

Protection of Archaeological and Cultural Resources

Background

Oregon 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 also is prohibited. State policy considers archaeological sites and their contents to be irreplaceable, finite and non-renewable resources that are part of Oregon's heritage.

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, objects at burial sites and 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. Maintaining such values is critical to 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. Therefore, 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.

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 maintains a database of over 31,000 historic resources in Oregon.

The Oregon Department of Environmental Quality recognizes the significance of archaeological, historic and cultural resources and is committed to the principle that management of cleanup sites is undertaken in compliance with all applicable state and federal laws protecting these resources.

Archaeological & Cultural Resource Laws

Laws that may apply to a cleanup project include:

- Oregon Laws Protecting Indian graves (Oregon Revised Statute 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 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 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)



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Activities affecting cultural or archaeological resources

Any type of ground-disturbing work, (such as installation of monitoring wells, test pits or soil removals) could impact a cultural or archaeological resource. This could occur during various phases of the cleanup process including site assessment, remedial investigation and remedial or removal actions.

At sites where a responsible party is conducting an investigation or cleanup, the party is responsible for complying with all applicable laws.

Assessing the need for a survey

Oregon law does not require that a cultural resource survey be completed before ground-disturbing activity begins. However, DEQ recommends that responsible parties contact the State Historic Preservation Office and Native American Tribes before work begins to determine whether cultural or historic resources are likely to exist at the site, and to determine whether an archaeological resources survey is needed before beginning ground-disturbing work. The Oregon Legislative Commission on Indian Services can advise on which tribal nations to contact. Taking the time, before a project starts, to identify the possibility that cultural resources exist at the site may reduce the potential for costly delays if artifacts are inadvertently discovered.

Inadvertent discoveries

If you inadvertently discover cultural or archaeological resources on a site, immediately stop work and contact the State Historic Preservation Office regarding discovery or potential damage to archaeological sites. Also Notify the Legislative Commission on Indian Services, which has broad statutory responsibilities concerning the protection of cultural resources in Oregon, and it participates with the State Historic Preservation Office in the archaeological excavation permit process. The commission can also recommend which Native American Tribes to contact if cultural or archaeological resources are inadvertently discovered.

Responsible parties should notify the DEQ cleanup project manager for the site where cultural resources have been encountered, so any necessary modifications in the proposed work can be discussed. However, the specific details of the discovery must be kept confidential, in accordance with state and federal law.

For more information

- For questions about DEQ's policies on cultural resources, contact DEQ's Liaison to Tribal Nations: Christine Svetkovich
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For more information about state and federal laws protecting archaeological and cultural resources, contact:

- The State Historic Preservation Office at 503-986-0674, or
- <http://egov.oregon.gov/OPRD/HCD/SHPO/index.shtml>
- The Legislative Commission on Indian Services at (503) 986-1067, or <http://www.leg.state.or.us/cis>

For information about the National Historic Preservation Act, visit the Advisory Council on Historic Preservation Web page:

- <http://www.achp.gov/usersguide.html>
- For the document *Guidelines for Evaluating and Documenting Traditional Cultural Property*, visit the National Register Bulletin Web page: http://www.cr.nps.gov/NR/publications/bulletins/nr38_toc.htm

Alternative formats

Alternative formats of this document can be made available. Contact DEQ's Office of Communications and Outreach, Portland, for more information at 503- 229-5317.