

Cultural Resources Review

Why is cultural resources review required?

Washington State's cultural resources (Figure 1) represent history, connecting us to those in our past. Unlike natural resources, historical and archaeological resources are non-renewable. Damage may alter the integrity or existence of a site forever.

Washington State defines *Cultural resources* as the physical evidence or places of past human activity – sites, objects, landscapes, structures; or a site, structure, landscape, object, or natural feature that holds significance to a group of people traditionally associated with it.

Ecology is committed to protecting cultural resources by taking reasonable action to avoid, minimize or mitigate adverse effects on projects we are providing or administering funding for (Internal Policy 22-07, revised July 2023).



Figure 1 - Examples of historic (left) and pre-historic (right) resources discovered during Ecology-funded projects.

Who requires the review?

Ecology is committed to participating in the cultural resources review (CRR) process to determine potential effects on cultural resources. Ecology ensures consultation is complete with the Department of Archaeology and Historic Preservation (DAHP) for any aspects of a project triggering the State Environmental Policy Act (SEPA) or for projects funded with state or federal

dollars. DAHP is Washington State's primary agency with knowledge and expertise in historic preservation. DAHP is an advocate for the preservation of Washington's irreplaceable historic and cultural resources - significant buildings, structures, sites, objects, and districts - as assets for the future.

Ecology Cultural Resources and Environmental Workgroup (E-CREW)

Ecology staff formed E-CREW in 2017 to provide additional guidance on state funded projects requiring cultural resources review and consultation. The executive sponsor for E-CREW is the Executive Advisor for Tribal Affairs, and E-CREW members consist of Ecology Program staff (Cultural Resource Contracts or CRCs). E-CREW carries out Ecology's commitment to cultural resource protection by developing policy and providing agency forms and technical support in this area to support Ecology's mission.

Local, State, and Federal Reviews

Addressing potential impacts to cultural resources may occur at the local level (SEPA), state level (Executive Order 21-02) or federal level (Section 106 of the NHPA). Is it possible to use one review to inform all levels, to avoid redundancy?

There are some differences, but agencies do their best to avoid replication of reviews.

Federal will supersede state and local cultural resources reviews. If your agreement has a federal trigger (permit, easement, licensing, funding), follow the Section 106 process. Discuss with your Ecology Project Manager and CRC if the resulting documentation can be adopted to fulfill other requirements.

If you have completed SEPA, and later received state or federal funding, discuss with your Ecology CRC if they will incorporate by reference the information. This is not adoption, but instead the use of existing best available information, such as a survey, to inform the review process.

When is the best time to start cultural resources review?

Complex projects in sensitive areas should start review early - during planning or design. Pre-consultation may be something to consider. Discuss this with your Ecology Project Manager and CRC if you think it may assist your project.

All projects must complete CRR and receive written notice from Ecology prior to proceeding with site disturbing activities, particularly starting construction.

Tips - Checking [WISAARD](#)

WISAARD is Washington State's digital repository for architectural and archaeological resources and reports. Data entry and database searching are its main functions. WISAARD has two levels of access – public and secure. Public access allows you to use WISAARD's Predictive Model Layer, GLO maps, and other publicly available resources.

Tips – WISAARD and Risk Level

The Ecology Cultural Resources Review Form asks you to look at WISAARD and document the Predictive Model Layer's "risk level" for your project area. The risk level is a way of looking at how sensitive your chosen location is. Knowing the risk level can help you understand potential outcomes of CRR and consultation for your project.

Tips - Continuing Consultation

Agreements may have a pre-design phase, where a site assessment occurs with geo-technical activities. This ground disturbing work **will** trigger cultural resources review. The outcome of the pre-design investigation will be used to inform the next phase in consultation, which can streamline the overall review process.

If you have multiple phases in a project, discuss **Phased or Continuing Consultation** with your Ecology Project Manager and CRC.

Timing of Reviews

A CRR is often complete within 6 weeks, with exceptions. In general, the process begins with the submission of an Ecology Cultural Resources Form and an Ecology Inadvertent Discovery Plan. Once these are approved, the Ecology CRC reviews Best Available Information, WISAARD, other resources if necessary, and develops a Preliminary Determination (PD) for consulting parties to review. The PD is sent to DAHP, Tribes, and other interested parties for a 35-day comment period.

The PD may recommend/require (or a combination):

- A professional onsite monitor
- A professional survey to be completed prior to site disturbing activities
- Historic property inventory forms to be completed
- An onsite IDP
- Request further information from consulting parties
- Tribal notification
- Other stipulations

After the PD comment period, the CRC reviews input, concerns, letters, and comments. Dependent upon the comments received, the PD may be retained, additional information added, or may be rescinded and a new determination drafted entirely.

The next determination is often the Final Determination (FD), explaining the requirements (stipulations) in order for the project to move forward. An exception is when a survey is required. In the event of a survey, the FD will often not be issued until after the survey is completed and reviewed by consulting parties. The information from the survey is needed to determine if cultural resources are present. The FD will include a statement on the presence or absence of historic and pre-historic properties. In rare situations, the survey only requires minor editing to be finalized. In this situation, DAHP and Ecology may issue approval for the project, but still require the edits to be made before the survey is accepted in WISAARD.

Ecology understands that requiring a survey adds additional time to the overall process. Time is needed to find a consulting archaeologist or historian, design and draft the survey, submit to Ecology for consulting parties to review, and receive comments.

For complex projects located in sensitive areas (see *WISAARD and Risk Level*), consider going ***Straight to Survey*** – meaning complete the survey *prior to consultation* to avoid potential delays. Turn in a draft survey with the Ecology Cultural Resources Form (for tracking purposes only) and an Ecology Inadvertent Discovery Plan to the Ecology Project Manager and/or Cultural Resources Contact.

Adverse Effects

Ecology uses the definition of adverse effects found under [36 CFR 800.5](#), and applies Assessment of Adverse Effects, whenever possible, with minor modifications, as necessary.

Ecology works with tribal governments (Tribal Historic Preservation Officers and tribal cultural resources managers), DAHP, consulting archaeologists/historians, and other consulting parties to determine if an adverse effect to a historic property occurs. Adverse effects may include foreseeable effects caused by the undertaking occurring later in time, further removed in distance, or be cumulative.

Adverse effects include direct damage of a property and indirect, such as introduction of visual, atmospheric, or audible elements that diminish the integrity of the property's significant historic features, or neglect of a property that causes significant deterioration.

Ecology promotes avoidance over accepting an adverse effect. Only in the event the design cannot change will discussions on mitigating adverse effects take place.

If a consulting party disagrees with the finding, notification must be provided within the 35-day comment window. Ecology will notify all consulting parties that disagreement has been received, and make that information public. If a Tribe issues the

disagreement, Ecology will reach out the EPA, Region 10. Ecology will work to resolve the disagreements in a timely manner.

Resolving Adverse Effects

Ecology will continue to consult with the DAHP, tribal governments, and other consulting parties, to develop and evaluate alternatives or modifications to the undertaking that could avoid, minimize, or mitigate adverse effects on historic properties. The outcome of this resolution may be conditions of approval documented in the FD, or a more formal Memorandum of Agreement (MOA).

Discoveries – Historic property only

If there is a discovery without prior review, Ecology will work to resolve adverse effects as described earlier. Ecology has the discretion to withhold funding if the work occurred knowingly and willfully, without completing cultural resource review.

Ecology may see if the [Archeological and Historic Preservation Act](#) is applicable. This may help to salvage any objects and materials that would otherwise be lost because of projects or programs. It applies to federal funding agencies and the projects they fund.

For projects with prior review, Ecology's [Inadvertent Discovery Plan](#) (IDP) provides a step-by-step process for grant recipients, consultants and Ecology staff. Any projects with significant probability of a discovery require the project sponsor to complete an Ecology IDP or approved similar template (Ecology Policy 22-07, Revised 07/31/2023). Please note that many discoveries are *inadvertent and unanticipated*, and Ecology WQP staff encourage recipients to have an IDP on hand for all WQP grant and loan funded projects.

ADA Accessibility

To request an ADA accommodation, contact Ecology by phone at 360-628-4410 or email at liz.ellis@ecy.wa.gov, or visit <https://ecology.wa.gov/accessibility>. For Relay Service or TTY call 711 or 877-833-6341.