Archaeology Bulletin

Recommendations from the Oregon State Historic Preservation Office

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Archaeological Permits

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Oregon State law outlines when a state archaeological permit is required for conducting archaeological investigations in Oregon. It is important that all archaeologists are aware when a permit is needed prior to their conducting any archaeological investigations. The following information provides a brief summary of the applicable statutes and administrative rules regarding when a permit is necessary, in addition to background on the process for applying for a permit and which entities have review authority. The amount of time needed to apply for a permit varies, and can be reduced in certain circumstances or if the applicant takes a more active role in the application process. Once issued, the recipient of an archaeological permit is required by state statute to adhere to the terms of the permit and submit a report of their investigations.

When is a permit needed?

Under state law (Oregon Revised Statutes [ORS] 390.235 and 358.920) a person may not excavate or alter a known archaeological site on public or private lands, or make an exploratory excavation on public lands to determine the presence of an archaeological site, or remove from public or private lands any material of an archaeological, historical, prehistoric or anthropological nature without first obtaining a permit issued by the State Historic Preservation Office (SHPO), a division of the State Parks and Recreation Department. Separate permits are needed for each property owner or county where archaeological investigations are needed. It is important to note that a "known site" is one that any individual is aware of, or that is documented with the state or any other institution. A site does not need to be listed in a particular database or have been assigned a Smithsonian Trinomial to be considered a "known site".

Who can apply?

Individuals who meet the state qualifications of a professional archaeologist (ORS 390.235 [6][b]) are eligible to apply for archaeological permits.

Types of permits

There are two types of permits available in Oregon: 1) regular archaeological permit and 2) expedited permit. A regular archaeological permit normally takes up to 33 days to complete the review process. An expedited permit will take a maximum of 48 business hours but is only available in cases of health and human safety or extreme economic hardship which is defined under state law.

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Required Information

Information required with each permit application are described in guidelines provided by Oregon SHPO. A copy of the permit application forms, guidelines and the Archaeological Permit Check-list is available from the SHPO Archaeological Services website.

Review Process

Once the permit application is complete, SHPO sends the application to the Legislative Commission on Indian Services (LCIS) with a request as to who the most appropriate tribes would be for formal review. After SHPO receives this information from LCIS, the application packet is sent to reviewers (landowner, appropriate tribes, appropriate local planning department, University of Oregon Muse-um of Natural and Cultural History (UOMNCH) and LCIS. The date the application packet is sent starts the 30-day review period. The 30-day period includes weekends and holidays, however, if the review ends on a weekend or holiday, the permit is issued the next business day. ***All appli-cants receive a letter indicating their application materials have been sent out for review. Please contact SHPO if a letter has not been received.*** The process is the same for expedited permits, with the exception of a 48 hour review period instead of the normal 30 days.

Conditions

Permit reviewers may recommend conditions to an application request. If a permit reviewer re-quests conditions, SHPO will notify the applicant as soon as they are received, typically by email. It is then the responsibility of the applicant to contact the reviewer and address any conditions. Once coordinated with SHPO, conditions will become part of the approved permit requirements, if reasonable, and therefore must be addressed before a permit will be issued.

Objections

Permit reviewers may object to a permit application. If a permit reviewer objects to an application, SHPO will notify the applicant as soon as the objection is received. It is the responsibility of the applicant to contact the reviewer and attempt to resolve the objection. If the objection is resolved, it is the responsibility of the applicant to contact SHPO in writing of the resolution. Informal reso-lution is recommended to take no more than 30 days. If informal resolution is not reached, the process will follow Oregon Administrative Rule (OAR) 736-051-0040 to 736-051-0050.

Issuance

On the first business day after the 30-day review period has passed, and any objections have been resolved, the permit will be issued. If there are conditions they will be included in the permit. A copy of the permit will be emailed to the applicant to facilitate a quick turnaround for starting fieldwork. A hard copy of the permit along with the responses received from the reviewing parties

will be sent via mail to the applicant.

Amendments

If needed, a permit may be amended one time. Amendments may include minor or major changes to the original permit, with each type resulting in a different period of review and reviewers. Minor amendments require a 10-day review period by reviewing parties. Examples of minor amendments include addition of qualified archaeologists to the permit, addition of needed probes and test units (no greater than 25% of previous total), a change in the temporary curation facility, or a change in the due date of the final report. Major amendments require a 30-day review period. Major amendments include items such as a change in the permanent curation facility or a change in the number of probes or test units that is greater than 25% of the original permit request. For a sample list of minor and major amendments as well as which reviewers the amendment proposal will be sent to, please review the Oregon Archaeological Permit Amendment Procedure document.

Deliverables

Once fieldwork is complete, a report documenting the work is required. The report due date is two years after the date the permit was issued. The applicant will submit the final report to the SHPO, the reviewing tribes, LCIS, and UOMNCH. If there is an artifact collection and the permit was for public land, the collection is required to be delivered to UOMNCH or other approved curation facility listed on the permit. If the collection is from private land and the landowner chooses to retain possession of the collection it should be prepared as though it will be curated at the museum. Prior to delivery to either the museum or the landowner, if the collection is of Native American origin the tribes retain the right to review the collection for items covered under ORS 97.740. The tribes have a 30-day period in which to review the collection before it is returned to the curation facility or the landowner. Such a period begins once they receive a copy of the final report. Copies of fieldnotes, artifact catalog and photographs need to be submitted to UOMNCH with a copy of the final report, even when artifacts are retained by a landowner, UOMNCH will assign the material an accession number. The accession number and date the collection was received needs to be submitted to SHPO as part of the permit, as necessary.

Violations

Violations of permits occur when one or more terms of the permit are not met. Examples of a violation include: excavating more test units or probes than stated, not abiding by an approved condition, not having a copy of the permit in the field or not submitting the final report in the allotted time. If a violation occurs during fieldwork, all work will stop until the violation is remedied. The permit holder will be placed on a list of violators maintained at the SHPO. If the violation is not discovered until later, the permit holder will still be added to the list of violators and the ability to acquire future permits could be affected. There is currently discussion among Oregon Tribes to limit the ability of repeat violators to obtain future permits.

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