

APPENDIX 201H: SHARING ARCHAEOLOGICAL AND HISTORICAL DATA

The Wisconsin Historical Society maintains the inventory of recorded archaeological and historic sites. The Division of Forestry is working on making more refined information available to DNR staff to make access more efficient.

1. Certified Plan Writer (CPW) requests a review of the archaeological and historical data by sending a request to the NHI Inbox (dnrtaxlawnhicheck@wisconsin.gov).
 - The request email "Subject" line should be "order number Arch/Hist Request". If an MFL Order Number has not yet been established, substitute the County name for the Order Number.
 - For example: "59-047-2014 Arch/Hist Request" or "Shawano Arch/Hist Request".
 - Include the following information in the initial request.
 - Tax law order number
 - The requestor's contact information
 - Purpose of the request (new plan, MFL addition, MFL renewal, timber sale, WFLGP practice, etc.)
 - Legal description (Town, Range, Section(s), Quarter-quarter(s))
 - For example: T22N, ROSE, S 24, NESW
 - If the search has a potential resource element, the CPW will be emailed requesting a NHI Public Portal ID to further investigate the potential resource element.
2. Tax Law Administration Specialist (TLAS) process requests mailed to the NHI Inbox.
 - The process was updated in 2025 as follows:
 - The Bureau of Environmental Analysis and Sustainability maintains an annual subscription for the WHS's historical/cultural data, and staff use these data to assess whether DNR actions require review by the department's historic preservation officers. WHS data are available on the [DNR Managed Lands intranet web-mapping application](#) for conducting cultural resources/historic preservation screening.
 - The maps show general locations of recorded archaeological sites and historic structures.
 - Maps are located at [DNR Managed Lands intranet web-mapping application](#)
 - Resolution is at 40-acre parcel size (i.e., quarter-quarter section). The datasets used for maps were obtained with permission from the Division of Historic Preservation, Wisconsin Historical Society
 - One map per county shows the known archaeological and historical resource elements based on the quarter-quarter section.
 - The TLAS compares the request to the appropriate county map
3. If there are no resource elements located within the legal description(s) provided, a "reply" email will be sent back to the CPW with Cc to the appropriate Tax Law Forestry Specialist (TLFS).
 - The email will state "Based on the information provided, there are no archeological/historic/cultural concerns."
4. If there is at least one resource element located within the legal description(s) provided, a "reply" email should be sent back to the CPW requesting an NHI Public Portal ID sent directly to the TLAS that processed the original request.
5. When the Public Portal ID is received the TLAS will enter the ID in the internal NHI Portal.
 - After the polygon appears, turn on the Topo layer with the "Topo" button on the upper left corner of the map.
 - Use the zoom in function to have the polygon be as large as possible and have the Topo layer still display (if zoomed in too far, the Topo layer automatically turns off).
 - Print or Save a screenshot of the area needed.
 - Send the screenshot to the DNR Archaeologist
 - The "Subject" line should be titled "MFL [Arch/Hist] Hit"
 - The following information needs to be included in the body of the email:
 - Purpose of Arch/Hist request
 - County
 - Municipality
 - Legal description(s) of the resource element occurrence(s)

6. DNR Archaeologist will reply to the TLAS email.
 - If the reply is "Cleared," a reply email should be sent to the CPW and Cc the appropriate TLFS. The email should state "Based on the information provided, there are no archeological/historic/cultural concerns."
 - If the reply states a resource element, contains a map, and/or describes mitigation, a reply email should be sent to the CPW, with CC to TLFS with the email from the DNR Archaeologist using the Attach Item function in the email message.
7. On the Arch/Hist tab in WisFIRS, the CPW selects the appropriate choice for both the Archeological and Historical resource element occurrences.
 - If an archeological resource element is "Present" the CPW clicks the "Add/Edit Items" on the archeological half of the page.
 - The information contained in the DNR Archaeologist's email will be used in the "Item" text box.
 - o The email will describe the resource element(s) and mitigation/avoidance measures to be taken to avoid impacting the resource element(s).
 - o **Only list the resource element(s).** Types of resources that will be reported to TLS by the DNR Archaeologist will include only the following generalized types of resources: "**Burial** site"; "Archeological site"; "Historical Structure".
 - o The DNR Archaeologist will provide the TLAS with copy of a WHS-created USGS topographic map identifying archaeological and/or historic site locations with related unique site or structure numbers.
 - o The mitigation/avoidance information will be included on the MFL Cutting Notice when practices are implemented.
 - o One "Item #" text box should be used per archeological resource element listed in the email.
 - o Click "Save" after entering the data.
8. If the CPW comes across an unrecorded site, the CPW should list the newly discovered resource element as well.
9. CPWs should only share maps and information with landowners.
 - The landowner needs to know where & what the archeological/historical resource elements are in order to protect them.
 - When the information is shared with the landowner be sure to emphasize the law the DNR Archaeologist references in the email.
10. The DNR archaeologist does not conduct site searches on private lands; however an individual landowner could get more specific descriptive locational information for historic properties occurring on their own property in a couple of ways. Information learned from this more detailed search may help to narrow the location of archaeological and historical resources on private lands:
 - Request information directly from the State Archaeologist (WHS).

State Archaeologist
Historic Preservation-Public History, Room 307
816 State St.
Madison, WI 53706-1482
Voice Mail 608-264-6496
Fax 608-264-6504
 - Visit the WHS in Madison and view the archaeological and historical database on the public-access database system.
 - Landowners should contact the State Archaeologist (WHS) to establish a date and time to view the database.
 - Contract with a cultural resource management (CRM) firm to do additional research. Companies to hire can be found at [List of Archaeological Consultants from the Office of the State Archaeologist - Division of Historic Preservation - Public History \(wisconsinhistory.org\)](#)

BACKGROUND

LEGAL REQUIREMENTS

Section 44.40, Wis. Stats, requires each state agency to develop an historic preservation program with the Wisconsin Historical Society (WHS). The Department of Natural Resources did this through a Memorandum Agreement. Manual Code 1810.1 provides the procedures to implement the agreement with the WHS. In addition, the Department must comply with federal historic preservation laws in order to receive federal funds. The manual code also provides procedures to comply with federal laws.

Application of Wis.Stats.to Private Lands

Section 44.40(1m), Wis. Stats. gives authority for the historical society and a state agency notified under s. 44.39(2) (including the Department of Natural Resources) to jointly *"identify actions of the state agency that may cause or permit an adverse effect on historic property including, but not limited to, any state agency action that involves the exercise of state agency authority in the issuance of a permit, license, authorization, variance or exception or in any grant of financial assistance and any state agency action related to property owned by the state agency or related to its long-range planning and facilities development."*

NOTE: through its permitting authorities or in the event of DNR-administered grants, DNR may require private parties on private lands to undertake measures to mitigate adverse impacts to cultural resources occurring within the project's area of potential effect. While MFL is a voluntary program, participants are expected to comply with the above in order to enroll in the program.

Management and protection of archaeological and historical sites have been required under the MFL program since 1992 after the Division of Forestry became a part of the United States Department of Agriculture Forest Service Forest Stewardship Program (FSP). Landowners enrolled in the MFL program follow similar guidelines as public properties to screen their properties for archaeological and historical sites, and to protect those sites from destruction.

Lands certified under the MFL Certified Group must also comply with protection of archaeological and historical resources to remain part of the American Tree Farm System® (ATFS®) and Forest Stewardship Council® (FSC®) certification requirements. Landowners who are not associated with the MFL Certified Group must still protect archaeological and historical sites, however, because MFL is a part of the USDA Forest Service FSP program.

All burial sites are protected from disturbance, regardless if located on public (excluding federal or tribal¹) or private lands (ch. 157, Wis. Stats.).

Section 157.70(2r), Wis. Stats. requires that "[e]xcept as provided under subs. (4) and (5) and ss. 157.111 and 157.112, no person may intentionally cause or permit the disturbance of a burial site or catalogued land contiguous to a catalogued burial site. This subsection does not prohibit normal agricultural or silvicultural practices which do not disturb the human remains in a burial site or the surface characteristics of a burial site."

Section 157.70(2r), Wis. Stats. was written to recognize normal agricultural or silvicultural practices are allowed to occur as long as the burial site or the surface characteristics of the burial site are not disturbed; therefore, timber harvesting or any other management practice on MFL or FCL lands may occur as long as conditions placed on the lands to protect these sites are followed. The DNR Archeologist does not issue individual approvals for management on lands.

TLFS, Cooperating Foresters, loggers and landowners must determine if they are protecting the site adequately following the guidance provided by the DNR Archeologist to meet the conditions of s. 157.70(2r), Wis. Stats. If during the course of implementing a practice a burial site is disturbed, the activity must cease immediately, and Wisconsin Historical Society (WHS) must be contacted immediately.

Certain qualifying historic properties and catalogued cemeteries may be eligible for tax incentives or property tax reduction. Contact the WHS directly for more information on these opportunities.

¹ Federal legislation protecting burial sites applies to burial sites occurring on federal and tribal lands.

MAINTENANCE OF ARCHEOLOGICAL AND HISTORICAL INVENTORY

The WHS maintains the inventory of *recorded* archaeological and historical resources. Through cooperation with the Division of Historic Preservation and WHS, a generalized location of archaeological and historical sites has been provided to the DNR and is available on the DNR Intranet at [Archaeological and Other Cultural Resources \(sharepoint.com\)](#). The generalized maps identify the legal description(s) (i.e. quarter-quarter section) in which an archaeological or historical site is located, regardless of the original size, shape, or acreage of the actual site.

Only *recorded* historic properties are included in the archaeological and historical database. The state has not been systematically surveyed for historic structures or archaeological sites, so many historic properties have yet to be inventoried. State law protects all burial sites regardless of age, but for other historic properties, it only considers those that are "known" (in the database).

Management of Archaeological and Historical Resources

Burial sites are protected by law, meaning that there can be no disturbance of the site "within at least 5 feet² from any part of the burial site including beds of lakes, streams, and rivers surrounding the burial site necessary to ensure its protection." ([ills.2.02\(13\), Wis. Adm. Code](#)) and as mapped by WHS according to [HS 2.03, Wis. Adm. Code](#).

The ability to complete management practices on private lands depends on the reason why the work is being conducted. Private lands in which work will be done for wildlife habitat management or any other project except for silvicultural work that does not disturb the soil, surveys and evaluations, if required, will be done by an outside archeological consultant.

A list of consultants is available from the Wisconsin Historical Society at:

[List of Archaeological Consultants from the Office of the State Archaeologist - Division of Historic Preservation - Public History \(wisconsinhistory.org\)](#)

[HPR-Burial-Excavation-Consultants-Dec-2022.pdf \(wisconsinhistory.org\)](#)

Wildlife habitat management and other work projects may include:

- Surveys and evaluations as needed for creating new wetland/run-off ponds or enhancing wetlands through scrapes or dikes.
- Surveys and evaluations as not needed for wetland restoration through ditch plugs, breaking drainage tile, or prairie or savanna restoration.

Forestry activities that may require surveys and evaluations if burial sites are near the proposed work project include:

- Creating new logging roads.
- Excavating new gravel pits for improving infrastructure on MFL lands.
- Other activities that may disturb the soil.

² Although the state statute references a 5 foot buffer, WHS stipulates a 15 foot buffer.

Burial Site Entry Into MFL

Lands with burial sites are allowed to be enrolled into MFL. Historical sites are at least 50 years old and may be recorded with the Wisconsin State Historical Society. Burial sites do not need to be recorded with the Burial Site Preservation Board, however. Any burial site found on MFL property needs to be documented in WisFIRS regardless of their listing in the archaeological or historical database. Rules regarding timber typing, productivity and unsuitability apply.

Active burial sites, including burial of cremains, are not allowed under the MFL program. Active burial sites can be identified by the following characteristics:

- Landowners are mowing and/or landscaping the site, including regular mowing, planting ornamental trees, shrubs and flowers, placement of statues, flags, flower pots, and other ornaments.
- Human remains are buried on the site.

Burial sites with a mausoleum, tomb, Columbarium wall, crypt, ossuary, or other similar structure are not allowed under MFL for the following reasons:

- The land contains buildings that are not used for working or recreating on the property.
- The lands on which the structures lie are not dedicated to producing timber products or associated natural resource values.

Placement of cremains on the property is allowed if cremains are not buried, but spread on the property. Spreading of cremains does not qualify as a burial site according to state law. Landowners can dictate areas of lands in which cremains are spread as unsuitable for timber production. Rules regarding timber typing, productivity and unsuitability apply.

Cemeteries are not allowed under MFL since the land use is not dedicated to producing timber products or other natural resource values.

Burial Site Types

Burial sites are identified as uncatalogued or catalogued burial sites. Information about the specific burial site can be obtained from the State Archeologist or from the Wisconsin Historical Society Burial Program (WHS).

- Uncatalogued burial sites are typically poorly documented and/or poorly located sites, or have not yet been listed in Wisconsin's Burial Sites Catalog. Many of these burial sites indicate an entire legal description(s).
- Catalogued burial sites have specific locations that generally (but not always) can be found on the ground and are listed in the Wisconsin Burial Sites Catalog.

Guidance to Harvest Timber with a Burial Site

Landowners and foresters should follow the steps on obtaining archeological and cultural resources information listed in this chapter. The DNR archeologist will provide information about the site and provide measures for mitigation. If the following steps are taken, silvicultural practices should not disturb the human remains in the burial site or the surface characteristics of a burial site. If human remains are disturbed, management activities shall cease immediately and the WHS contacted.

Management options (mitigation measures) around catalogued burial sites will likely include:

- Harvesting of trees only on well frozen ground, ideally with snow cover, to minimize soil disturbance.
- Removal of dead or diseased trees to ground surface only.
- No stump removal should be done since stump removal will disturb the soil.
- Removal of deadfall, brush, and small trees ("10 inch diameter or less) occurring on or within 5 feet of the perimeter of defined non-mound burial sites or mound bases. Removal of trees within 15 feet of the perimeter is generally desirable to prevent wind throw and other damage, and to encourage growth of ground cover to prevent erosion of the burial site.
- Trees must not be dropped or dragged across the burial site. Machinery must not be driven, parked or stored over the burial site. Logs or other materials must not be stored on burial sites.
- Chemical treatment of invasive and/or woody vegetation is allowed on burial sites. Periodic mowing of burial sites may be done to inhibit woody plant succession. Equipment used on or around burials sites may be limited to low pressure tire vehicles. No road cuts are allowed in the burial site areas.

Please discuss specific projects with the DNR archaeologist to understand the best options to work in and around burial sites if avoidance of the site or working on well frozen ground is not possible.

Adjustments to Standard Burial Site Mitigation Recommendations

TLS staff should work with the DNR archeologist to discuss specific situations. Once adjustments to the burial site mitigation recommendations are approved by the DNR archeologist, TLS may share this information with the landowner and/or the landowner's Consulting Forester or Logger. If the proposed adjustments to the burial site mitigation recommendations are denied, the landowner may seek permission from the WHS to disturb an uncatalogued or catalogued burial site.

Disturbing an Uncatalogued Site

Landowners can request to disturb an uncatalogued site by filling out and mailing a Request to Disturb a Burial Site form to Wisconsin Historical Society (WHS). Landowners should allow 30 days for the request to be approved. This form is attached to the end of this appendix or can be found at [How to Submit a Request to Disturb a Burial Site | Wisconsin Historical Society \(wisconsinhistory.org\)](https://www.wisconsinhistory.org/HowtoSubmitaRequesttoDisturbaburialsite). Supporting documents should include:

- A cover letter that describes the project, including the type of equipment that will be used, the plans on removing stumps and developing roads, and the size of the harvested area.
- Maps that show the property, the logging area and the area that is identified in burial site area.
- All other documentation as found on the Request to Disturb a Burial Site form

The Wisconsin Historical Society will review the application and follow up with the landowner in one of two ways:

- Ask for more information. If Wisconsin Historical Society is satisfied that the logging operation the landowner intends to conduct will not disturb the site, the landowner may receive permission to conduct the harvest.
- Require that an archeologist visit the property to identify any existing burial site. A visit by an archeologist may identify the burial site for cataloging (meaning that the exact location is known). Once the site is catalogued more details can be provided about management of the catalogued site, however the rest of the landowner's property would be cleared for harvesting. Landowners are responsible to hire the archeologist.

Disturbing a Catalogued Site

There should be few situations in which a catalogued burial site should be disturbed when harvesting timber or conducting any land management for forestry purposes, however *the steps to get approval are essentially the same as for an uncatalogued site*. As directed by WHS, landowners will be required to notify appropriate members of the Registry of Interested Persons to initiate a 30 day public comment period. After the public comment period is over, the Wisconsin Historical Society will consider the public comments before deciding to approve or deny the request. The approval process to disturb a catalogued site will take between 60 to 90 days.