

**RULES  
OF  
TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION  
DIVISION OF ARCHAEOLOGY**

**CHAPTER 0400-9-1  
NATIVE AMERICAN INDIAN CEMETERY REMOVAL AND REBURIAL**

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**0400-9-1-.01 MANNER OF REBURIAL.** The reinterment of prehistoric and historic period Native American Indian skeletal remains shall be done in a manner consistent with original and/or traditional customs.

- (1) When archaeological, tribal, or other documentation exists that specifies the original manner of burial, reburial of those remains shall be carried out in the same manner.
- (2) When documentation on the original manner of burial is not extant, reburial of individual remains shall be done in subsurface grave pits at such a depth to prevent future disturbance. Remains shall be placed directly into the soil.
- (3) Any religious or ceremonial activities carried out in conjunction with reburial shall not be the responsibility of the state.

*Authority:* T.C.A. §§ 11-6-116(b) and 11-6-119. *Administrative History:* Original rule filed October 11, 1991; effective November 25, 1991.

**0400-9-1-.02 REBURIAL AREAS.** All reburial areas should be as close to the original burial area as practicable and must be designated as a cemetery and registered with the county tax assessor's office as same.

*Authority:* T.C.A. §§ 11-6-116(b) and 11-6-119. *Administrative History:* Original rule filed October 11, 1991; effective November 25, 1991.

**0400-9-1-.03 MARKING OF BOUNDARIES.** The boundary of any reburial area must be suitably marked and a permanent record of the location of reinterments kept by the landowner.

*Authority:* T.C.A. §§ 11-6-116(b) and 11-6-119. *Administrative History:* Original rule filed October 11, 1991; effective November 25, 1991.

**0400-9-1-.04 NOTIFICATION.** Anyone carrying out work which involves the removal of Native American Indian human remains must notify the Native American members of the Archaeological Advisory Council, the Chairman of the Tennessee Commission on Indian Affairs, and the State Archaeologist. Notification of the intent to remove such remains must be in writing. Such notification shall be given at the time a petition is filed under T.C.A. 46-4-101 et seq., "Termination of Use of Land as Cemetery", or at the time an application for a permit is filed under T.C.A. 68-3-508.

*Authority:* T.C.A. §§ 11-6-116(b) and 11-6-119. *Administrative History:* Original rule filed October 11, 1991; effective November 25, 1991.

**0400-9-1-.05 OBSERVATION OF DISINTERMENT BY NATIVE AMERICAN OBSERVERS.** At least one (1) Native American observer is entitled to be present during removal, excavation or disinterment of Native American human remains. This person shall be a Native American Indian member of the Archaeological Advisory Council or person designated by such member. Additional observers may be present as field conditions warrant with the permission of the project director. Observers must make prior arrangements with the person in charge of excavation or burial removal. In some cases, such as on-going construction activities, observers may be required to follow special safety procedures.

*Authority:* T.C.A. §§ 11-6-116(b) and 11-6-119. *Administrative History:* Original rule filed October 11, 1991; effective November 25, 1991.