

Inadvertent Discoveries on Tribal Lands After November 16, 1990

Discovery

The person who makes the discovery must **immediately notify the responsible Indian tribe official** by telephone and provide written confirmation to the responsible Federal official.

Stop Work

If the inadvertent discovery occurred in connection with an on-going activity, the person must **cease the activity** in the area of the inadvertent discovery and **make a reasonable effort to protect the human remains and other cultural items**.

Indian Tribe Official

No later than three working days after receiving written confirmation of the notification, the responsible Indian tribe official may **certify receipt of the notification**, and take immediate steps, if necessary, to **further secure and protect the human remains and other cultural items**.

NOTE: activity that resulted in the discovery may resume thirty days after the Indian tribe official or Native Hawaiian organization certifies receipt of the notification.

Will the human remains and other cultural items be left in place?

Yes

The site of discovery is secured, and the process is complete.

OR

No

Excavation or removal of the human remains and other cultural items may take place only with the consent of the appropriate Indian tribe or Native Hawaiian organization, and must follow the requirements of the Archeological Resources Protection Act (ARPA) (16 U.S.C. 470aa et seq.) and its implementation regulations.

Prior to excavation or removal, an ARPA permit must be obtained as follows –

- for private lands within the exterior boundaries of any Indian reservation, the Bureau of Indian Affairs will serve as the permit issuing agency; or
- for lands administered for the benefit of Native Hawaiians pursuant to the Hawaiian Homes Commission Act, the Department of Hawaiian Home Lands will serve as the permit issuing agency, with the Hawaii State Historic Preservation Division of the Department of Land and Natural Resources acting in an advisory capacity.
- **Under ARPA, government employees and contractors must adhere to the ARPA permitting standards for data recovery, but are not issued a permit as their official duties and scope of work, respectively, will define their actions with respect to the excavation.**

Final custody and disposition must be consistent with 25 USC 3002 (a), "Priority of Ownership," and 43 CFR 10.6, "Priority of Custody."