

WAC 173-340-815 Cultural resource protection. (1) **Purpose.** This section specifies requirements that are intended to avoid, minimize, or mitigate adverse effects from remedial actions on archaeological and historic archaeological sites, historic buildings and structures, traditional cultural places, sacred sites, and other cultural resources.

(2) **Applicable laws.** Remedial actions must comply with applicable state and federal laws regarding cultural resource protection, including:

(a) The National Historic Preservation Act of 1966, as amended (54 U.S.C. 300101 et seq.);

(b) The Archaeological and Historic Preservation Act of 1974, as amended (54 U.S.C. 312501 et seq.);

(c) The Archaeological Resource Protection Act of 1979, as amended (16 U.S.C. 470aa et seq.);

(d) The Native American Graves Protection and Repatriation Act of 1990, as amended (25 U.S.C. 3001 et seq.);

(e) Chapter 27.53 RCW, Archaeological sites and resources;

(f) Chapter 27.44 RCW, Indian graves and records;

(g) Chapter 68.50 RCW, Human remains;

(h) Chapter 68.60 RCW, Abandoned and historic cemeteries and historic graves; and

(i) Chapter 43.21C RCW, State Environmental Policy Act and chapter 197-11 WAC, SEPA rules.

(3) **Consultations and inadvertent discovery plans.**

(a) **Applicability.** The requirements in this subsection apply to:

(i) Ecology-conducted remedial actions, except initial investigations;

(ii) Ecology-supervised remedial actions; and

(iii) Ecology-funded independent remedial actions.

(b) **Requirements.** For remedial actions identified under (a) of this subsection, ecology will do the following before any person conducts a field activity capable of affecting a cultural resource:

(i) Consult with the department of archaeology and historic preservation and affected Indian tribes on the potential effects of planned remedial actions on cultural resources at the site, unless the remedial action is subject to Section 106 review under the National Historic Preservation Act of 1966, as amended (54 U.S.C. 300101 et seq.). Based on the consultations, ecology may require the development and implementation of a cultural resources work plan, such as a survey or monitoring plan, to identify cultural resources and to avoid, minimize, or mitigate adverse impacts to cultural resources at the site; and

(ii) Prepare or require an inadvertent discovery plan for the site.

(A) The inadvertent discovery plan must be prepared using the applicable form provided by ecology or an equivalent document that includes the same or more comprehensive information.

(B) For ecology-supervised remedial actions, ecology may require submittal of the inadvertent discovery plan for its review.

(C) The inadvertent discovery plan must be readily available during all remedial actions at the site. Persons conducting remedial actions at the site must be familiar with the contents and location of the plan.

(D) The inadvertent discovery plan must be updated as needed to reflect the discovery of cultural resources.

[Statutory Authority: Chapters 70A.305 and 70A.355 RCW. WSR 23-17-159 (Order 18-09), § 173-340-815, filed 8/23/23, effective 1/1/24.]