

# Tribal Engagement and Cultural Resource Protection at Cleanup Sites

**October 2007** – *Guidance for Protecting Cultural Resources during Cleanup Work*

**September 2020** – Revised as a directive with new document title and clarifying edits concerning notification responsibilities.

**December 2020** – Installed additional clarifications and updated resource information following DEQ Cleanup Staff review.

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DEQ is a leader in restoring, maintaining and enhancing the quality of Oregon's air, land and water.



State of Oregon  
Department of  
Environmental  
Quality

DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email [deqinfo@deq.state.or.us](mailto:deqinfo@deq.state.or.us).

# Disclaimer

This directive is intended solely as guidance for DEQ employees. It does not constitute rulemaking by the Environmental Quality Commission and may not be relied upon to create an enforceable right or benefit, substantive or procedural, enforceable at law or in equity, by any person. With written managerial approval, DEQ employees may deviate from this directive. DEQ anticipates revising this directive from time to time as conditions warrant.

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# 1. Introduction and Purpose

This document covers tribal engagement and the protection of cultural resources at cleanup sites. The purpose of the directive is to standardize tribal notification by institutionalizing the engagement of Oregon's nine federally recognized tribes regarding cleanup and leaking underground storage tank (LUST) sites early in the process. Objectives include consulting with the Oregon State Historic Preservation Office (SHPO) and appropriate tribal governmental at key project stages to promote the protection of cultural resources by DEQ and Responsible Parties.

This directive helps implement the agency Tribal Relations Policy measure committing to build positive relationships with tribal leaders, managers, staff and representatives to understand tribal interests, explore opportunities for greater partnership and collaboration, and address tribal interests as much as possible in DEQ actions.

## **2. Applicability**

This document applies to DEQ Cleanup and LUST Program Project Managers who oversee the investigation and cleanup of contaminated or potentially contaminated properties. This document also applies to DEQ led projects including but not limited to those performed under the Orphan, Site Response, Site Assessment, Dry Cleaner, and Brownfield Programs.

### **3. Directive Summary**

DEQ recognizes that tribal governments have treaty rights and interests in natural and cultural resources that may be affected by activities at cleanup sites. The directive discusses who is responsible and when to communicate with tribal governments and SHPO regarding natural and cultural resources at project sites.

## 4. Background

DEQ developed a Tribal Government-to-Government Relations Program in 1996 following then Governor Kitzhaber's signing of Executive Order 96-30. In 2001, the Oregon Legislature adopted ORS 182.162-166 (formerly Senate Bill 770). Under this law, state agencies are directed to develop and implement policy regarding their working relationships with the nine federally recognized tribes in Oregon.

In response to the state law, DEQ adopted *Tribal Relations Policy Number 060.002.2010*. The policy expresses DEQ's intent to maximize relations and collaboration between the agency and the nine federally recognized tribes in Oregon, to build relationships to understand tribal interests, explore opportunities for greater partnership and collaboration, and address tribal interests as much as possible in DEQ actions to increase our collective ability to protect and enhance Oregon's environment and people's health.

DEQ recognizes tribal governments have treaty rights and interests in both natural and cultural resources that may be affected by activities at cleanup sites throughout Oregon. In managing cleanup sites, DEQ is committed to ensuring compliance with all applicable natural and cultural resource protection laws.

### 4.1 Natural Resources

Natural resources may include air, water, land, wildlife, plants and many other resources important to tribal interests. These resources provide tribes with food, medicines, fibers and other materials for sustenance, religious, and social activities.

Tribal governments may have protected treaty interests in preserving access to and the availability of natural resources. Many treaties guarantee tribal governments fishing, hunting, gathering, and water rights, which are designated on and off reservations and Indian trust lands. DEQ is committed to maintaining consistent communication with tribal governments to acknowledge their interests in protecting natural resources in Oregon. The agency may also invite and emphasize tribal review of policy and/or guidance documents, relevant to cleanup and natural resources protection, such as updates to the ecological risk assessment process.

### 4.2 Cultural Resources

SHPO 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 Native American sites (generally pre-1800 A.D.), there are also historic-period archaeological resources (typically defined as items greater than 50 years old). Historic resources are primarily intact aboveground features, typically buildings or structures that postdate European contact.

Cultural resources are extremely important to tribes and to our State's sense of identity and history. Tribal cultural resources can include ceremonial artifacts and objects at burial sites,



human remains, and other items or areas important to any tribe's culture. These resources are considered sacred, representing a continuing connection with tribal ancestors, and must be treated in a respectful manner. Properties that hold traditional cultural value are of critical significance to the community, and any damage to or intrusion upon them is considered deeply offensive and even harmful to the tribe(s) that values them.

Properties with cultural significance to tribes can include, but are not limited to:

- 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. SHPO maintains a database listing thousands of historic resources in Oregon.

## 4.3 Related Laws and 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 a part of Oregon's heritage. The people of Oregon, and state agencies acting on their behalf, are stewards with a public trust responsibility toward these sites and their contents.

Some or all of the following laws may apply to cleanup projects in Oregon:

- Protections for Native American burial sites and objects (ORS 97.740 et seq.)
- Protections for archaeological objects and sites (ORS 358.905 et seq.), permit requirements for site alteration (ORS 390.325 et seq.), and permit requirements for state public and private land (OAR 736-051-0080 to 0090)
- National Historic Preservation Act (NHPA) 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.)

Appendix A provides short descriptions of each law. DEQ's [Protection of Archaeological and Cultural Resources](#) fact sheet also explains resource protection laws, and is available on [DEQ's website](#).

State laws protecting cultural resources apply at all 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
- Cleanup actions where a federal agency is the responsible party
- Cleanup actions funded with federal funds
- Cleanup activity that requires a federal permit (e.g. wetlands disturbance, dredging, sediment sampling)
- Cleanup activity that includes requirements under a federally designated program (e.g. Clean Water Act stormwater permit.)

## **4.4 Activities that May Affect Natural and Cultural Resources**

Cleanup activities that may affect natural and cultural resources include, but are not limited to site investigations, source removals, remedial actions, and residual contamination. Any type of ground-disturbing work, such as the installation of monitoring wells, test pits, soil removals, sediment sampling, dredging, or bank restoration, could affect a natural and/or cultural resource.

## **5. Acronyms Used in This Directive**

DEQ – Oregon Department of Environmental Quality  
EPA – United States Environmental Protection Agency  
ICP – Independent Cleanup Pathway  
ITP – Intent to Participate  
LCIS – Legislative Commission on Indian Services  
LUST – Leaking Underground Storage Tank  
NPL – National Priority List  
OAR – Oregon Administrative Rule  
ORS – Oregon Revised Statute  
PM – Project Manager (DEQ Cleanup Program)  
RP – Responsible Party  
SHPO – Oregon State Historic Preservation Office  
SOG – Standard Operating Guidance  
TL – Tribal Liaison (DEQ)  
VCP – Voluntary Cleanup Pathway

## 6. Directive

DEQ's role and responsibilities for protecting natural and cultural resources during cleanup work vary for different types of cleanup projects. The applicability of cultural resource protection laws to different types of cleanup projects is described below. **Appendix A** provides short descriptions of state and federal cultural resource protection laws. DEQ's [Protection of Archaeological and Cultural Resources fact sheet](#) explains relevant laws, and is available on [DEQ's website](#).

Natural resources should be protected consistent with Oregon environmental cleanup laws. [ORS 465.315\(1\)](#) and [OAR 340-122-0040](#) establish acceptable risk levels for protecting human health and the environment. ORS 465.315(1)(d) requires that DEQ balance certain factoring in selecting or approving remedial actions, such as considering the long-term reliability of the remedy and any short-term risk the remedy actions may pose to the community and environment. Oregon also requires [ecological risk assessments](#) to determine the target level at which a contaminated site should be cleaned up to protect the environment.

### 6.1 Voluntary, Independent, LUST, Heating Oil Tank, or Site Response Sites (led by a private party or other state, or local government)

Responsible Parties, or RPs, are obligated to comply with cultural resource protection laws. DEQ Project Managers should remind RPs of the applicability of cultural resources laws and point them to the Inadvertent Discovery Plan template and other resources available on the [Oregon Heritage SHPO website](#).

If applicable, a Consent Order shall include specific language requiring the RP to consult with SHPO and maintain an Inadvertent Discovery Plan.

#### **State Historic Preservation Office Notification:**

Responsible parties must comply with applicable federal, state, and local laws and regulations, including requirements for consulting with SHPO to determine whether any information exists to indicate that the cleanup site is within an area likely to contain cultural resources. RPs should provide notice to SHPO electronically through the [Go Digital process](#). A minimum of 30 days for SHPO review should be allowed. Submitted information should include:

- Cover Letter with a description of the work planned
- OR SHPO Submittal Form
- Oregon SHPO Clearance Form
- Topographical location map, site map, and photos

#### **Tribal Government(s) Notification:**

Responsible parties must comply with applicable federal, state, and local laws and regulations, including requirements for tribal notification. DEQ may review records to ensure that appropriate notification and consultation has occurred.

**Inadvertent Discovery Plan:**

It is not uncommon for construction or ground-disturbing activities to reveal artifacts, cultural items or cultural sites. An Inadvertent Discovery Plan template is maintained on [Oregon's SHPO website](#) and provides the RP with important protocols and points-of-contact to keep on hand during these activities. In the event of an inadvertent discovery of possible cultural materials, including suspect human remains, all work must stop immediately in the vicinity of the find. If suspected human remains are encountered, the Oregon State Police, Commission on Indian Services, and appropriate tribes must also be notified. Key contacts are featured in **Section 8** of this document. Work may not resume within 30 meters of the find until consultation with the Oregon State Police, LCIS, and SHPO has occurred and a professional archaeologist is able to assess the discovery.

**Documentation and Other Considerations:**

The PM may verify and document SHPO and any subsequent communication with tribal governments in the project file, while keeping the location and existence of cultural resources confidential. Requirements for maintaining confidentiality are discussed in more detail in [Section 6.6](#).

## 6.2 Orphan Sites (led by DEQ)

When a site enters the Orphan Program, DEQ is responsible for providing notice to both SHPO and tribal governments to ensure they are notified of projects early in the process.

**State Historic Preservation Office Notification:**

Before beginning any ground-disturbing work, PMs shall consult with SHPO to determine whether any information exists to indicate that the cleanup site is within an area likely to contain cultural resources. PMs should provide notice to SHPO electronically through the [Go Digital process](#). A minimum of 30 days for SHPO review should be allowed. Submitted information should include:

- Cover Letter with a description of the work planned
- OR SHPO Submittal Form
- Oregon SHPO Clearance Form
- Topographical location map, site map, and photos

**Tribal Government(s) Notification:**

PMs shall inform DEQ's TL of the cleanup site before soil disturbance begins. The TL shall send a notification to the appropriate tribal contact that provides pertinent information on the cleanup site (e.g. location, proposed actions, timing). A minimum of 30 days for tribal consultations should be allowed. **Appendix B** presents a template for notifying each tribal contact.

**Inadvertent Discovery Plan:**

All projects should have an IDP filled out and onsite before soil disturbance begins. An IDP template is maintained on [Oregon's SHPO website](#). In the event of an inadvertent discovery of

possible cultural materials, including suspect human remains, all work must stop immediately in the vicinity of the find. The DEQ PM or DEQ's designated contractor will notify DEQ's TL and SHPO. If suspected human remains are encountered, the Oregon State Police, Commission on Indian Services, and appropriate tribes must also be notified. Key contacts are featured in **Section 8** of this document. Work may not resume within 30 meters of the find until consultation with the Oregon State Police, LCIS, and SHPO has occurred and a professional archaeologist is able to assess the discovery.

#### **Documentation and Other Considerations:**

SHPO and/or any tribes may communicate whether information exists to indicate that the cleanup site is in an area likely to contain cultural resources. If the answer is no (or low probability), the PM shall document the response for the project file. If the answer is yes (or medium to high probability), the PM shall document the response and address any specific actions recommended by SHPO and/or tribal governments to protect cultural resources. If necessary, DEQ will take steps to survey the site prior to starting work or monitor the site during cleanup actions.

PMs shall document all SHPO and tribal governments' communication(s) in the project file, while keeping the location and existence of cultural resources confidential. Requirements for maintaining confidentiality are discussed in more detail in [Section 6.6](#).

## **6.3 Sites with Federal Leadership or Involvement**

Within the context of this directive, "sites with federal involvement" include sites where a federal agency is the lead for conducting the site investigation and/or cleanup, funding the investigation or cleanup work, or a National Priority List Superfund Site project. This also includes sites that require federal permits to conduct investigation or cleanup work.

#### **National Historic Preservation Act:**

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 the 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.

#### **Documentation and Other Considerations:**

Before any ground disturbing work begins, DEQ should verify that the federal entity involved 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. DEQ PMs should not assume this responsibility unless DEQ and the federal agency have an agreement that DEQ will perform this work on behalf of U.S. Environmental Protection Agency 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 TL 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.

## **6.4 Sites using Federal Funds (led by DEQ)**

For federally funded work led by DEQ, implementing Section 106 of the NHPA remains a federal responsibility. However, DEQ generally performs the consultations on behalf of the federal entity (EPA) to avoid project delays. This includes site assessments, preliminary assessments, brownfields, and leaking underground storage tank cleanups, DEQ is responsible for consulting with SHPO and tribal governments.

### **State Historic Preservation Office Notification:**

Before beginning any ground-disturbing work, the federal entity or DEQ PM if designated shall contact SHPO to determine whether any information exists to indicate that the cleanup site is within an area likely to contain cultural resources. PMs should provide notice to SHPO electronically through the [Go Digital process](#). A minimum of 30 days for SHPO review should be allowed. Submitted information should include:

- Cover Letter with a description of the work planned
- OR SHPO Submittal Form
- Oregon SHPO Clearance Form
- Topographical location map, site map, and photos

### **Tribal Government(s) Notification:**

PMs shall inform DEQ's TL of the cleanup site before soil disturbance begins. The TL shall send a notification to the appropriate tribal contact that provides pertinent information on the cleanup site (e.g. location, proposed actions, timing). A minimum of 30 days for tribal consultations should be allowed. **Appendix B** presents a template for notifying each tribal contact.

### **Inadvertent Discovery Plan:**

All projects should have an IDP filled out and onsite before soil disturbance begins. An IDP template is maintained on [Oregon's SHPO website](#). In the event of an inadvertent discovery of possible cultural materials, including human remains, all work must stop immediately in the vicinity of the find. The DEQ PM or DEQ's designated contractor will notify DEQ's TL and SHPO. If suspected human remains are encountered, the Oregon State Police, Commission on Indian Services, and appropriate tribes must also be notified. Key contacts are featured in **Section 8** of this document. Work may not resume within 30 meters of the find until consultation with the Oregon State Police, LCIS, and SHPO has occurred and a professional archaeologist is able to assess the discovery.

### **Documentation and Other Considerations:**

If the DEQ PM performed the initial consultation then all consultation documents to SHPO and the tribes and responses received shall be provided to the Federal Agency Project Officer. DEQ PMs will work with the Federal Agency Project Officer to determine the next steps based on the

information received from SHPO and/or any tribes. This may include additional follow up by the DEQ PM, the Federal Agency implementing a formal consultation process, performing a pedestrian survey prior to work, or having an archeologist and/or tribal monitor present to observe site actions. If the Federal Agency performed the consultations, DEQ PM shall confirm with the Federal Agency Project Officer these actions were completed.

PMs shall document all SHPO and tribal governments' communication(s) in the project file, while keeping the location and existence of cultural resources confidential. Requirements for maintaining confidentiality are discussed in more detail in [Section 6.6](#).

## 6.5 Emergency Response and Spill Cleanup Activities

This IMD does not apply to emergency response and spill cleanup activities. DEQ's Emergency Response Program maintains adopted Standard Operating Guidance to ensure that tribal governments and SHPO are notified in a timely manner of oil or hazardous substance spills and emergency response activities in their areas of interest. The Emergency Response Program SOG is approved for emergency response spill cleanup activities only and should not be referenced for cleanup site actions.

## 6.6 Keeping Cultural Resource Information Confidential

The location and existence of cultural resources is considered highly sensitive information by tribes and should be kept confidential. Oregon public records law (ORS 192.501, Appendix A) allows state agencies to use discretion in holding sensitive cultural resource information confidential. In managing cleanup sites, please use the following guidelines.

If cultural resources are discovered at a site, immediately report the finding **only to the following contacts**. Do not share any information about the discovery with the media, other DEQ employees, or the public.

- DEQ's Tribal Liaison
- Tribal representatives involved in communication prior to ground-disturbing work
- Tribal representatives identified by DEQ's TL
- SHPO
- Executive Director of the Legislative Commission on Indian Services
- Oregon State Police (if suspected human remains are found)

At some sites, DEQ may need to perform a cultural resources survey prior to beginning ground-disturbing work and/or conduct onsite cultural resources monitoring during cleanup activities. DEQ uses registered archaeologists to perform this work, which includes producing a site-specific cultural resources report that summarizes findings. These reports should not be released directly to the public or others as they may contain sensitive information that needs to be kept confidential. Upon receipt of a cultural resources report, the PM should create a confidential file for the report, send one copy to SHPO, and one copy to each tribal representative who responded



to site review letters prior to the ground-disturbing work. If additional copies are requested, the PM should contact SHPO to determine whether the report may be released. The PM should also appropriately label email correspondence and attachments to prevent inadvertent release of sensitive or confidential information following a public records request.

## **6.7 Where to Find Licensed Cultural Resource Contractors**

SHPO provides a list of certified professional archaeologists who are available to serve as cultural resource contractors and consultants in Oregon. Some tribal cultural resource coordinators are included in this list, and tribal governments have expressed interest in contracting with DEQ for cultural resources work as a way to build stronger DEQ-tribal relationships. The list and additional information on archaeological services can be found at <https://www.oregon.gov/oprd/HCD/ARCH/pages/index.aspx>.

## 7. Additional Resources

For more information about DEQ's tribal engagement and resource protection policies, please see DEQ's Tribal Government Relations webpage at [www.oregon.gov/deq/about-us/Pages/tribal.aspx](http://www.oregon.gov/deq/about-us/Pages/tribal.aspx)) or contact DEQ's Tribal Liaison, Annalisa Bhatia at [bhatia.annalisa@deq.state.or.us](mailto:bhatia.annalisa@deq.state.or.us) or (503) 229-6800.

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 <https://www.oregon.gov/oprd/OH/pages/archaeology.aspx>, or the Oregon Legislative Commission on Indian Services at (503) 986-1067 or [www.oregonlegislature.gov/cis](http://www.oregonlegislature.gov/cis).

For more information about cultural resources, see the Oregon Historic Preservation Plan at [www.oregon.gov/oprd/HCD/SHPO/docs/historic\\_preservation\\_plan\\_11-16.pdf](http://www.oregon.gov/oprd/HCD/SHPO/docs/historic_preservation_plan_11-16.pdf) or [www.oregon.gov/oprd/HCD/SHPO/pages/plan.aspx](http://www.oregon.gov/oprd/HCD/SHPO/pages/plan.aspx).

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/) and [www.nps.gov/nr/publications/#bulletins](http://www.nps.gov/nr/publications/#bulletins).

Oregon Revised Statutes are available at: [www.oregonlegislature.gov/bills\\_laws/Pages/ORS.aspx](http://www.oregonlegislature.gov/bills_laws/Pages/ORS.aspx).

Oregon Administrative Rules are available at: [http://sos.oregon.gov/archives/Pages/oregon\\_administrative\\_rules.aspx](http://sos.oregon.gov/archives/Pages/oregon_administrative_rules.aspx).

## 8. Key Contacts

The following contact information is current as of the date of this publication. DEQ's Tribal Liaison maintains the list of tribal governments that they will contact as appropriate.

**Annalisa Bhatia**

**Tribal Liaison, Oregon DEQ**

Phone: (503) 229-6800

Email: [bhatia.annalisa@deq.state.or.us](mailto:bhatia.annalisa@deq.state.or.us)

**Mitch Sparks**

**Legislative Commission on Indian Services**

Phone: (503) 986-1067

Email: [mitch.sparks@oregonlegislature.gov](mailto:mitch.sparks@oregonlegislature.gov)

**John Pouley**

**State Archaeologist, State Historic Preservation Office**

Phone: (503) 480-9164

Website: <https://www.oregon.gov/oprd/OH/pages/archaeology.aspx>

**Region 10 Tribal Coordinators/Project Officers, Environmental Protection Agency**

Contacts listed at <https://www.epa.gov/r10-tribal/forms/contact-us-about-tribal-programs-pacific-northwest-and-alaska>

**Lt. Craig Heuberger**

**Oregon State Police (if human remains are discovered)**

Phone: (503) 508-0779

Email: [cheuber@osp.oregon.gov](mailto:cheuber@osp.oregon.gov)

## 9. Appendices

**Appendix A:** State and Federal Cultural Resource Protection Laws

**Appendix B:** Template Letter for Contacting Tribal Governments

# **Appendix A: State and Federal Cultural Resource Protection Laws**

## **Oregon Protections for Native American Burial Sites and Objects (ORS 97.740 et seq.)**

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.

## **Oregon Protections for Archaeological Objects and Sites (ORS 358.905 et seq.), Permit Requirements for Site Alteration (ORS 358.235 et seq.), and Permit Requirements for State Public and Private Land (OAR 736-051-0080 to 0090)**

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 et seq., 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 et seq.), 43 CFR 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.

# Appendix B: Notification Template

*Tribal Governments can be contacted via email using the following template.*

Hello [Name of Contact],

[Responsible Party or designated contractor on behalf of RP] will be [performing oversight/conducting an] [environmental assessment/removal action/remedial action] at the following location:

Legal description: Township:

Range:

Section:

Tax Lot:

Project name:

Property address:

County:

Nearest city:

Attached are maps [preferably a vicinity map and a detailed USGS map, if available] with the project area clearly marked.

[Insert this paragraph IF this is a DEQ-led project or the project uses federal funding] DEQ is preparing to use [federal/state] funds to perform the [environmental site assessment/removal action/remedial action] at this site. 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].

[Insert this paragraph IF DEQ is only providing oversight]. DEQ will conduct oversight over the [environmental assessment/removal action/remedial action]. [Briefly summarize the proposed action].

Please review the site and project information, and let me know about any historical, archaeological, cultural, or natural resource concerns you may have. DEQ recognizes the importance of cultural and natural resources to tribal governments 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 this site, its history, or DEQ's proposed work, please let me know.

Thank you for your assistance.

[Tribal Liaison email signature]

[**Note:** Many tribal governments have limited resources and multiple priorities for cultural and natural resources reviews, and it is important to provide adequate time for review by interested tribes. If a timely response is not received after your initial notification, attempt communication with the tribal government representative at least one more time. Document this communication for the file. If the tribal government representative requests more time to review the project, accommodate the request if at all possible.]



## 10. Record of Revisions

Revision	Date	Changes	Editor
Addressed clarifications, consistencies, minor formatting, and necessary contact information and resource updates.	Dec. 24, 2020	Ensured LUST sites were addressed throughout the IMD. Clarified federal responsibilities. Added note on 30-meter buffer for inadvertent discoveries. Updated Key Contact information and links to resources.	Jessika Cohen

**Signature:** *Lydia Emer*

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# Cultural Resources\_Cleanup Sites IMD 122020

Final Audit Report

2021-01-01

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By:	Jessika Cohen (jscohen921@gmail.com)
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