

# Oregon State Parks and Recreation Commission

September 23, 2026

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Agenda Item: 8a

**Action**

Public Comment Allowed: **Yes**

Topic: Request to adopt amendments to OAR 736-051-0000 through -0090  
Archaeological Permits

Presented by: Helena Kesch, Rules Coordinator

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## **Background:**

Oregon Administrative Rules (OAR) chapter 736, division 51 establish the procedures and requirements for archaeological permits issued under ORS 390.235. The rules address permit applications and review, permit conditions, dispute resolution, qualification requirements for Oregon Qualified Archaeologists, and archaeological work on public and private lands.

The archaeological permit rules previously underwent substantial revision. Since implementation, OPRD and State Historic Preservation Office (SHPO) staff have monitored how the rules function in practice. A significant permit dispute in 2024 demonstrated the need for clearer procedures for informal negotiation, mediation, arbitration, and related decisions. Staff also identified targeted updates to definitions, permit-administration procedures, and qualification provisions.

Because the proposed revisions were limited in scope, OPRD did not convene a rule advisory committee. OPRD met with representatives of Oregon's federally recognized Tribes on April 9 and April 22, 2026, and invited written Tribal comments. Feedback from those meetings informed the proposed revisions.

## **Current draft rules:**

The proposed amendments are targeted revisions intended to improve clarity, consistency, fairness, and implementation of the archaeological permit process. Key areas include:

- 1) Dispute resolution—clarifying informal negotiation, mediation, arbitration, appeal procedures, and the handling of disputed permit conditions.
- 2) Permit administration—updating definitions and procedures for reviewing revised permit applications.
- 3) Oregon Qualified Archaeologist requirements—making limited clarifications intended to support consistent statewide application of the existing qualification framework.

The rulemaking is not intended to redesign the Oregon Qualified Archaeologist framework or alter statutory requirements governing archaeological permits, collection, curation, or artifact transfer. Broader policy issues may require additional stakeholder engagement, future rulemaking, or statutory change.

## **Public Comment:**

The public comment period was open from July 1 through August 14, 2026. The complete record contains 15 distinct submissions, including two Tribal submissions from the Confederated Tribes of the Umatilla Indian Reservation and the Coquille Indian Tribe. Six submissions were opposed or critical; four were supportive of the rulemaking with revisions; three were mixed or conditional; and two were neutral or technical. No submission offered unconditional support for adopting the revisions exactly as drafted.

The dominant theme was the Oregon Qualified Archaeologist framework. Other recurring themes involved dispute-resolution procedures; permit review timelines; Tribal sovereignty, THPO authority, and artifact disposition; and stakeholder engagement and transparency. Attachment C summarizes the comments, agency response, and staff recommendation.

**Prior Action by Commission:** June 2026—Commission authorized opening rulemaking for amendments to OAR 736-051-0000 through -0090.

**Action Requested:** Staff requests that the Commission adopt the amendments to OAR 736-051-0000 through -0090, Archaeological Permits, as presented.

**Attachments:** Attachment A: Marked copy

Attachment B: Clean copy

Attachment C: Summary of public comments, agency response, and staff recommendation

**Prepared by:** Helena Kesch, Rules Coordinator