

Standards Professionnels de l'Expertise Archéologique

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La Society for American Archaeology (SAA, Société d'Archéologie Américaine), est un organisme international consacré à la recherche, interprétation et protection du patrimoine archéologique des Amériques. Avec plus de 6800 membres à son actif, la société représente des archéologues professionnels, en formation ou indépendants, qui travaillent sous diverses modalités, telles que dans des agences gouvernementales, des instituts d'enseignement supérieur, des universités, des musées, ainsi que dans le secteur privé.

La Archaeological Resources Protection Act (ARPA, 1979, Décret de Protection des Biens Archéologiques, ndt), (Alinéa 16, Code des États-Unis, Sections 470aa-460mm) et les Régulations Permanentes de l'ARPA définissent un des trois degrés de gravité de toute violation criminelle ou civile de l'ARPA comme motif pour la mise en place de l' «expertise archéologique». Afin d'aider les archéologues à réaliser une estimation de tout dommage porté au patrimoine archéologique, la Commission de Renforcement des Normes Légales de l'Archéologie de l'ARPA a mis en place les standards professionnels ci-dessous pour la détermination de la valeur archéologique. Le Comité de Direction de la SAA affirme son adhésion déterminée à ces standards, et encourage leur mise en pratique de la part des archéologues professionnels.

L'expertise archéologique s'aligne directement sur les principes de routine professionnelle tels qu'ils sont quotidiennement mis en pratique aux États-Unis. Il s'agit de la démarche à suivre dans le développement de budgets réels pour la récupération de matériaux archéologiques ou d'information en danger, ou dans tout projet de recherche étant mis en place au moyen d'un financement issu de contrats, de subventions, de donations ou autres. Ainsi, la définition de la valeur archéologique est tout simplement l'application structurée de cette pratique professionnelle, dans le but de fournir l'information requise par la loi fédérale.

L'archéologue professionnel qui recourt à la définition de la valeur archéologique se doit d'être qualifié en tant qu'expertiseur (Loi 702, Règles Fédérales d'Évidences).

En plus de devoir répondre aux standards professionnels de l'archéologie, les aptitudes requises comprennent par ailleurs une expertise régionale ainsi que de l'expérience dans le domaine de biens similaires aux biens impliqués dans l'expertise archéologique. Un entraînement adéquat à la préparation de l'expertise archéologique est fortement recommandé.

Les dispositions légales régissant l'expertise archéologique sont les suivantes.

ARPA Criminal Offenses and Archaeological Value

The "Prohibited Acts and Criminal Penalties" section of ARPA specifies that "archaeological value" will be considered in determining whether the archaeological resource violation qualifies as a felony offense (Title, 16 United State Code, Section 470ee(d)). Trafficking in archaeological resources also may constitute a violation of ARPA (Title 16, United States Code, Section 470ee(b), (c)). Federal courts are required to use archaeological value in determining appropriate sentences for defendants convicted of ARPA violations or other federal offenses involving cultural heritage resources (United States Sentencing Guidelines, Section 2B1.5).

ARPA Civil Penalties and Archaeological Value

The "Civil Penalties" section of ARPA specifies that "archaeological value" will be considered in determining the amount of a civil penalty for an archaeological resource violation (Title 16, United States Code, Section 470ff(a)(2)(A)).

ARPA Prohibited Conduct

The ARPA Statute and ARPA Uniform Regulations specify that under certain circumstances (e.g., lack of ARPA permit), prohibited conduct includes the following acts: "excavate, remove, damage, or otherwise alter or deface" any archaeological resource, "or attempt to (do any such act)" (Title 16, United States Code, Section 470ee(a); Regulations, section __.4(a)). This prohibited conduct applies to both ARPA criminal offenses (Title 16, United States Code, Section 470ee(d)) and ARPA civil penalties (Title 16, United States Code, Section 470ff(a)(1); Regulations, Section __.15(a)).

ARPA Definitions

Archaeological Resource

"The term "archaeological resource" means any material remains of past human life or activities which are of archaeological interest ... at least 100 years of age" (Title 16, United States Code, Section 470bb(1)).

Material Remains

"Material remains" means physical evidence of human habitation, occupation, use, or activity, including the site, location, or context in which such evidence is situated" (Regulations, Section __.3(a)(2)).

Archaeological Interest

"Of archaeological interest" means capable of providing scientific or humanistic understandings of past human behavior ..." (Regulations, Section __.3(a)(1)).

Archaeological Value

"... The archaeological value of any archaeological resource involved in a violation ... shall be the value of the information associated with the archaeological resource. This value shall be appraised in terms of the costs of the retrieval of the scientific information which would have been obtainable prior to the violation. These costs may include, but need not be limited to, the cost of preparing a research design, conducting field work, carrying our laboratory analysis, and preparing reports as would be necessary to realize the information potential (Regulations, Section __.14(a)).

Professional Standards for the Determination of Archaeological Value

Standard 1 – Identification of the Archaeological Resource(s) Involved in the ARPA Violation

The first step in determining archaeological value is to specifically identify the archaeological resource(s) involved in the ARPA violation (i.e., the archaeological resource(s) excavated, removed, damaged, or otherwise altered or defaced). Identification of the archaeological resource(s) involved in the violation must be based on:

- a. the physical attributes of the archaeological resource(s), including spatial extent, and the discernable or inferable archaeological context of the resource(s) (this archaeological context could be an entire site, groups of features or strata, a single feature or stratum, single artifacts, or other commonly defined components of the archaeological record);
- b. the physical evidence of the prohibited conduct (i.e., excavation, removal, damage, alteration, or defacement) and its spatial extent;
- c. knowledge about similar archaeological resources based on professional experience; and d. other archaeological, historical, and ethnographic sources, including information from descendant communities, to the extent that these sources contribute to scientific knowledge.

Standard 2 - Scale of Scientific Information Retrieval to be Used in Determining Archaeological Value

The ARPA Uniform Regulations specify that archaeological value “shall be appraised in terms of the costs of the retrieval of the scientific information which would have been obtainable prior to the violation” (Regulations, Section __.14(a)). Therefore, the appropriate scale of scientific information retrieval must be selected.

When the context of the archaeological resource(s) involved in the prohibited conduct cannot be ascertained more specifically than a site or location (e.g. unauthorized excavations in a site with no visible surface features), the scale of scientific information retrieval used in determining archaeological value must be based on the standard archaeological unit(s) that would at least encompass the spatial extent of the prohibited conduct (e.g., the volume of excavation resulting from the prohibited conduct). A standard archaeological unit in this case means a metric unit (e.g., a 2 by 2 meter square).

When the context of the archaeological resource(s) involved in the prohibited conduct can be ascertained more specifically than a site or location (e.g., an archaeological feature at a site), the scale of scientific information retrieval also must be based on the standard archaeological unit for that context. A standard archaeological unit in this case means a cultural unit, such as a pithouse, fire pit, burial feature, or petroglyph panel (for which metric units would be used as appropriate).

In addition, the scale of scientific information retrieval must be proportional to the nature and extent of the prohibited conduct. For example, a small, shallow hole dug into a large pithouse would not warrant an archaeological value determination based on scientific information retrieval from the entire structure. If, on the other hand, a backhoe had been used to excavate most of the pithouse, scientific information retrieval for the entire structure may well be the appropriate scale. This proportionality concept relates the scale of scientific information retrieval to the magnitude of harm to the archaeological resource(s) resulting from the prohibited conduct.

Standard 3 – Methods of Scientific Information Retrieval

The methods of scientific information retrieval used as the basis for the archaeological value determination should be appropriate to the scale of the standard archaeological unit that has been selected. Depending on the conventions of archaeological practice in the area, examples of appropriate methods in a particular case involving unauthorized excavation would include a

column sample, an excavation square, an excavation trench, a set of statistically based sample excavation units, or a block of contiguous excavation units. There also would be a comparable range of appropriate methods for cases involving other types of prohibited conduct.

In addition, the scientific information retrieval methods should be proportional to the nature and extent of the prohibited conduct. For example, the methods employed for scientific information retrieval from an entire pithouse would not be proportional contextually or justifiable scientifically relative to excavation of a small, shallow hole in the pithouse.

Standard 4 – Scientific Information Retrieval Standards

The methods of scientific information retrieval used as the basis for the archaeological value determination should meet current and customary professional standards appropriate to the archaeological resource, the archaeological context, and the standard archaeological unit in the region. The retrieval methods also should comply with applicable government agency standards (e.g., *Secretary of the Interior's Standards and Guidelines*).