

# Guidance for Protecting Cultural Resources during Cleanup Work



State of Oregon  
Department of  
Environmental  
Quality

**Oregon Department of Environmental Quality  
Land Quality Division  
Cleanup Program**

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## **DISCLAIMER**

This document is intended as guidance for employees of the DEQ. DEQ guidance does not constitute rulemaking by the Environmental Quality Commission and may not be relied upon to create a right or benefit, substantive or procedural, enforceable at law on equity, by any person. DEQ may take action at variance with this guidance.

## **APPROVED BY**

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Alan Kiphut, Administrator  
Land Quality Division, DEQ

10/30/07  
Date



## Protecting Cultural Resources during Cleanup Work

The Oregon Department of Environmental Quality (DEQ) recognizes the great significance of archaeological, historical and cultural resources to American Indian Tribes and all Oregonians. In managing cleanup sites, we are committed to ensuring the protection of these resources through compliance with all applicable cultural resource protection laws.

### What are cultural resources?

The Oregon State Historic Preservation Office defines two types of cultural resources – archaeological and historic. In general, archaeological resources are at or below-ground level, and they are usually remnants rather than intact features. While they are most often prehistoric Indian sites (generally pre-1800 A.D.), there are also historic-period archaeological resources. Historic resources, on the other hand, are primarily intact above-ground features – typically buildings or structures – that post date European contact.<sup>1</sup>

### The importance of cultural resources

Cultural resources are extremely important to tribal nations and to our State's sense of identity and history. Tribal cultural resources can include ceremonial artifacts and objects at burial sites, in addition to human remains. These resources are not simply artifacts of a tribe's cultural past – they are sacred, representing a continuing connection with tribal ancestors, and therefore, they must be treated in a respectful manner. Traditional cultural values often reflect the way a tribal community or group defines itself, and maintaining such values is critical to maintaining the tribe's sense of identity. Properties that hold traditional cultural value are of critical significance to the community, and any damage to or intrusion upon them is considered to be deeply offensive and even harmful to the tribe that values them. As a result, it is extremely important that identification and protection of traditional cultural resources be considered carefully in planning for any ground disturbing activities at a site.

Properties with cultural significance to tribes can include:

- Burial sites
- Areas associated with a tribe's traditional beliefs about its origins, its cultural history or the nature of the world.
- Areas that a tribe's religious practitioners have historically used, and/or are known or thought to use today, to perform ceremonial activities.
- Areas where a tribal community has traditionally carried out economic, social, artistic or other cultural practices important in maintaining its historic identity.

Protection of above-ground historic resources is also important. Historic resources are often promoted as expressions of community or neighborhood pride, and in some areas can be part of heritage tourism or economic development efforts. The State Historic Preservation Office (SHPO) maintains a database of over 31,000 historic resources in Oregon.

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<sup>1</sup> For more information about cultural resources, see the 2005 Oregon Historic Preservation Plan, Appendix I, entitled *Oregon's Cultural Resources*: [www.oregon.gov/OPRD/HCD/SHPO/docs/shpo\\_preservation\\_plan-2005.pdf](http://www.oregon.gov/OPRD/HCD/SHPO/docs/shpo_preservation_plan-2005.pdf).

This guidance provides steps for notifying SHPO and tribal nations of proposed cleanup activities prior to ground disturbing work, and seeking their review of planned cleanup actions to ensure that cultural resources are protected.

## **Cultural resource protection laws and their applicability**

State law prohibits the excavation, destruction or alteration of any archaeological site or collection of archaeological objects located on public or private land, unless a state permit and written permission from the landowner are obtained. Destruction or damage to any human burial site, human remains or American Indian sacred or special objects is also prohibited. State policy considers archaeological sites and their contents to be irreplaceable, finite and non-renewable resources that are part of Oregon's heritage. The people of Oregon, and state agencies acting on their behalf, are stewards with a public trust responsibility towards these sites and their contents.

Some or all of the following laws may apply to cleanup projects in Oregon, and Attachment 1 provides short descriptions of each law.

- Oregon Laws Protecting Indian graves (Oregon Revised Statute (ORS) 97.740 et seq.)
- Archaeological Objects and Site protections (ORS 358.905 et seq.), permit requirements for site alteration (ORS 390.325 et seq.), and permit requirements for state public and private land (Oregon Administrative Rule 736-051-0080 to 0090)
- National Historic Preservation Act of 1966 (16 United States Code (USC) 470 et seq.)
- Archaeological Resources Protection Act of 1979 (16 USC 470 et seq.)
- Native American Graves Protection and Repatriation Act of 1990 (25 USC 3001 et seq.)

State laws protecting cultural resources apply at most cleanup sites in Oregon. Federal protection laws may also apply if a federal agency is involved in the project. Federal involvement may include:

- Work at National Priority List (NPL) Superfund sites
- Work on land owned by the federal government
- Clean up actions where a federal agency is the responsible party
- Work that is paid for with federal funds
- Clean up activity that requires a federal permit (e.g., wetlands disturbance)

## **Activities that may affect cultural resources**

Any type of ground disturbing work, such as installation of monitoring wells, test pits or soil removals, could affect a cultural resource. Cultural resources can be affected during various stages of the cleanup process, including site assessment, remedial investigation and remedial or removal actions.

## **DEQ's role in protecting cultural resources during cleanup**

DEQ's role and responsibilities for protecting cultural resources during cleanup work are different for different types of cleanup projects. The applicability of various resource protection laws to different types of cleanup projects is described below.

Voluntary, Independent or Site Response Sites (led by a private party or state or local government) Responsible parties (RPs) are obligated to comply with Oregon archaeological and cultural resource protection laws. A DEQ fact sheet that explains resource protection laws is available for RPs on DEQ's web site<sup>2</sup>. In addition, DEQ's formal voluntary cleanup agreements and site response orders include language that requires RPs to comply with all applicable archaeological and cultural resource laws.

#### Orphan Sites (led by DEQ)

At sites where DEQ is leading the cleanup work using state funds, DEQ will comply with the applicable state regulations. To avoid destruction or alteration of cultural resources, DEQ will consult with State Historic Preservation Office and tribes prior to ground-disturbing work to learn whether cultural resources likely exist at the site. If needed, DEQ will take steps to survey the site prior to starting work and/or monitor the site during cleanup.

- Before beginning any ground disturbing work, DEQ Project Managers should contact Dennis Griffin, State Archaeologist for the State Historic Preservation Office, to determine whether any information exists to indicate that the cleanup site is in an area likely to contain cultural resources.<sup>3</sup> If the answer is no (or low probability), document the communication for the file. If the answer is yes (or medium to high probability), Dennis may recommend that a cultural resources survey be performed prior to beginning work.
- In addition, DEQ Project Managers should contact Karen Quigley, Executive Director of the Legislative Commission on Indian Services, to determine which tribes to notify of the proposed work. Then contact the Cultural Resource Coordinators for those tribes to ask whether they have information about cultural resources at the site (which may or may not be recorded elsewhere).<sup>3</sup> Information provided by the tribes may suggest the need for a cultural resources survey prior to beginning work, or cultural resources monitoring during cleanup activities. Your manager and DEQ's Tribal Liaison are available to help make those determinations. Notifying tribes also gives them an opportunity to identify any particular concerns or protocols they would like to see incorporated into the project as appropriate.
- Regardless of the likely existence of cultural resources at the site, the DEQ contractor performing on-site work should be reminded that if cultural resources are inadvertently discovered, they should stop intrusive work and contact the DEQ Project Manager immediately.

**If cultural resources are inadvertently discovered** during work at a site, all intrusive work must cease immediately until a professional archaeologist can assess the discovery. The DEQ Project Manager should report the discovery to the following contacts, and include a brief description of any potential damage that may have occurred to the resources found.

- DEQ's Tribal Liaison
- Tribal Cultural Resources Coordinators that were consulted prior to ground disturbing work
- Dennis Griffin, State Archaeologist for the State Historic Preservation Office
- Karen Quigley, Executive Director of the Legislative Commission on Indian Services. The LCIS participates with the State Historic Preservation Office in the archaeological excavation permit process.

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<sup>2</sup> The fact sheet is entitled "Protection of Archaeological and Cultural Resources," and it's available on DEQ's web page at [www.deq.state.or.us/pubs/factsheets.htm](http://www.deq.state.or.us/pubs/factsheets.htm), under the Environmental Cleanup section.

<sup>3</sup> Attachment 3 provides suggested templates for these communications.

- *Please note* that specific details of the discovery must be kept confidential, in accordance with state and federal law (see discussion of confidentiality below).

#### Sites with federal leadership or involvement

For the purposes of this guidance, 'sites with federal involvement' includes sites where a federal agency is conducting the site investigation and/or cleanup, is funding the investigation or cleanup work, or is leading a National Priority List Superfund Site project; it also includes sites that require federal permits to conduct investigation or cleanup work. Any investigation or cleanup that has federal involvement triggers Section 106 of the National Historic Preservation Act. Section 106 requires all federal agencies to determine if an “undertaking” has the potential to affect archaeological, historical or cultural resources. Undertakings can include site assessments, brownfields, and NPL investigation and remediation work. Federal agencies are responsible for determining whether action at a site qualifies as a federal undertaking, and whether Section 106 applies.

- Before any ground disturbing work begins, DEQ must receive written confirmation from the federal entity involved that they intend to implement Section 106 of the NHPA if applicable. Implementation may include contacting interested tribes and the State Historic Preservation Office, and if needed, conducting a cultural resource survey.
- Implementing Section 106 of the NHPA is a **federal responsibility**, which DEQ Project Managers should not take on, unless DEQ and the federal agency have an agreement that DEQ will perform this work on behalf of EPA and EPA is providing adequate resources to DEQ to do the work. Under these conditions, DEQ may assist EPA with their cultural resource consultations (following steps outlined above for Orphan Site projects), but it remains EPA’s ultimate responsibility to ensure that consultations occur. If the federal agency wants DEQ to take on the implementation of Section 106, contact DEQ’s Tribal Liaison for guidance on developing a delegation agreement. The agreement should clearly indicate the responsibilities of each agency, as well as a funding source for DEQ’s work.
- If the federal agency does not agree that Section 106 of the NHPA applies, please contact DEQ’s Tribal Liaison, who will notify the State Historic Preservation Office.
- If an archaeological permit is needed, work with DEQ’s Tribal Liaison and/or the State Historic Preservation Office to ensure that state permitting requirements are met.
- If cultural resources are inadvertently discovered at a site, ensure that all intrusive work stops immediately and follow the notification procedures described above.

#### Site Assessment work, including Brownfields (led by DEQ using federal funds)

For federally-funded Site Assessment work, including federally-funded Brownfields projects in which DEQ is leading the cleanup, DEQ will comply with the applicable state and federal regulations.

- Before beginning any ground disturbing work, DEQ Project Managers should contact Dennis Griffin, State Archaeologist for the State Historic Preservation Office, to determine whether any information exists to indicate that the cleanup site is in an area likely to contain cultural resources.<sup>3</sup> If the answer is no (or low probability), document the communication for the file. If the answer is yes (or medium to high probability), Dennis may recommend that a cultural resources survey be performed prior to beginning work.
- In addition, DEQ Project Managers should contact Karen Quigley, Executive Director of the Legislative Commission on Indian Services, to determine which tribes to notify of the

proposed work. Then contact the Cultural Resource Coordinators for those tribes to ask whether they have information about cultural resources at the site (which may or may not be recorded elsewhere).<sup>3</sup> Information provided by the tribes may suggest the need for a cultural resources survey prior to beginning work, or cultural resources monitoring during cleanup activities. Your manager and DEQ's Tribal Liaison are available to help make those determinations. Notifying tribes also gives them an opportunity to identify any particular concerns or protocols they would like to see incorporated into the project as appropriate.

- In addition, notify EPA of the likelihood that historical or cultural resources may exist at the site, and obtain written confirmation that EPA will implement Section 106 of the NHPA, if applicable.
- Regardless of the likely existence of cultural resources at the site, the DEQ contractor performing on-site work should be reminded that if cultural resources are inadvertently discovered, they should stop intrusive work and contact the DEQ Project Manager immediately. The DEQ Project Manager should then follow the notification procedures described above.

#### Emergency response and spill cleanup activities

In 2006, DEQ's Emergency Response Program adopted Standard Operating Guidance to ensure that tribal nations are notified in a timely manner of oil or hazardous materials spills and emergency response activities in their areas of interest. The guidance also provides procedures for notifying the State Historic Preservation Office to ensure that emergency communications between DEQ and SHPO are initiated and effectively managed during response activities.<sup>4</sup>

The guidance acknowledges that although tribal notification of spills is primarily a federal government responsibility (i.e., the EPA and US Coast Guard), DEQ is committed to also providing tribal notification as part of good government to government relations. The guidance provides contact information for Oregon's nine federally recognized tribes and states that:

*Since the tribal notification threshold criteria are generally "significant ground disturbing activity" during the response, it follows that notification is required only if there is a response which meets the criteria. Notification will normally be made by the State On-Scene Coordinator in consultation with the Emergency Response Coordination Cell and the Regional Emergency Response Manager. The State On-Scene Coordinator may request that others, e.g., Oregon Emergency Response System, Emergency Response Coordination Cell, or the Duty Officer make the contact. Notification attempts and the results will be recorded in (the) Emergency Response Information System. The State On-Scene Coordinator should inform the United States Coast Guard or (the) Environmental Protection Agency Federal On-Scene Coordinator of DEQ's tribal notification.*

The guidance also provides contact information for notifying SHPO and states:

*The State On-Scene Coordinator will ensure that the State Historic Preservation Office is contacted as soon as possible when it is recognized that activities require significant ground*

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<sup>4</sup> Reference DEQ Emergency Operations Standard Operating Guidance documents number 20 and 25, effective August 1, 2006. Representatives from the State Historic Preservation Office and Oregon's nine federally-recognized tribes were contacted in the development of these guidance documents.

*disturbance and/or impacts to resources under the jurisdiction of the State Historic Preservation Office.*

If cultural resources are inadvertently discovered at a site, ensure that all intrusive work stops immediately and follow the notification procedures described above.

Attachment 2 provides a table summarizing the applicability of cultural resource protection laws to different types of cleanup projects and the standard DEQ actions required to ensure the protection of these resources.

### **Keeping cultural resource information confidential**

The location and existence of cultural resources is considered highly sensitive information by tribes and others, and to protect these resources, it is important that this information be kept confidential. Oregon public records law (ORS 192.501, see Attachment 1 for relevant text) allows agencies to use discretion in holding sensitive cultural resource information confidential. In managing cleanup sites, please use the following confidentiality guidelines.

- If cultural resources are discovered at a site, immediately report the finding *only to the following contacts*.
  - DEQ's Tribal Liaison
  - Tribal Cultural Resources Coordinators that were consulted prior to ground disturbing work
  - Dennis Griffin, State Archaeologist for the State Historic Preservation Office
  - Karen Quigley, Executive Director of the Legislative Commission on Indian ServicesDo not share any information about the discovery with the media, other DEQ employees, or the public.
- At some sites, DEQ may need to perform a cultural resources survey prior to beginning ground disturbing work and/or conduct on-site cultural resources monitoring during cleanup activities. DEQ uses registered archaeologists to perform this work, which includes submittal of a site-specific cultural resources report that summarizes findings. These reports may contain sensitive information that needs to be kept confidential, and thus should not be released directly to the public or others. Upon receipt of a cultural resources report, create a confidential file for the report, send one copy to Dennis Griffin, State Archaeologist for the State Historic Preservation Office, and one copy each to the tribal Cultural Resource Coordinators who responded to your site review letters prior to ground-disturbing work. If the report is associated with an archaeological permit that was issued for the project, submit an additional copy of the report to Karen Quigley, Executive Director of the Legislative Commission on Indian Services. If you receive any requests from others for copies of the report, ask SHPO to determine whether the report may be released.

### **Where to find licensed cultural resource contractors**

The State Historic Preservation Office provides a list of certified professional archaeologists who are available to serve as cultural resource contractors and consultants in Oregon (see <http://egov.oregon.gov/OPRD/HCD/publications.shtml>). Some tribal Cultural Resource



Coordinators are included in this list, and a number of tribes have expressed interest in contracting with DEQ for cultural resources work as a way to build stronger DEQ-tribal relationships.

## More Information

For questions about DEQ's cultural resource policies, please see DEQ's Tribal Government Relations web page ([www.deq.state.or.us/programs/tribal/index.htm](http://www.deq.state.or.us/programs/tribal/index.htm)) or contact DEQ's Tribal Liaison.

For more information about Oregon laws and cultural resources, contact DEQ's Tribal Liaison, or the State Historic Preservation Office at 503-378-4168 or [egov.oregon.gov/OPRD/HCD/SHPO/index.shtml](http://egov.oregon.gov/OPRD/HCD/SHPO/index.shtml), or the Oregon Legislative Commission on Indian Services at (503) 986-1067 or [www.leg.state.or.us/cis/](http://www.leg.state.or.us/cis/).

<sup>1</sup>For more information about cultural resources, see the 2005 Oregon Historic Preservation Plan, Appendix I, entitled *Oregon's Cultural Resources*: [www.oregon.gov/OPRD/HCD/SHPO/docs/shpo\\_preservation\\_plan-2005.pdf](http://www.oregon.gov/OPRD/HCD/SHPO/docs/shpo_preservation_plan-2005.pdf).

For information on the National Historic Preservation Act, visit the following Advisory Council on Historic Preservation webpage: [www.achp.gov/usersguide.html](http://www.achp.gov/usersguide.html).

For guidelines for evaluating and documenting cultural properties, see the following National Park Service Bulletin: [www.cr.nps.gov/nr/publications/bulletins/nrb38/](http://www.cr.nps.gov/nr/publications/bulletins/nrb38/).

Oregon Revised Statutes are available at <http://landru.leg.state.or.us/ors/>.

Oregon Administrative Rules are available at <http://arcweb.sos.state.or.us/banners/rules.htm>.

## Contact Information

Mikell O'Mealy  
DEQ Tribal Liaison  
Phone: 503-229-6590  
Email: [OMealy.Mikell@deq.state.or.us](mailto:OMealy.Mikell@deq.state.or.us)

Amber Parara  
EPA Region 10 Oregon Tribal Coordinator  
Phone: 503-326-7024  
Email: [Parara.Amber@epamail.epa.gov](mailto:Parara.Amber@epamail.epa.gov)

Dennis Griffin  
State Archaeologist  
State Historic Preservation Office,  
Phone: 503-986-0674  
Email: [Dennis.Griffin@state.or.us](mailto:Dennis.Griffin@state.or.us)  
[www.oregon.gov/OPRD/HCD/SHPO/](http://www.oregon.gov/OPRD/HCD/SHPO/)

Karen Quigley  
Executive Director  
Legislative Commission on Indian Services  
Phone: 503-986-1068  
Email: [Karen.Quigley@state.or.us](mailto:Karen.Quigley@state.or.us)  
[www.leg.state.or.us/cis/](http://www.leg.state.or.us/cis/)

### **State and Federal Cultural Resource Protection Laws**

#### Oregon Laws Protecting Indian Graves (ORS 97.740)

Prohibits the disturbance, removal, injury or destruction of American Indian artifacts, human remains or funerary objects. Notice of proposed excavation by professional archaeologist must be provided to the State Historic Preservation Officer and State police, and with prior written consent of the appropriate Indian tribe in the vicinity of the intended action. The Commission on Indian Services must be consulted and will designate the appropriate tribe.

#### Archaeological Objects and Site Protections (ORS 358.905 et seq.) and Permit Requirements (ORS 358.235 et seq.)

Makes it a Class B misdemeanor to excavate, injure, destroy or alter any archaeological site or remove an archaeological object from state public or private lands, unless done under an archaeological permit issued under ORS 390.235, which provides for the Director of State Parks to issue an archaeological permit to professional archaeologists. If a state permit is required, Tribes will review the project application and scope of work, provide comments, and indicate whether cultural resource monitoring is needed during project work. Oregon Administrative Rules 736-051-0080 to 0090 describe permit Requirements for state public and private land.

#### National Historic Preservation Act of 1966 (16 USC 470, 36 CFR Part 800)

Establishes a program for the preservation of historic properties, requires federal agencies to consider historic properties in their planning process, and authorizes the Secretary of Interior to maintain a National Register of Historic Places. Historic property includes buildings, structures, objects, sites, districts and archaeological resources. Section 106 of the NHPA requires federal agencies to take into account the effects of their undertakings on historic properties on the National Register or properties that meet the criteria of the Register, and affords the Council on Historic Preservation an opportunity to comment. An undertaking is any activity that could result in a change in the character or use of known or potential historic properties.

#### Archaeological Resources Protection Act of 1979 (16 USC 470 et seq.)

Sets broad policy on the protection of archaeological resources on federal lands. Regulates the taking of archaeological resources, and establishes requirements for the excavation or removal of archaeological resources from public or Indian lands with special permits. Violations include civil and criminal penalties.

#### Native American Graves Protection and Repatriation Act of 1990 (25 USC 3001, 43 CRF Part 10)

Provides for the protection of Native American graves. Assigns ownership and control of Native American cultural items and human remains to Native Americans. Establishes requirements for the treatment of human remains and sacred or cultural objects found on federal land. Provides for the protection, inventory and repatriation of items, human remains and associated funerary objects.

#### National Environmental Policy Act of 1969 (42 USC 4321)

Establishes federal policy to preserve important historic, cultural and natural aspects of the Nation's heritage. Requires the preparation of environmental impact statements prior to making decisions about projects, which may significantly affect the quality of the human environment.

#### American Indian Religious Freedom Act of 1978 (42 USC 1966)

Sets forth a policy of protecting and preserving the rights of Native Americans to Freedom of Religion. Allows access to sites, use and possession of sacred objects, and the freedom to worship through ceremonial and traditional rites.

#### Oregon Public Records law (ORS 192.501) – Public records conditionally exempt from disclosure

The following public records are exempt from disclosure under ORS 192.410 to 192.505 unless the public interest requires disclosure in the particular instance (a determination that is made by the State Department of Justice): (11) Information concerning the location or archaeological sites or objects as those terms are defined in ORS 358.905, except if the governing body of an Indian tribe requests the information and the need for the information is related to that Indian tribe's cultural or religious activities. This exemption does not include information relating to a site that is all or part of an existing, commonly known and publicized tourist facility or attraction.

| <b>Applicability of Cultural Resources Protection Laws to cleanup projects</b> |                 |              |   |
|--|-----------------|--------------|---|
| Type of cleanup project  | Applicable laws |              | Key DEQ actions needed  |
|  | State laws      | Federal laws |   |
| Led by private RP, private property  | <b>x</b>        |              | Remind the RP/landowner/operator of the applicability of state cultural resources laws, reference language in the cleanup agreement, and provide DEQ’s fact sheet on cultural resource protection. Keep sensitive cultural resource information confidential.   |
| Led by local or state government RP, public lands                              | <b>x</b>        |              | Remind the RP/landowner/operator of the applicability of state cultural resources laws and reference language in the cleanup agreement, as well as ORS 390, which applies to public lands. Provide DEQ’s fact sheet on cultural resource protection. Keep sensitive cultural resource information confidential.   |
| Orphan Sites led by DEQ using state funds                                      | <b>x</b>        |              | Contact SHPO to determine whether the site is likely to contain cultural resources. Contact the Legislative Commission on Indian Services to determine which tribes to notify, and contact tribal Cultural Resource Coordinators to request review. Determine whether a cultural resources survey and/or on-site monitoring are necessary. Ensure that contractors stop work immediately if cultural resources are discovered and notify the appropriate contacts. Keep sensitive cultural resource information confidential.   |
| EPA-led Superfund site, federal RP lead, or federal agency involvement         | <b>x</b>        | <b>x</b>     | Obtain written confirmation that the federal agency will implement NHPA Section 106. Contact DEQ’s Tribal Liaison if the federal agency wants DEQ to implement Section 106 or determines that Section 106 does not apply. Ensure compliance with state laws if an archaeological permit is needed or if cultural resources are inadvertently discovered at a site. Provide DEQ’s fact sheet and reference cultural resource protection language in the agreement. Keep sensitive cultural resource information confidential.  |
| Superfund site, DEQ lead   | <b>x</b>        | <b>x</b>     | Contact SHPO to determine whether the site is likely to contain cultural resources. If it is, notify EPA and obtain written confirmation that EPA will implement NHPA Section 106. As the lead agency for cleanup, DEQ <i>may</i> support EPA in meeting federal requirements, including consulting with tribes and hiring a contractor to perform a cultural resource survey. Outline DEQ tasks in Cooperative Agreement. DEQ <i>can not</i> implement Section 106 without a formal delegation agreement between EPA and DEQ. Ensure that contractors stop work immediately if cultural resources are discovered and notify the appropriate contacts. Keep sensitive cultural resource information confidential. |

| <b>Applicability of Cultural Resources Protection Laws to cleanup projects</b> |                                 |  |  |
|--|---------------------------------|--|--|
| Type of cleanup project  | Applicable laws                 |  | Key DEQ actions needed   |
|  | State laws                      | Federal laws                               |  |
| Site Assessment, including Brownfields (led by DEQ using federal funds)        | <b>x</b>                        | <b>x</b>                                   | Contact SHPO to determine whether the site is likely to contain cultural resources. Contact the Legislative Commission on Indian Services to determine which tribes to notify, and contact tribal Cultural Resource Coordinators to request review. Determine whether a cultural resources survey and/or on-site monitoring are necessary. Notify EPA if cultural resources are likely to exist at the site and obtain written confirmation that EPA will implement NHPA Section 106. Ensure that contractors stop work immediately if cultural resources are discovered and notify the appropriate contacts. Keep sensitive cultural resource information confidential. |
| Cleanup work on tribal land  | <b>x</b><br>for fee-title lands | <b>x</b><br>for trust lands                | Federal laws are applicable on tribal lands that are held in trust by the federal government. Lands purchased by a Tribe that are held in fee-title are subject to state rules. For fee-title lands, if the RP is a private business or state/local government, state rules apply; if the RP is a federal agency or federal funds are involved, federal laws may also apply. Tribal rules and policies may also apply to trust lands and fee-title lands. Provide DEQ's fact sheet on cultural resource protection and clarify legal requirements and expectations in the cleanup agreement. Keep sensitive cultural resource information confidential.                  |
| Emergency response and spill cleanup work                                      | <b>x</b>                        | <b>x</b><br>when federal agencies involved | Follow DEQ Emergency Operations Standard Operating Guidance documents (number 20 and 25) for notifying tribal nations of spills and emergency response activities in their areas of interest, and for notifying the State Historic Preservation Office to ensure effective communications between DEQ and SHPO during response activities. Ensure that contractors stop work immediately if cultural resources are discovered and notify the appropriate contacts. Keep sensitive cultural resource information confidential.  |

## Suggested templates for requesting cultural resource reviews

Contact the State Historic Preservation Office  
to determine the likelihood of cultural resources at a cleanup site

Dennis Griffin  
State Archaeologist  
State Historic Preservation Office  
[Dennis.griffin@state.or.us](mailto:Dennis.griffin@state.or.us)  
503-986-0674  
(via mail)

Dennis,

DEQ's [Eastern/Northwest/Western] Region is preparing to use [federal/state] funds to perform an [environmental site assessment/removal action/remedial action] at the following site:

|                    |           |          |          |
|--------------------|-----------|----------|----------|
| Legal description: | Township: |          |          |
|                    | Range:    | Section: | Tax Lot: |
| Project name:      |           |          |          |
| Property address:  |           |          |          |

Attached are maps [preferably a vicinity map and a detailed USGS map, if available] with the project area clearly marked. DEQ is conducting the [environmental assessment/removal action/remedial action] to [PROVIDE ANY PERTINENT INFORMATION ABOUT THE WORK TO BE COMPLETED AND THE FUTURE LAND USE].

I am seeking information on potential archaeological, historic or cultural resources at this site early in our planning process to ensure compliance with applicable laws. Could you please review any information you have about this site and let me know if there are any potential archaeological or cultural resource issues we should address before we initiate our work? If you need additional information about this site, its history or DEQ's proposed work, please let me know.

Thank you for your assistance.

[signed by PM]

Project Manager

Contact the Legislative Commission on Indian Services  
to provide information about the site and determine which tribal governments to notify

Karen Quigley  
Executive Director  
Oregon Legislative Commission on Indian Services  
[Karen.Quigley@state.or.us](mailto:Karen.Quigley@state.or.us)  
503-986-1068  
(via email, or a phone call may substitute for written communication)

Karen,

DEQ's [Eastern/Northwest/Western] Region is preparing to use [federal/state] funds to perform an [environmental site assessment/removal action/remedial action] at the following site:

Project name:  
Property address:  
County:  
Nearest city:

DEQ is conducting the [environmental assessment/removal action/remedial action] to [PROVIDE ANY PERTINENT INFORMATION ABOUT THE WORK TO BE COMPLETED AND THE FUTURE LAND USE]

In accordance with state law, I would like to notify the appropriate tribal governments of DEQ's proposed action and request their review of this project from a cultural resources perspective. Could you please let me know which tribal governments to contact for a cultural resources review? If you need additional information about this site, its history or DEQ's proposed work, please let me know.

Thank you for your assistance.

[signed by PM]

Project Manager

Contact the appropriate tribal Cultural Resource Coordinators to request a review

**Note:** Contact information for Cultural Resource Coordinators for each federally-recognized tribe is provided on the Legislative Commission on Indian Services web site: [www.leg.state.or.us/cis/](http://www.leg.state.or.us/cis/).

(via email or mail)

Hello [NAMES OF THE CULTURAL RESOURCE COORDINATORS],

DEQ is preparing to use [federal/state] funds to perform an [environmental site assessment/removal action/remedial action] at the following location:

|                    |           |          |          |
|--------------------|-----------|----------|----------|
| Legal description: | Township: |          |          |
|                    | Range:    | Section: | Tax Lot: |
| Project name:      |           |          |          |
| Property address:  |           |          |          |

DEQ is conducting the [environmental assessment/removal action/remedial action] to [PROVIDE ANY PERTINENT INFORMATION ABOUT THE WORK TO BE COMPLETED AND THE FUTURE LAND USE]. Karen Quigley from Oregon’s Legislative Commission on Indian Services directed me to contact you for a review of this project from a cultural resources perspective. Attached is a description of the project and maps [preferably a vicinity map and a detailed USGS map, if available] showing the site’s location.

Could you please review this site and project and let me know about any cultural resource concerns you may have? DEQ recognizes the importance of cultural resources to tribal nations and we are committed to protecting these resources during cleanup work through compliance with state and federal laws. If you have any questions or concerns about this site, please let me know within the next 30 days so that we can address them early in our planning process. If you need additional information about the history of the site or DEQ’s proposed work, please let me know.

Thank you for your assistance.

[signed by PM]  
Project Manager

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**Note:** Many tribal nations have limited resources and multiple priorities for cultural resources work, and it is important to provide sufficient time for review by interested tribes. If you haven’t received a response from the tribal cultural resources coordinator 30 days after sending this letter, follow-up by calling them to let them know that DEQ will move forward with the proposed work unless they have any information or concerns to share with us. Document this communication for the file. If a tribal cultural resources coordinator requests more time to review the project, accommodate the request if at all possible.