

# ARCHAEOLOGY BULLETIN

RECOMMENDATIONS FROM THE OREGON STATE HISTORIC PRESERVATION OFFICE

2

## ARCHAEOLOGICAL PERMITS

OCTOBER 2019

This bulletin establishes current SHPO procedures regarding Oregon archaeological permits. 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.

### **Why is a permit needed?**

Per 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).

### **When is a permit needed?**

A permit is needed for any excavation or artifact recovery within a known archaeological site on non-federal public lands and private lands in Oregon. A permit is also needed for any subsurface investigation on non-federal public lands. 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 in a 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. They need to complete an application and submit it to the SHPO office prior to applying for a permit.

### **How do I apply for a permit?**

Oregon SHPO’s website has the most current form to apply for a permit. Fill it out, attach the necessary documents, and submit it. Separate permits are needed for each property owner, city, or county where archaeological investigations are proposed.

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### **What curation facilities are available in Oregon?**

The State repository is the University of Oregon Museum of Natural and Cultural History (UOMNCH). Approved alternative curation facilities in Oregon include: Southern Oregon Laboratory of Anthropology (SOULA), Oregon State University (OSU), and the Columbia River Gorge Discovery Center (CRGDC). For any other alternative facility, an approval letter from UOMNCH and the alternative facility will be needed in order for them to be accepted.

### **What is the review process?**

Once you complete a permit application (available on the SHPO website) and it is received, SHPO staff review the application for completeness and make sure it meets state regulations and guidelines. When the permit application is deemed complete, SHPO sends it to the Legislative Commission on Indian Services (LCIS). LCIS has up to 48 hours to designate the most appropriate tribes for review. Once the Tribes are designated, the application packet is sent to reviewers which starts the 30-day review process. ***All applicants receive an email indicating their the 30-day review process has begun. Please contact SHPO if you do not receive an email after 7 days.*** Reviewers include: the landowner, Tribes as designated by LCIS, local planning department, UOMNCH, and LCIS. It is the applicants responsibility to make sure the Landowner and planning department are correct.

### **Types of permits**

An expedited permit can be issued in cases of health and human safety or extreme economic hardship which are defined under state law. They can also be issued when there are human remains found or if there has been appropriate project consultation and has been an inadvertent discovery. The review period for expedited permits is 48 hours excluding weekends and holidays.

### **If a permit is sent out for review by SHPO, does that constitute approval of the project or undertaking?**

No. The SHPO processes permit applications to ensure they are complete and include an appropriate research design. While the SHPO may review methods or the research design for content, it is not project approval.

### **Who can condition a permit?**

All permit reviewers may request conditions to an application. When a permit condition is received, SHPO will notify the applicant, typically by email. It is then the responsibility of the applicant to contact the reviewer and address any conditions. Conditions will become part of the official permit. If you have any concerns or questions about conditions, notify SHPO and then contact the reviewer.

***SHPO may review methods or the research design for content, it is not project approval***

#### ***SHPO Archaeology Staff***

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**What if a permit is objected to?**

All permit reviewers may object to an application. SHPO will notify the applicant if an objection is received. It is the responsibility of the applicant to contact the reviewer and attempt to resolve the objection. When resolved, the applicant must contact SHPO through email documenting the resolution with confirmation from the objecting reviewer. A permit will not be issued until an objection has been resolved.

**When will my permit be issued?**

On the first business day after the 30-day review period has passed or after all reviewers have responded to the application the permit will be issued. If there are conditions they will be included in the permit and a copy of all reviewer responses will be attached. A copy of the permit will be emailed to the applicant and reviewing parties.

**How do I amend a permit?**

If needed, a permit may be amended one time. An amendment form (available on the SHPO website) should be completed and submitted. For additional information regarding amendments please see the information associated with the form.

**What are the permit deliverables?**

Once fieldwork is complete, the applicant is responsible for completing a report, getting an accession number (as applicable), and fulfill any outstanding conditions. A report detailing the archaeological investigations is due two years after the date the permit was issued. The applicant must submit the report to SHPO, the reviewing Tribes, LCIS, and UOMNCH. If any artifacts were collected and the permit was for public land, the collection is required to be delivered to the curation facility listed on the permit. Copies of fieldnotes, artifact catalogs, and photographs need to be submitted to UOMNCH even when artifacts are retained by a landowner. UOMNCH will assign the material an accession number. The applicant needs to contact SHPO with the accession number. 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.

**What happens if a permit is violated?**

Violations of permits occur when one or more terms of the permit are not met. If a violation occurs all information regarding the violation is sent to the Oregon Department of Justice. Violations could effect the ability to acquire future permits. There is ongoing discussion among Oregon Tribes to limit the ability of repeat violators to obtain future permits.

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