



# Guidance on **CULTURAL RESOURCES COMPLIANCE** for OWEB Grants

## Background




OWEB applies annually for Pacific Coastal Salmon Recovery Funds (PCSRF) from the National Marine Fisheries Service (NMFS) and awards these funds through various grant programs. These funds are mainly used in restoration and technical assistance projects that benefit salmon and steelhead.

In 2022, OWEB and the NMFS began developing a Programmatic Agreement (PA) for PCSRF projects to delegate responsibilities of [Section 106](#) of the [National Historic Preservation Act of 1966 \(NHPA\)](#) to OWEB. Section 106 requires federal agencies to consider the effects on historic properties of projects they carry out, assist, fund, permit, license, or approve.

OWEB has historically relied on its grantees to self-report and track permits required for project implementation in the application and grant agreement. Once the PA is signed, OWEB will be responsible for ensuring that the grantees are in compliance with Section 106. This includes reviewing projects to ensure alignment with the PA, examining cultural resource reports, and submitting the appropriate documentation to the Oregon State Historic Preservation Office (SHPO) and the National Oceanic and Atmospheric Administration (NOAA).

The PA is still in development and is expected to be signed in the fall of 2024. Following that, OWEB will be required to review all grants funded by PCSRF funds and all grants funded by Lottery funds that OWEB uses to meet its 33% required match to NOAA. The information below is intended to help OWEB applicants prepare for additional requirements once the PA is signed.

### The PA applies to all land in Oregon that:




-  Falls within the Recovery Domains for ESA Listed Salmon and Steelhead.
-  Does not already have another established federal PA.
-  Is not under Tribal Historic Preservation Office (THPO) jurisdiction. THPO has authority in lieu of the Oregon SHPO.

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## Impacts to Grantees

OWEB grantees are accustomed to ensuring Section 106 compliance when working with federal funds and working on federal lands, these federal nexuses are triggers for compliance with federal laws. Grantees that are now funded with Oregon Lottery funds but are located within the Recovery Domains for ESA Listed Salmon and Steelhead will have to plan to demonstrate compliance with Section 106 and budget in technical assistance and restoration applications for cultural resources review.

### Applicants should consider the following when planning projects:

-  Contact a qualified archaeological contractor and the federally recognized tribes' THPO office early in the project planning process to avoid, minimize or mitigate impacts to cultural resources. The [Oregon SHPO](#) provides a helpful bulletin for individuals and organizations interested in hiring an archaeologist and the [Association of Oregon Archaeologists](#) offers a contractor directory.
-  Apply for a Technical Assistance (TA) grant and budget time and expenses for cultural resources requirements in the TA grant prior to applying for a restoration grant.
-  Complete as much cultural resource work as possible during the design phase of the project to reduce delays. If cultural resource work has not begun by the time grantees apply for a restoration grant, the review may note concerns about unknown budget costs and delays in the project timeline.

## How OWEB Can Help

**Projects in the design phase** will be able to request funds for cultural resources work through OWEB's TA grant program. The applicant is encouraged to identify the Area of Potential Effect (APE) during the design phase.

**Projects in the implementation phase** may include costs for cultural resources work to be done in the restoration grant application.

OWEB encourages applicants to reach out to cultural resources consulting firms to assist in budgeting or conducting a pre-review early in the project development phase. Costs for cultural resources work depend on the scope, scale, and location of the project. A survey in a low-probability area may cost \$2,000-\$5,000. A survey for a larger project or activities in a high-probability area (or known site) could cost \$50,000 or more.

OWEB also encourages applicants to consult with THPO offices and share the project site and scope early in the life of the project to identify any potential areas of concern that may be included in the planning and design phase. The [Legislative Commission on Indian Services](#) has contact information for each Tribe's Cultural Resources staff.

## Questions?

OWEB will do everything possible to work with grantees to answer questions in a timely manner.

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### Definitions

**Applicant** An entity submitting an application to OWEB for a specific project.

**Area of Potential Effect (APE)** The geographic area or areas within which the undertaking may directly or indirectly cause alteration in the character or use of historic properties if any such properties exist.

**Cultural Resources Risk Assessment** A scoring rubric in the Programmatic Agreement that determines the overall risk that individual PCSRF projects affect cultural resources.

**Cultural Resources Assessment** A document or series of documents providing information regarding the project and the results of cultural background research to assess the overall cultural sensitivity of the project area and determine whether the project may be exempt from further review.

## Three Activity Categories

The activities listed below are categorized based on project types that qualify for PCSRF funding and are subject to change as the PA is finalized in July 2024.



### 1 Activities Requiring FULL Section 106 Review.



### 2 Activities to be SCREENED for Exemptions from Section 106 Review.

Project activities in this section must pass a screening procedure (described in the PA) to determine their effect on historical properties. If screening demonstrates minimal to no potential effects, the project is exempt from Section 106 review. Projects that are not determined exempt will go through Section 106 review as outlined in the PA.



### 3 Activities EXEMPTED from Section 106 Review.



# 1 Requires FULL Section 106 Review



# 2 Must be SCREENED for Exemptions from Section 106 Review



# 3 EXEMPT from Section 106 Review

## Water Quality

- Return flow cooling

## Water Quality

- Refuse/debris removal
- Sewage clean-up
- Toxin reduction
- Livestock manure management
- Stormwater/wastewater

## Water Quality

- Carcass or nutrient placement

## Riparian Habitat

- Forestry Practices/Stand Management

## Riparian Habitat

- Riparian planting
- Riparian exclusion and fencing
- Water gap development
- Riparian plant removal/control
- Debris/structure removal
- Conservation grazing management

## Instream Habitat

- Channel reconfiguration and connectivity
- Channel structure placement

## Instream Habitat

- Streambank stabilization
- Spawning gravel placement
- Plant removal/control
- Beaver introduction/management
- Predator/competitor removal

## Estuarine/Nearshore

- Channel modification
- Dike or berm modification/removal
- Tidegate alteration/removal
- Estuarine culvert modification/removal
- Slope regrading
- New estuarine creation

## Estuarine/Nearshore

- Removal of existing fill material
- Fill placement
- Estuarine plant removal/control
- Shoreline armor removal or modification
- Beach nourishment
- Contaminant removal/remediation
- Debris removal
- Overwater structure removal/modification
- Exclusion devices such as fencing
- Estuarine planting

## Fish Passage Improvements

- Removal or alteration of fish passage blockages
- Culvert installation or improvement at road stream crossing
- Bridge installation or improved at road stream crossing
- Rocked ford-road stream crossing

## Fish Passage Improvements

- Fish passage at road crossings, barriers, fishways, and weirs
- Fishway chutes or pool installation
- Fish ladder installation/improvement
- Road stream crossing removal



# 1 Requires FULL Section 106 Review



# 2 Must be SCREENED for Exemptions from Section 106 Review



# 3 EXEMPT from Section 106 Review

## Upland Habitat and Sediment

- Slope stabilization
- Upland vegetation management such as juniper removal, thinning, prescribed burning, stand conversions, etc.

## Instream Flow

- Headgate installation
- Flow regulation
- Withdrawal reductions
- Well installation to eliminate a diversion
- Piping open canals

## Instream Flow

- Water flow gages, water leases/purchases
- Maintaining adequate flow or reducing flow

## Upland Habitat and Sediment

- Road drainage system improvements and reconstruction
- Road closure/abandonment
- Erosion control structures installation
- Erosion and sediment control planting
- Upland livestock management
- Trail or campground management
- Upland wetland improvement
- Upland agriculture management such as low or no-till
- Upland irrigation management

## Public Outreach, Education, and Landowner Recruitment

- Outreach documents/reports/posters
- Media material production
- Events/workshops/training/presentations
- Landowner contact

## Salmonid Restoration Planning and Assessments

- Restoration Planning and Coordination
- Habitat Assessment/Inventory

## Site Maintenance

- Irrigating or replanting trees that failed to survive, using only existing infrastructure, hand-tools or other non-destructive methods.

## Pre-Restoration Acquisitions

- Restoration structures or equipment purchases for future habitat restoration projects

## Monitoring

- Adult/smolt/fry salmonids
- Biological instream
- Redd and carcass counts
- Harvest monitoring
- Test fishery
- Water quality and quantity
- Habitat condition
- Post-project implementation or design compliance
- Effectiveness and validation
- Intensively monitored watershed
- Stormwater, wastewater, sewage outfall
- Predator/competitor

## Wetland

- Wetland planting
- Wetland plant removal/control
- Wetland improvement/restoration
- Artificial wetland creation

## Land or Easement Acquisition Other or Unspecified Projects



Oregon Watershed Enhancement Board

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