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Executive Order 05-05 is now Executive Order 21-02!

Governor Jay Inslee has signed [Executive Order 21-02](#). The revised cultural resource Executive Order immediately replaced Executive Order 05-05 effective 4/7/2021. The Washington State Department of Archaeology and Historic Preservation (DAHP) understands that you may have questions. A training video is in production. Until then, we hope that this Q&A will answer some of your questions.

Q: What's new?

A: The language of the Executive Order is now more specific regarding the kinds of projects that are subject to review under 21-02. It makes the consultation process more predictable by specifying when consultation should take place, encouraging avoidance and minimization strategies during the planning and design process, identifying mitigation strategies, and laying out an agency disagreement resolution process. Executive Order 21-02 also emphasizes the importance and requirement of consulting with Tribes on capital projects. The types of historic properties covered by the Executive Order have also expanded to include archeological and historic archaeological sites, historic buildings/structures, traditional cultural places, sacred sites or other cultural resources

The biggest change to the Executive Order is that the State Agency is now responsible for holding all records related to the Tribal consultation process. The Tribal consultation process may be delegated to non-state recipients of state funds (e.g. a City or County, a program, etc.), but the State Agency must demonstrate that Tribal consultation was completed and must demonstrate compliance by providing those records to DAHP.

Q: How will the State Agency provide records of tribal consultation to DAHP?

A: The State Agency will electronically transmit their consultation records to DAHP in the same manner regular correspondence is transmitted (e.g. using regulatory email accounts or to individual and appropriate review staff). This is to ensure compliance with RCW 42.56.300.

Q: I'm a cultural resources consultant. What's different from my perspective?

A: The most notable change for cultural resources consultants will be the executive order number they reference in reports and other correspondence. Going forward, consultants and agencies will need to reference Executive Order 21-02 instead of 05-05. Consultants may be contracted earlier in the planning and design process in order to evaluate, analyze, and implement avoidance, minimization, or mitigation strategies.

Q: How does this new Executive Order affect projects that are currently in the middle of the old 05-05 process?

A: The new executive order is effective immediately, and Executive Order 05-05 has been rescinded by its replacement. If a project was funded prior to the 2021-23 biennium, it must adhere to Executive Order 05-05 as written into the capital budget when it was signed into law. However, DAHP will still want to see Tribal consultation documents. All new projects moving forward will adhere to new Executive Order 21-02.

Thank you!

