



OREGON DEPARTMENT OF FORESTRY POLICY DOCUMENT

Title:	Government-to-Government Relations		
Division/Program:	Executive Team		
Applicability:	All agency employees		
Effective Date:	December 10, 2020	Last Review Date:	December 2017
Approved Signature:	Lena Tucker, Deputy State Forester /s/ (signature on file with ODF)	Review Interval:	5 years
		Custodian:	Deputy State Forester

POLICY:

It is the policy of the Oregon Department of Forestry (ODF) to promote and enhance government-to-government relations with tribes early and often during the development and implementation of ODF programs that may affect tribes. ODF's intent is to strengthen intergovernmental relations, address potential concerns, and enhance the exchange of information and resources for the greater good of all Oregonians. This policy provides a framework for government-to-government interactions and opportunities for on-going staff-to-staff discussions.

AUTHORITY:

- [ORS 182.162 through 182.168](#) Formalizes state agencies relationship with Oregon's tribes.
- [ORS 190.110](#) State agencies may enter into interagency and intergovernmental agreements.
- 2002 Agreement between SHPO and ODF Tribal relations and cultural resource protection. (Copy available upon request)
- [2011 Forestry Program for Oregon](#) Board of Forestry seeks communication with Oregon's tribes.

DEFINITIONS:

Ancestral areas of interest: Federal and state laws recognize tribal "areas of interest" in terms of cultural resources. This can include tribal seasonal use areas, customary travel routes, areas visited because of sacred sites or for traditional hunting, fishing or gathering. Each tribes ancestral areas of interest may extend beyond treaty boundaries and sometimes extend to areas within other tribes' ancestral areas of interest. The tribal areas of interest may cross ODF district lines and area boundaries.

Archaeological site: The State Historic Preservation Office (SHPO) defines in general terms, an archaeological site as an accumulation of ten or more precontact or historic artifacts (e.g., flakes, projectile points, ground stone, cans, bottles, ceramics), or the presence of one or more features (e.g., fire hearth, house pit, rock cairn, mine tailings, modified trees), which alone or in combination define areas of human activity and/or events. All archaeological sites require protection until determined otherwise by a "qualified archaeologist", that it is not a site of archaeological significance, ORS 390.235(6)(b).

Cultural resources: Cultural resources include objects and features that may be Native American archaeological sites and/or historic archaeological sites. Cultural resources (buildings, structures, archaeological objects, archaeological sites, historic sites, cairns, burials, human remains, funerary objects, sacred objects and objects of cultural patrimony) are acknowledged to be finite, irreplaceable, and nonrenewable and are an intrinsic part of the cultural heritage of the people of Oregon.

Historic artifacts means at least 75 years old on non-federal land and at least 50 years old if located on federal lands or when projects are federally funded.

Inadvertent discovery: The discovery of a cultural resource during the course of normal operations, which was unknown to the operator or landowner.

Legislative Commission on Indian Services (LCIS): In 1975, LCIS was created by statute to support Oregon Indians and state government when their interests and work affect each other.

Precontact artifacts means before indigenous people had contact with Europeans, generally pre-1805 A.D.

Programs: ODF's programs include Protection from Fire, Private Forests, State Forests, Administration, and Partnership and Planning.

Site of archaeological significance:

- a) Any archaeological site on, or eligible for inclusion on, the National Register of Historic Places as determined in writing by the State Historic Preservation Officer; or
- b) Any archaeological site that has been determined significant in writing by an Indian tribe.

Sovereign nations: Tribes have inherent sovereignty - they existed as governments before the U.S. existed and before the state of Oregon existed. The federal government did not create tribes or tribal sovereignty. Tribes have the right to govern their territory and their internal affairs as "domestic" (i.e., "not foreign") "dependent nations" (i.e., having a special relationship with the federal government), which is upheld by treaties, the U.S. Constitution, Supreme Court decisions and federal statutes.

State Historic Preservation Office (SHPO): manages and administers programs for the protection of the state's historic and cultural resources.

State-tribal clusters: These state-tribal groups were established, as an outcome of the first annual LCIS summit in 1997, to improve communication between the state agencies and tribes. There are six groups or clusters that consists of representatives of state agencies and each of Oregon's nine federally-recognized tribes:

- Cultural resources*
 - Economic development and community services
 - Education and workforce training
 - Health and human services
 - Natural resources*
 - Public safety and regulations
- *ODF participation through assigned representatives

Tribes: The nine federally-recognized Indian tribes in Oregon, are sovereign nations, each with unique government organizations and decision-making structures on Tribal lands. Each tribe speaks for itself and their areas of interest may cross ODF district lines and area boundaries. Oregon's nine federally-recognized tribes:

- [Burns Paiute Tribe](#)
- [Confederated Tribes of Coos, Lower Umpqua and Siuslaw](#)
- [Confederated Tribes of Grand Ronde](#)

- [Confederated Tribes of Siletz Indians](#)
- [Confederated Tribes of the Umatilla Indian Reservation](#)
- [Confederated Tribes of Warm Springs Reservation](#)
- [Coquille Indian Tribe](#)
- [Cow Creek Band of Umpqua Tribe of Indians](#)
- [Klamath Tribes](#)

Since 1999, ODF has engaged directly with the [Nez Perce Tribe](#) of Idaho, which has land in Wallowa County, but does not have federally-recognized sovereign rights in Oregon. Consult with the liaison to tribal nations or LCIS before working with other Tribes located in or adjacent to Oregon.

RESPONSIBILITIES:

- A. **State forester:** responsible to ensure compliance with ORS 182.162 through 182.168 and is the liaison to tribal nations, unless otherwise designated.
- B. **Liaison to tribal nations** is the deputy state forester as delegated per position description – responsible to ensure policy implementation at the executive level, including coordination of tribal government communications, employee training and annual reporting to the Governor and LCIS about programs that affected tribes.
- C. **Division chiefs/program directors** – responsible to seek to communicate and collaborate annually with tribal government leaders and ensure program policies that may affect tribes include tribal government participation and early, ongoing input during development and implementation.
- D. **Area directors:** responsible to ensure policy implementation at the operational level, including coordinating communication and collaboration on tribal concerns/interests that cross district lines and area boundaries and ensuring that divisions chiefs/program directors are informed about any operational activities that may affect tribes. Also responsible to seek to communicate and collaborate annually with tribal governments and their natural resources and cultural resources staff.
- E. **District foresters** – responsible to seek to communicate and collaborate annually with tribal governments and their natural resources and cultural resources staff.
- F. **Agency representatives,** designated by the liaison to tribal nations – responsible to participate on the state-tribal clusters or other government-to-government groups by informing tribes of agency programs being developed and implemented that may affect tribes and opportunities for state-tribal partnerships. Also responsible to report about government-to-government meetings to the liaison on tribal nations and the Executive Team for awareness and agency decision-making.
- G. **Field employees** engaged in ground disturbance forest activities – responsible to seek to understand and identify areas of likely cultural resource value and to design or recommend practices to minimize impacts on the cultural resource sites. Forest activities include laying out and administering state forests management and recreational activities, directing fire suppression actions, administering the Oregon Forest Practices Act, and assisting private landowners with federal cost-share programs. Additionally, field employees are responsible to notify supervisors of any suspected or impacted cultural resources. The procedures document, which supports this policy document, describes how to handle discovered cultural resources and the notification protocol.

STANDARDS:

- A. ODF will maintain an agency liaison to tribal nations.
- B. The liaison to tribal nations or designees will participate in the state-tribal clusters (natural resources and cultural resources) and other government-to-government meetings, e.g., LCIS meetings and SHPO's Interagency Cultural Resources Council.
- C. The state forester will seek to establish and maintain relationships with each tribal council and staff (natural resources and cultural resources) and explore opportunities for tribal partnerships. When meeting with tribes, the state forester will seek to be accompanied either by the liaison to tribal nations, division chiefs, program directors, area director, district forester, or designee.
- D. The state forester will send an annual letter to each tribal chair and staff directors (natural resources and cultural resources) outlining the Board of Forestry's policy and rule development on the horizon and invite tribal engagement.
- E. ODF will seek to understand programs that may affect tribal interest, in communication with tribes.
- F. The liaison to tribal nations will explore opportunities for tribal partnerships.
- G. ODF will maintain a [public web page](#) and an employee web page on tribal government relations and cultural resource awareness, including links to regulations, policies, annual reports, and tribal webpages.
- H. Area directors and district foresters, will seek to communicate and collaborate as needed or annually with tribal representatives, in the forum requested by the tribes, to discuss opportunities to engage in program development and implementation that may affect tribes, e.g., State Forests' forest management planning and annual operation plans, wildfire incidents, Forest Practices Act administration and monitoring, and other concerns or interests of the tribe.
- I. ODF will seek guidance from LCIS and other agency liaisons to tribal nations when appropriate, to improve understanding and tribal government relations.
- J. ODF will seek tribal representation on ODF advisory committees that are of interest to the tribes.
- K. ODF will ensure all employees are familiar with this policy and have appropriate training, consistent with their position description, including tribal government relations regulations and procedures and cultural resource protection regulations and site identification.
- L. ODF will, at a minimum, seek to train field employees at the Natural Resource Specialist 2 level and above to recognize, and take appropriate steps to protect cultural resources encountered during state forests operations, fire suppression, forest practice operations, and private operations associated with federal cost-share programs.
- M. ODF will support and participate in cooperative efforts between tribal governments, federal, state and/or local governments on environmental issues that cross jurisdictional boundaries.
- N. ODF will maintain language in position descriptions, where appropriate, that reflects government-to-government responsibilities and cultural resource protection.

- O. ODF may enter into interagency and intergovernmental agreements or other mechanisms with tribes to better define roles and expectations that address mutual interest, consistent with ORS 190.110 and 190.115.
- P. ODF will consult with the Department of Justice about ODF and tribal government jurisdiction and legally-binding agreements.
- Q. ODF will submit an annual report, no later than December 15 of every year, to the Governor and LCIS, describing ODF’s activities that affected tribes, consistent with ORS 182.166(3).

EXCEPTIONS, EXEMPTIONS, AND CONDITIONS:

None

SUPPORTING DOCUMENTATION:

Procedures have been developed to support this policy.

Policy History	
<i>Date</i>	<i>Description</i>
5/2006	Directive: Department of Forestry and Tribal Government-to-Government Relations
12/2017	Policy drafted to replace directive
12/10/2020	Policy approved, prior directive rescinded