



Fact Sheet

FEDERAL AND STATE LAWS PROTECTING ARCHAEOLOGICAL SITES

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This fact sheet was prepared for the 2024 Select Committee on Tribal Relations to provide a summary of federal and State laws protecting archeological sites in Wyoming.

FEDERAL LAWS

The Antiquities Act of 1906 was the first federal law to establish that archaeological sites on public lands are important public resources.¹ The Act prohibited the unauthorized appropriation, excavation, injury, or destruction of any historic or prehistoric ruin or monument, or any object of antiquity, situated on lands owned or controlled by the U.S. government and established criminal penalties for violators.² The Secretaries of the Departments of Interior, Agriculture, and War were authorized to grant permits to qualified institutions for the examination of ruins, excavation archaeological sites, or collection of objects of antiquity on lands under the departments' respective jurisdictions, provided the permitted activities were undertaken for the benefit of reputable scientific or educational institutions and all collected objects were permanently preserved in public museums.³

In the years since 1906, additional federal laws have been enacted to protect the nation's cultural and historical resources. This memo summarizes two federal laws, the 1966 National Historic Preservation Act and the 1979 Archaeological Resources Protection Act, which establish tools for the identification and protection of archeological resources.

1966 National Historic Preservation Act:

The National Historic Preservation Act of 1966 established a national preservation program to encourage the identification and protection of historic resources, including archeological

¹ National Park Service, *American Antiquities Act of 1906: Overview* webpage (last accessed 4/17/2024), <https://www.nps.gov/articles/american-antiquities-act-of-1906.htm>.

² 16 USC 431-433.

³ *Id.*

resources, at the federal level and assist the efforts of state and local governments.⁴ The Act created the National Register of Historic Places, to be administered by the National Park Service, as the official federal inventory of historically significant districts, sites, structures and objects.⁵ The Act also created the State Historic Preservation Office (SHPO) program whereby each state may establish a SHPO that is responsible for conducting comprehensive surveys of historic properties, maintaining an inventory of historic properties, and identifying and nominating eligible properties to the National Register.⁶ State Historic Preservation Offices receive annual federal grants from the Historic Preservation Fund.⁷

In 1992, the National Historic Preservation Act was amended to require the Secretary of the Interior to establish a Tribal Historic Preservation program to assist Tribes in preserving their historic properties.⁸ In 1996, twelve Tribal Historic Preservation Offices (THPOs) were approved and began receiving grants from the Historic Preservation Fund.⁹ Since 1996, the number of designated THPOs has grown to more than 200.¹⁰

The National Register of Historic Places: Wyoming Listings include nine sites with identified petroglyphs or pictographs.¹¹ See **Appendix A**.

1979 Archaeological Resources Protection Act (ARPA)

The Archaeological Resources Protection Act (ARPA) was enacted to strengthen legal protection of archaeological resources following a 1974 ruling by the Ninth Circuit Court of Appeals in *United States v. Diaz* that the terms of the Antiquities Act were too vague to be enforceable.¹² Five years after the successful legal challenge to the Antiquities Act, Congress passed the Archaeological Resources Protection Act to protect archaeological resources and sites on federal lands and tribal lands and foster increased cooperation and exchange of information regarding these resources.¹³

⁴ 54 USC 300101.

⁵ 54 USC 302101.

⁶ 54 USC 302301.

⁷ National Park Service, State Historic Preservation Office Program webpage (last accessed 4/16/2024), <https://www.nps.gov/subjects/historicpreservationfund/state-historic-preservation-office-program.htm>.

⁸ P.L. 89-665, title 1, §101(d)(1), as added P.L. 102-575, title XL, §4006(a)(2), Oct. 30, 1991, 106 Stat. 4755.

⁹ National Park Service, Tribal Historic Preservation Office (THPO) Grants webpage, (last accessed 4/16/2024), <https://www.nps.gov/subjects/historicpreservationfund/thpo-grants.htm>.

¹⁰ *Id.*

¹¹ National Register: Wyoming Listings, Wyoming State Historic Preservation Office website (last accessed 4/17/2024), <https://wyoshpo.wyo.gov/index.php/programs/national-register/wyoming-listings/view-full-list>.

¹² National Park Service, Archaeological Resources Protection Act of 1979 webpage (last accessed 4/16/2024), <https://www.nps.gov/subjects/archeologenactey/archaeological-resources-protection-act.htm>; *United States v. Diaz*, 499 F.2d 113 (9th Cir. 1974)

¹³ 16 USC 470aa (b).

The Archaeological Resources Protection Act defines the term “archaeological resource” as any material remains of past human life or activities which are of archaeological interest, and specifically includes rock paintings and rock carvings as examples.¹⁴ The Act requires persons wishing to excavate or remove any archaeological resource located on federal or tribal lands to apply to the federal land manager for a permit.¹⁵ If a permit may result in harm to any religious or cultural site, the land manager must notify any tribe which may consider the site as having religious or cultural importance.¹⁶ Tribes wishing to excavate or remove archaeological resources on their tribal lands are not required to obtain a permit.¹⁷

The Act prohibits the unauthorized excavation, removal, damage, alteration, or defacement of archaeological resources located on federal or tribal lands, and establishes criminal penalties for such acts:

- A fine of not more than \$10,000 or imprisonment of not more than one year, or both;
- If the value and cost of restoration of the archaeological resource exceeds \$500, a fine of not more than \$20,000 or imprisonment of not more than two years, or both; or
- For subsequent violations, a fine of not more than \$100,000 or imprisonment of not more than five years, or both.¹⁸

The Act also authorizes federal land managers to assess civil penalties for violations¹⁹ and provide rewards for information regarding violations.²⁰

WYOMING LAW

In 1935, Wyoming enacted HB 93, Prehistoric Deposits – Permits for Excavation, to provide for the protection of prehistoric deposits, relics, materials and natural scenic features in the State.²¹ The Prehistoric Ruins Act requires the State Board of Land Commissioners to issue permits for the excavation of any prehistoric ruins, pictographs, hieroglyphics, or other ancient markings on any state or federal lands in Wyoming.²² The Act also authorizes the Board to promulgate and enforce such regulations as it may deem necessary to protect prehistoric ruins, relics, archaeological and paleontological deposits in the State from vandalism or injury.²³ Current Board of Land Commissioner rules do not include rules for enforcement of the Prehistoric Ruins Act.²⁴

¹⁴ 16 USC 470bb (1).

¹⁵ 16 USC 470cc (a).

¹⁶ 16 USC 470cc (c).

¹⁷ 16 USC 470cc (g).

¹⁸ 16 USC 470ee (a) and (d).

¹⁹ 16 USC 470ff.

²⁰ 16 USC 470gg.

²¹ 1935 Wyoming Session Laws, Ch. 37.

²² W.S. 36-1-114.

²³ W.S. 36-1-114.

²⁴ LSO search of current Board of Land Commissioner rules published on the Wyoming Secretary of State website as of 4/17/2024.

The Prehistoric Ruins Act establishes the following penalties for violation of the Act:²⁵

- Any person violating any of the provisions of the Act shall be guilty of a misdemeanor and fined not less than twenty-five dollars (\$25) or more than one hundred dollars (\$100), or imprisoned in the county jail not more than six months, or both, and shall forfeit to the State all articles and materials discovered by or through his efforts.
- Any person who, for monetary gain or for commercial or any other purpose, removes in violation of the Act any archeological or paleontological artifacts with a cumulative value over five hundred dollars (\$500), shall be guilty of a felony and fined up to ten thousand dollars (\$10,000), imprisoned for up to ten years, or both.

See **Appendix B** for the Wyoming Prehistoric Ruins Act, W.S. 36-1-114 through 36-1-116.

²⁵ W.S. 36-1-116.

Appendix A.

National Register of Historic Places: Wyoming Listings of indigenous rock art sites

Torrey Lake Petroglyph District

Read All About It: The Torrey Lake Petroglyph District is an extensive, discontinuous grouping of predominantly pecked rock art extending approximately 5.2 km (3.2 mi.) along the Torrey Creek Drainage. About 175 petroglyphs, 11 lithic scatters, and a...
<https://wyoshpo.wyo.gov/index.php/programs/national-register/wyoming-listings/view-full-list/575-torrey-lake-petroglyph-district>

Castle Garden Petroglyphs

Read All About It: Castle Gardens is an extensive site six miles long and one mile in width. The petroglyphs are scattered throughout the area on a series of vertical cliffs, highly eroded, rising ten to one hundred feet in height above the valley...
<https://wyoshpo.wyo.gov/index.php/programs/national-register/wyoming-listings/view-full-list/553-castle-garden-petroglyphs>

Legend Rock Petroglyph Site

Read All About It: The Legend Rock petroglyphs, figures carved or etched upon a rock surface, are seen in a series of panels on the faces of three major sandstone outcroppings near Hamilton Dome, Wyoming. The petroglyphs are significant as an...
<https://wyoshpo.wyo.gov/index.php/programs/national-register/wyoming-listings/view-full-list/595-legend-rock-petroglyph-site>

Labarge Bluffs Petroglyphs

Read All About It: The La Barge Bluffs Petroglyph site consists of nine panels of some of the richest and most expressive rock art in western North America. The rock art occurs on flat, west-facing sandstone surfaces that are located just above an...
<https://wyoshpo.wyo.gov/index.php/programs/national-register/wyoming-listings/view-full-list/875-labarge-bluffs-petroglyphs>

Arch Creek Petroglyphs

Read All About It: The Arch Creek Petroglyph site is a well-preserved and well protected example of an unusual aboriginal rock art style located in the Southern Black Hills area of northeastern Wyoming. The incised, long bodied stick figures are...
<https://wyoshpo.wyo.gov/index.php/programs/national-register/wyoming-listings/view-full-list/534-arch-creek-petroglyphs>

Tolar Petroglyph Site

south and southeast face of a large sandstone outcrop. It contains a distinctive collection of Protohistoric and Historic petroglyphs created by Native American groups inhabiting or traveling through southwestern Wyoming. The artistic styles and motifs...
<https://wyoshpo.wyo.gov/index.php/programs/national-register/wyoming-listings/view-full-list/839-tolar-petroglyph-site>

Medicine Lodge Creek Site

Read All About It: About five miles northeast of Hyattville is a prehistoric site where petroglyphs and pictographs may be seen, and where archaeological exploration has revealed a record of human habitation. The Medicine Lodge Creek site is located on...
<https://wyoshpo.wyo.gov/index.php/programs/national-register/wyoming-listings/view-full-list/410-medicine-lodge-creek-site>

Calpet Rockshelter

Read All About It: Site 48SU354, the Calpet Rockshelter/Petroglyphs, encompasses a sandstone outcrop at the base of a butte in Sublette County, Wyoming. It includes a rockshelter with two stratified cultural levels, scattered fire-cracked rock and a...
<https://wyoshpo.wyo.gov/index.php/programs/national-register/wyoming-listings/view-full-list/792-calpet-rockshelter>

Gateway Site

Read All About It: Gateway (48LN348) is comprised of a small concentration of five petroglyph panels that have been incised, abraded, and pecked on several faces of a distinctively-shaped sandstone outcrop located on the highest point of a steep-sided...
<https://wyoshpo.wyo.gov/index.php/programs/national-register/wyoming-listings/view-full-list/984-gateway>

Source: Wyoming State Historic Preservation Office website, National Register: Wyoming Listings.

Wyo. Stat. § 36-1-114

Current through 2023 General Session. Subject to revisions by LSO.

Wyoming Statutes Annotated > Title 36 State Lands (Chs. 1 — 12) > Chapter 1 General Provisions (Arts. 1 — 5) > Article 1. In General (§§ 36-1-101 — 36-1-121)

§ 36-1-114. Protection of prehistoric ruins; permits to excavate, regulations and violations.

Before any excavation on any prehistoric ruins, pictographs, hieroglyphics, or any other ancient markings, or writing or archaeological and paleontological deposits in the state of Wyoming on any state or federal lands, shall be undertaken, a permit shall first be obtained from the state board of land commissioners. The state board of land commissioners is hereby authorized to promulgate and enforce such regulations as it may deem needful to protect from vandalism or injury the prehistoric ruins, relics, archaeological and paleontological deposits of the state, as well as all natural bridges and natural scenic features and formations. Any violation of such regulations shall be a misdemeanor.

History

Laws 1935, ch. 37, § 1; C.S. 1945, § 24-131; W.S. 1957, § 36-11; 2007, ch. 33, § 1.

Wyoming Statutes Annotated
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Wyo. Stat. § 36-1-115

Current through 2023 General Session. Subject to revisions by LSO.

Wyoming Statutes Annotated > Title 36 State Lands (Chs. 1 — 12) > Chapter 1 General Provisions (Arts. 1 — 5) > Article 1. In General (§§ 36-1-101 — 36-1-121)

§ 36-1-115. Protection of prehistoric ruins; consent to removal from state.

No person shall remove from the state of Wyoming any part of any such ruins or deposit except with the consent of the state board of land commissioners. Said board may require, as a condition to such consent, that such portion of such relics, materials, or deposit as said board shall require, shall forever remain the property of the state of Wyoming.

History

Laws 1935, ch. 37, § 2; C.S. 1945, § 24-132; W.S. 1957, § 36-12.

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Wyo. Stat. § 36-1-116

Current through 2023 General Session. Subject to revisions by LSO.

Wyoming Statutes Annotated > Title 36 State Lands (Chs. 1 — 12) > Chapter 1 General Provisions (Arts. 1 — 5) > Article 1. In General (§§ 36-1-101 — 36-1-121)

§ 36-1-116. Protection of prehistoric ruins; penalty.

(a) Except as provided by subsection (d) of this section, any person violating any of the provisions of this act shall be guilty of a misdemeanor and shall be fined not less than twenty-five dollars (\$25.00) or more than one hundred dollars (\$100.00), or imprisoned in the county jail not more than six (6) months, or by both fine and imprisonment, and shall forfeit to the state all articles and materials discovered by or through his efforts.

(b) Persons holding permits or leases on state lands may not sublease or subcontract archeological or paleontological removal without prior written approval of the board.

(c) All state leases are subject to inspection by state or county law enforcement agencies or their designees for violation of W.S. 36-1-114 and 36-1-115.

(d) Any person who, for monetary gain or for commercial or any other purpose, removes any archeological or paleontological artifacts in violation of W.S. 36-1-114 or 36-1-115 with a cumulative value in excess of five hundred (\$500.00), shall be guilty of a felony and upon conviction shall be fined up to ten thousand dollars (\$10,000.00), imprisoned for up to ten (10) years, or both.

History

Laws 1935, ch. 37, § 3; C.S. 1945, § 24-133; W.S. 1957, § 36-13; 1997, ch. 200, § 1.

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