



Burial Law Process Time Frames

More than 10 years ago the Wisconsin Historical Society determined that procedural time frames were necessary to ensure consistency and timeliness of burial site preservation project reviews and regulatory decision-making. Very few processes prescribed in the burial sites preservation law require specific time frames for completion. The Society has taken guidance from federal historic preservation law, primarily the Advisory Council on Historic Preservation's regulations at 36 CFR Part 800, and the State of Wisconsin's historic preservation laws at Wis. Stat. §§ 44.40, 44.42 and 66.1111. These federal regulatory provisions and State statutes prescribe processes the Society must follow to review projects that may affect historic properties. Most review steps established in these processes provide 30-day time frames for completion. The time frames described below were implemented as policy, ensuring consistency with other regulatory review processes and transparency when there were overlapping reviews for a single action.

I) Uncatalogued Burial Site Disturbance Request

Applicant submits project proposal describing ground-disturbing activities to take place within the boundaries of uncatalogued burials sites.

Director's responsibilities:

- 1) Review submittal materials for completeness; confirm uncatalogued site will be disturbed.
- 2) Evaluate proposal.

Director final review response issued within 30 days (by policy); average response time over past 5 years is 10 days.

II) Catalogued Burial Site Disturbance Request

Applicant submits project proposal describing ground-disturbing activities to take place within the boundaries of catalogued burials sites.

A) Director Determination (no hearing is requested):

Director's responsibilities:

- 1) Review submittal materials for completeness; confirm cataloged site will be disturbed.
- 2) Identify Registry members with interest in site.
- 3) Notify by certified mail all Registry members of request to disturb burial site.

Director's actions complete within 30 days (by policy); average response time over past 5 years is 10 days.

Registry members permitted 30 days from receipt of notice to respond to project proposal (by admin. code).

Registry member responses within 45 days (by policy).

Director's responsibilities:

- 1) Evaluate Registry responses, identify public interest.
- 2) Weigh interests to grant or deny permit.

Director's decision from receipt of Registry responses within 30 days.

Director's overall responsibilities completed within 105 days (by policy).

B) Administrative Hearing Requested – Administrative Law Judge (ALJ) Determination

Director's responsibilities:

- 1) Review submittal materials for completeness; confirm cataloged site will be disturbed.
- 2) Identify Registry members with interest in site.
- 3) Notify by certified letter all Registry members.

Director's actions complete within 30 days (by policy).

Registry members permitted 30 days from receipt of notice to respond to project proposal (by admin code).

Registry member responses received within 45 days of initial notification (by policy).

Director submits all project proposal materials to DOA Hearings and Appeals within 15 days (by policy).

DOA responsibilities:

- 1) DOA appoints ALJ; ALJ sets hearing date within 45 days (by statute).
- 2) ALJ determines time frame for all additional actions.

III) Discovery of Human Remains pursuant to ground-disturbing project within uncataloged and/or cataloged burial site,

Applicant notifies Director of discovery of human remains.

Director's responsibilities:

- 1) Review initial submittal information; confirm identification of human remains within 1 work day (by policy).

- 2) If human remains must be excavated, negotiate terms for and execute contract for excavation and analysis of human remains – contract is between Applicant, Director and contract Archeologist.

Time frame for contract negotiation is dependent on contract archeologist and Applicant.

Director signs final contract within 1 work day (by policy).

IV) Accidental/Inadvertent Discovery of Human Remains

Applicant notifies Director of discovery of human remains.

Director responsibilities:

- 1) Review initial information; confirm identification of human remains within 1 work day (by policy).
- 2) If human remains must be excavated, negotiate terms for and execute contract for excavation and analysis of human remains – contract is between Applicant, Director and contract Archeologist.

Time frame for contract negotiation is dependent on contract archeologist and Applicant.

Director signs final contract within 1 work day (by policy).

V) Disposition of Human Remains

Contract archeologist or Applicant responsible for the excavation of human remains submits report on analysis of excavated human remains to the Director for review and approval.

Director's responsibilities:

- 1) Review and approval of Archeological report of analysis of human remains within 30 days (by policy) – may take longer if the report is insufficient, exceptionally long or complex.

- 2) Identify Registry members expressing interest in the site or class of sites from which the human remains were excavated.
- 3) Notify Registry members with application form to request remains for reinterment or other disposition. Provide Registry members 30 days within which to submit a proposal (by admin code).
- 4) Receive and evaluate Registry member applications.

Director's final decision granting disposition within 60 days (by policy).

VI) Cataloging a human burial site:

Director's responsibilities:

- 1) Receive information.
- 2) Review documentation of a human burial site for cataloging for accuracy and completion.
- 3) Prepare materials establishing site cataloging for Burial Evaluation Committee review and confirmation.
- 4) Notify landowner and others (per statute) of site cataloging.

Director catalogs site within 30 days (by policy).