

# Washington Cultural Resource Regulations

## Summary for Independent Cleanup Sites

### Purpose

State and federal laws and regulations protecting cultural resources apply to the cleanup of contaminated sites under the Model Toxics Control Act (MTCA) Cleanup Regulations ([WAC 173-340-710](#)). Executive Order 05-05 also applies when the cleanup project receives state funds, including remedial action grants and loans. This document summarizes some of these requirements and provides information on how to comply with them when conducting independent cleanups. For a complete list of regulations and regulatory advice, contact the [Department of Archaeology and Historic Preservation](#) (DAHP).

## What Cultural Resource Laws and Regulations Apply to my Cleanup?

### More Information

<http://www.dahp.wa.gov>

<https://ecology.wa.gov/VCP>

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### Special Accommodations

To request ADA accommodation, including materials in a format for the visually impaired, call Ecology at (360) 407-6831 or visit <https://ecology.wa.gov/accessibility>. People with impaired hearing may call Washington Relay Service at 711. People with speech disability may call TTY at 877-833-6341.

### Acronyms

**DAHP** – Department of  
Archaeology and Historic  
Preservation

**VCP** – Voluntary Cleanup Program

**WISAARD** – Washington  
Information System for  
Architectural and  
Archaeological Records Data

### Archaeological Sites and Resources

Anyone on public or private lands of Washington needs a permit from DAHP to remove any archaeological object, alter, excavate, damage, or destroy any historic or prehistoric archaeological resource or site.

If someone knowingly destroys such resources without a permit, or does not comply with the permit conditions, they may face criminal and civil penalties, including investigative costs and reasonable site restoration costs ([RCW 27.53](#) and [WAC 25-48](#)).

### Human Remains and Cemeteries or Gravesites

These laws protect human remains wherever they are found:

- Abandoned and Historic Cemeteries and Graves ([RCW 68.60](#))
- Indian Graves and Records ([RCW 27.44](#))
- Human Remains ([RCW 68.50](#))

For inadvertent discoveries of human remains, the discoverer must:

1. Immediately cease any activity that may cause further disturbance.
2. Protect the area from further disturbance.
3. Report the presence and location to the coroner and local law enforcement as soon as possible.

### Executive Order 05-05 Consultation

Washington State agencies must consult with DAHP and tribes during the planning phase of any project that receives state capital budget funding and with potential ground disturbing activity. This is broadly defined to include both above and below-ground activities. This requirement applies to independent cleanups funded by an [Independent Remedial Action Grant](#).

### Section 106 of the National Historic Preservation Act

Federal agencies must consult with DAHP and tribes during the planning phase of any project that has federal involvement, such as a project that receives federal funding, a federal permit or license, has a federal agency partner, or occurs on federal or tribal land.

Cultural Resources are protected.



Figure 1. Cultural resources can be found anywhere, and they are protected by law.



Figure 2. An Inadvertent Discovery Plan tells field staff what to look for and what to do if they find a possible cultural resource.



Figure 3. DAHP (<https://dahp.wa.gov/>) is the Washington State agency that oversees protection of cultural resources. Ecology is required to consult with DAHP and tribes for any state funded project per Executive Order 05-05.

## How Do I Comply with Cultural Resource Regulations?

### Determine if You Need a Permit from DAHP for Your Project Location.

Before starting ground disturbing activities, research your project location to determine whether there is an [archaeological site](#) or [historic building](#) that is potentially eligible for the historic register. Apply for a [permit from DAHP](#), if required. If your project is located at a known archaeological site, you must get a permit from DAHP before you begin any on-site work.

Options to research the site include:

- Check the project location on the public [WISAARD database](https://dahp.wa.gov/project-review/wisaard-system) (<https://dahp.wa.gov/project-review/wisaard-system>) for historic buildings and the predictive model for archaeological resources.
- Hire a Cultural Resource Management consultant to research the location.
- Check with [DAHP](#) to see whether your project needs a permit.

### Prepare for Inadvertent Discoveries

If you accidentally find a cultural resource or potential human remains during field activities, you must comply with all inadvertent discovery regulations. If you fail to comply, you may face project delays and civil and criminal penalties. The best practice is to provide an Inadvertent Discovery Plan on site, so field staff know what to look for and what to do if they find a cultural resource or human remains. Ecology has developed a field guide and template [Inadvertent Discovery Plan](#) to make it easy to create a plan for any project.

If you find cultural resources, the law requires that you:

1. Immediately stop work in the area.
2. Protect the area from disturbance.
3. Notify the appropriate authorities, as listed in your site-specific Inadvertent Discovery Plan.

### Consultation Is Required for Projects with State Funding

Before providing state funding for a local government project, such as a Remedial Action Grant, Ecology is required to conduct a consultation with DAHP and tribes during the planning phase of the project. To qualify for an [Independent Remedial Action Grant](#), a local government must apply to Ecology's [Voluntary Cleanup Program](#) during the planning process, and request a consultation under [Executive Order 05-05](#).

### Section 106 Consultation for Projects with a Federal Nexus

If a project has any of the conditions that trigger Section 106 consultation (federal funding, partner, permit, or license), the lead federal agency must conduct a consultation.

***Cultural resource compliance can take time if you need consultation or a permit. Find out what is required as early as possible so you can appropriately plan your project schedule and budget.***