

24-80-405. Objectives and duties of the state archaeologist.

- (1) The state archaeologist shall function to provide assistance to and cooperate with the general public, industries, and agencies of local, state, and federal government, including institutions of higher education, in pursuit of the following objectives:
 - (a) To assist, consult with, and advise state and local governmental agencies and private persons on archaeological problems;
 - (b) To promote development of archaeological resources for educational purposes;

- (c) To conduct studies to develop archaeological information;
 - (d) To inventory and analyze this state's archaeological resources as to location, quantity, and their cultural significance;
 - (e) To collect and preserve archaeological resources;
 - (f) To advise the state and to act as liaison agency in transactions dealing with archaeological resources between state agencies and other states and between state agencies and the federal government on common problems and studies;
 - (g) To issue permits to qualified applicants for the conduct of archaeological studies;
 - (h) To arrange for the care, use, and storage of any archaeological resources collected;
 - (i) To prepare, publish, and distribute reports, maps, and bulletins when necessary to achieve the purposes of this part 4;
 - (j) To accept and, through the department of personnel, to use, disburse, and administer all federal funds or other property, services, and moneys allotted to the office of state archaeologist for the purposes of this part 4 and to prescribe, by regulation not inconsistent with the laws of this state, the conditions under which such funds, property, services, or moneys shall be accepted and administered. On behalf of the state, the society is empowered to make such agreements with the approval of the attorney general, not inconsistent with the laws of this state, as may be required as a condition precedent to receiving such funds or other assistance.
 - (k) To implement a program of salvage archaeology, which shall include surveys and either the salvage or the preservation of sites or antiquities imperiled by construction or other earth-movement projects;
 - (l) To establish and coordinate a procedure by which an historical, prehistorical, or archaeological resource belonging to the state of Colorado may be removed from Colorado on a loan basis, subject to its return pursuant to section 24-80-406.
- (2) The duties of the state archaeologist are to fulfill the objectives of this part 4 and, together with other employees of the society, to work for the maximum beneficial conservation of the archaeological resources of the state of Colorado and the acquisition and dissemination of knowledge pertaining to archaeology.

Source: L. 73: R&RE, p. 1382, § 1. C.R.S. 1963: § 131-12-5. L. 90: (1)(l) added, p. 1278, § 2, effective May 9. L. 95: (1)(j) amended, p. 656, § 77, effective July 1.

Cross references: For the legislative declaration contained in the 1995 act amending this section, see section 112 of chapter 167, Session Laws of Colorado 1995.

24-80-406. Permits.

- (1) (a) The society shall issue or deny permits for the investigation, excavation, gathering, or removal from the natural state of any historical, prehistorical, and archaeological resources within the state and

determine whether or not the applicants for such permits are duly qualified to conduct investigations in the field for which the permit is requested.

(b) The issuance, denial, or revocation of permits shall be made in conformity with article 4 of this title.

(2) Permits shall carry the following stipulations, in addition to such others as the society may require:

(a) The investigations, excavations, gatherings, and removals shall be undertaken only for the benefit of reputable museums, universities, colleges, or other recognized scientific or educational institutions, with a view to increasing the knowledge of such resources; and such activities shall be conducted for permanent preservation, either on the site or in museums, open to the public and available to qualified students.

(b) All permit holders shall provide the state archaeologist, within one year after the start of the investigation, excavation, gathering, or removal, with a preliminary report of progress. If such activity continues for more than one year, an annual progress report shall be made. The permit holder shall furnish a final report of the activity undertaken within three years after termination of the field work.

(c) An inventory of all materials recovered during the course of the investigation, excavation, gathering, or removal shall be supplied to the state archaeologist.

(d) Upon receipt of the final report of the activity undertaken by a permit holder, the state archaeologist may require that a representative collection of the materials recovered be delivered to the state of Colorado and shall determine a repository for the same.

(e) Any permit issued by the society may be revoked by the society, pursuant to article 4 of this title, at any time if there is evidence that the activity authorized by the permit is being unlawfully or improperly conducted or if the permit holder does not honor the conditions of the permit. When a permit is revoked, all recovered materials, catalogues, maps, field notes, and other records necessary to identify the same shall be surrendered immediately to the society.

Source: L. 73: R&RE, p. 1383, § 1. **C.R.S. 1963:** § 131-12-6.

24-80-407. Agreements.

The society may enter into agreements with the department of transportation, the federal bureau of public roads, or other agencies, private corporations, or individuals controlling highway and other construction activities which might, in any way, involve historical, prehistorical, and archaeological resources of the state of Colorado.

Source: L. 73: R&RE, p. 1384, § 1. **C.R.S. 1963:** § 131-12-7. **L. 91:** Entire section amended, p. 1067, § 35, effective July 1.

24-80-408. Properties not owned by the state.

Upon the request of any municipality, county, or governmental agency, the society shall, and, upon the request of any corporation or private individual whose property is affected, the society may, undertake the powers provided for in sections 24-80-405 to 24-80-407 with respect to historical, prehistorical, or archaeological

resources on private or public lands, owned by the entity so requesting, within the boundaries of Colorado. The state archaeologist may adopt rules and regulations governing the extent of responsibility he will assume and the conditions pertaining thereto.

Source: L. 73: R&RE, p. 1384, § 1. **C.R.S. 1963:** § 131-12-8. **L. 90:** Entire section amended, p. 1279, § 3, effective May 9.

24-80-409. Penalty - injunction - temporary restraining order.

- (1) Any person who knowingly appropriates, excavates, injures, or destroys any historical, prehistorical, or archaeological resource on land owned by the state or any county, city and county, city, town, district, or other political subdivision of the state without a valid permit is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment. All articles and materials illegally taken and all moneys and materials derived from the sale or trade of the same shall be forfeited to the society.
- (2) When the society has cause to believe that a person has engaged in or is engaging in any unlawful conduct as defined in subsection (1) of this section, it may apply for and obtain, in an action in any district court of this state, a temporary restraining order or injunction, or both, pursuant to the Colorado rules of civil procedure prohibiting such person from continuing such practices, or engaging therein, or doing any act in furtherance thereof.

Source: L. 73: R&RE, p. 1384, § 1. **C.R.S. 1963:** § 131-12-9. **L. 90:** (1) amended, p. 1279, § 4, effective May 9.

Cross references: For injunctions, see C.R.C.P. 65.

24-80-410. State monuments.

The governor of the state of Colorado is hereby authorized, upon recommendation of the society and approval of both the state agency having jurisdiction over the same and the county or municipality within which the same are located, to declare by public proclamation that any particular historic and prehistoric or archaeological structures, deposits, sites, and other objects of scientific or historic interest that are situated upon lands owned by the state of Colorado shall be state monuments, and he may designate as a part thereof such state-owned parcels of land as he may deem necessary for the proper access, care, and management of the objects so designated.

Source: L. 73: R&RE, p. 1384, § 1. **C.R.S. 1963:** § 131-12-10.

24-80-411. Applicability of this part 4 to human remains.

The treatment of human remains is governed by both this part 4 and part 13 of this article. In case of any conflict between said parts, part 13 shall control.

Source: L. 90: Entire section added, p. 1279, § 5, effective May 9.

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Title 24 Government - State:

State History, Archives, and Emblems:

Article 80 State History, Archives, and Emblems:

Part 13--

UNMARKED HUMAN GRAVES

24-80-1301. Definitions.

24-80-1302. Discovery of human remains.

24-80-1303. Discovery of human remains during an anthropological investigation.

24-80-1304. Rule-making authority - state archaeologist.

24-80-1305. Violation and penalty.

24-80-1301. Definitions.

As used in this part 13, unless the context otherwise requires:

- (1) "Commission" means the commission of Indian affairs.
- (2) "Disturb" means to move, open, expose, dig up, disinter, excavate, remove, carry away, damage, injure, deface, desecrate, loot, vandalize, mutilate, or destroy.
- (3) "Human remains" means any part of the body of a deceased human being in any stage of decomposition.
- (4) "Land" means all lands, including submerged lands, located within the state of Colorado which are owned by the state or its political subdivisions, agencies, or instrumentalities or by any private person.
- (5) "Person" means an individual, limited liability company, corporation, unincorporated association, partnership, proprietorship, or governmental entity.
- (6) "Unmarked human burial" means any interment of human remains for which there exists no grave marker or any other historical documentation providing information as to the identity of the deceased.

Source: L. 90: Entire part added, p. 1279, § 6, effective May 9. **L. 92:** (5) amended, p. 2176, § 34, effective June 2.

24-80-1302. Discovery of human remains.

- (1) Except as provided in section 24-80-1303 with regard to anthropological investigations, any person who discovers on any land suspected human skeletal remains or who knowingly disturbs such remains shall immediately notify the coroner of the county wherein the remains are located and the sheriff, police chief, or land managing agency official.
- (2) The coroner shall conduct an on-site inquiry within forty-eight hours of such notification to attempt to determine whether such skeletal remains are human remains and to determine their forensic value. If the

coroner is unable to make such determinations, the police chief, the sheriff, the coroner, or the land managing agency official shall request the forensic anthropologist of the Colorado bureau of investigation to assist in making such determinations. If it is confirmed that the remains are human remains but of no forensic value, the coroner shall notify the state archaeologist of the discovery. The state archaeologist shall recommend security measures for the site.

- (3) Prior to further disturbance, the state archaeologist shall cause the human remains to be examined by a qualified archaeologist to determine whether the remains are more than one hundred years old and to evaluate the integrity of their archaeological context. Complete documentation of the archaeological context of the human remains shall be accomplished in a timely manner.
- (4)
 - (a) If the on-site inquiry discloses that the human remains are native American, the state archaeologist shall notify the commission.
 - (b) The remains shall be disinterred unless the landowner, the state archaeologist, and the chairman of the commission or his designee unanimously agree to leave the remains in situ.
 - (c) Disinterment shall be conducted carefully, respectfully, and in accordance with proper archaeological methods and by an archaeologist who holds a permit issued under sections 24-80-405 and 24-80-406. In the event the remains are left in situ, they shall be covered over.
 - (d) Without the landowner's express consent for an extension of time, disinterment shall be accomplished no later than ten consecutive days after the state archaeologist has received notification from the coroner pursuant to subsection (2) of this section.
 - (e) The archaeologist who conducts the disinterment will assume temporary custody of the human remains, for a period not to exceed one year from the date of disinterment, for the purpose of study and analysis. In the event that a period in excess of one year is required to complete such study and analysis, the commission shall hold a hearing and may, based upon its findings, grant an extension. During the period that the human remains are in the temporary custody of the archaeologist who conducted the disinterment, an archaeological analysis and report shall be prepared. At the same time, a physical anthropological study shall be conducted to include, but not be limited to, osteometric measurement, pathological analysis, and age, sex, and cause of death determinations. The cost of the disinterment, archaeological analysis, and physical anthropological study shall be borne by the state archaeologist except when the human remains are recovered from private lands. In the latter case, if no party can be identified who will bear the cost of such scientific study, the state archaeologist shall bear such costs.
 - (f) Upon completion of the studies pursuant to paragraph (e) of this subsection (4), the state archaeologist shall consult with the commission regarding reinterment.
- (5) Those remains which are verifiably nonnative American and are otherwise unclaimed will be delivered to the county coroner for further conveyance to the Colorado state anatomical board.

Source: L. 90: Entire part added, p. 1280, § 6, effective May 9.

24-80-1303. Discovery of human remains during an anthropological investigation.

- (1) Prior to the commencement of an anthropological investigation in which it is probable that skeletal remains will be discovered, the anthropologists conducting such an investigation shall apply to the state archaeologist for an excavation permit issued under the authority of section 24-80-405 (1) (g). Upon receipt of said permit by a qualified applicant, he shall notify the coroner and sheriff of the county in which the investigation shall be conducted.
- (2) When skeletal remains are discovered during such an investigation, the anthropologists shall determine whether such skeletal remains are human remains, and, if such remains are determined to be human remains, the anthropologists shall determine, whenever possible, the age and cultural affiliation of the individual. Based on such determinations, the anthropologists shall proceed as follows:
 - (a) If it is determined that the human remains are of an individual who has been dead less than one hundred years, the anthropologists shall notify the coroner of the discovery and shall offer an opinion as to the forensic significance of the human remains. The coroner shall respond to such notification within twenty-four hours, during which time all activity which could disturb such human remains shall cease. If, on the basis of the anthropologists' opinion or on an independent on-site inquiry, the coroner determines that the human remains are of no forensic significance, the anthropologists shall notify either the state archaeologist, if the human remains are those of a native American, or the Colorado state anatomical board, if the human remains are those of a human being who was not a native American.
 - (b) If it is determined that the skeletal remains are human remains but of an individual who has been dead for more than one hundred years, notwithstanding the provisions of section 30-10-606 (1.2), C.R.S., the anthropologists need not notify the coroner but shall notify either the state archaeologist, if the human remains are those of a native American, or the Colorado state anatomical board, if the remains are of a nonnative American.
- (3) Upon notification by the anthropologists of the discovery of the human remains of a native American, the state archaeologist shall notify the commission and shall thereafter proceed in accordance with the provisions of section 24-80-1302 (4).

Source: L. 90: Entire part added, p. 1281, § 6, effective May 9.

24-80-1304. Rule-making authority - state archaeologist.

- (1) In accordance with the provisions of the "State Administrative Procedure Act", article 4 of this title, the state archaeologist may adopt rules and regulations implementing the administrative procedures of this part 13. When adopting such rules and regulations, the state archaeologist shall consider the following:
 - (a) The rights and interests of landowners;
 - (b) The sensitivity of human beings for treating human remains with respect and dignity;
 - (c) The value of history and archaeology as a guide to human activity; and

(d) Applicable laws, standards, and guidelines for the conduct of archaeology and codes of ethics for participation in archaeology.

Source: L. 90: Entire part added, p. 1282, § 6, effective May 9.

24-80-1305. Violation and penalty.

- (1) Any person who knowingly disturbs an unmarked human burial in violation of this part 13 commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.
- (2) Any person who has knowledge that an unmarked human burial is being unlawfully disturbed and fails to notify the local law enforcement agency with jurisdiction in the area where the unmarked human burial is located commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.

Source: L. 90: Entire part added, p. 1282, § 6, effective May 9. **L. 2002:** Entire section amended, p. 1535, § 260, effective October 1.

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 318, Session Laws of Colorado 2002.