

First Name	Last Name	Submission Date	Feedback
			Thank you for the opportunity to comment on the proposed rule changes. The attached provides full comments. Additional Comments: "Disputing parties" has not been defined in 736-051-0010.
Carmen	Sarjeant	08/14/26	There is a need to coordinate with the professional archaeological community in Oregon regarding the 736-051-0070(23) rule updates that pertain to the interpretation of ORS 390.235(6)(b) to ensure that future generations can join the profession, become Oregon qualified, and continue to complete work under permits successfully. The update adds further barriers to becoming an Oregon qualified archaeologist that go beyond what statute outlines in terms of what constitutes "basic archaeological field research" [ORS 390.235(6)(b)(B)]. The proposed update states this basic archaeological field research must be "paid" or is "gained from an archaeological field school" [736-051-0070(23)(b)(A)], and adds the new requirement under 736-051-0070(23)(c) that "A portion of the excavation must include the systematic removal and screening of sediment from square excavation units." While professional standards must be met, the current 736-051-0070(23) rules and the proposed updates are not in keeping with the reality of how highly qualified archaeologists gain experience and education. Please see suggestions in the attached. While I believe the current permit rules may benefit from improvements, I cannot support the current process that is attempting to do so. The archaeologists who work under Oregon Archaeological Excavation Permits were not included as "Stakeholders" nor was the professional organization, the Association of Oregon Archaeologists, included. The changes proposed would benefit from insights that come from working under the permits issued by the State Historic Preservation Office. Proposed changes in permit conditions and disputes may greatly impact companies and educational programs under which permissible archaeologists are working.
Jo	Reese	08/14/26	The extreme limitations of who can qualify for "permissible" status by SHPO is creating a serious situation. The standards applied are not realistic. Universities are cutting back on their programs in Oregon and elsewhere, which limits the number of new archaeologists who can meet the academic standards. Further, the standards do not take into account the experience that archaeologists bring outside of the academic program. This is not reasonable and prevents highly skilled and experienced archaeologists from being permissible. Thank you for the opportunity to provide comment on the proposed archaeological permit rule changes. Comments: Regarding revisions to the Oregon Qualified Archaeologist requirements 736-051-0070(23).
Kristen	Heasley	08/14/26	The Qualified Archaeologist process, and the proposed revisions, can be a barrier to the qualification of competent, skilled, and experienced archaeologists who have entered the field through non-conventional pathways, such as a CRM-specific graduate program. Professional archaeologists who have extensive experience and demonstrably have the requisite "ability to comply with any terms and conditions of a State of Oregon issued archaeological permit" have been denied qualification because their graduate programs or coursework are interpreted as insufficient as viewed within a conventional, and increasingly outmoded, rubric. Online programs are accessible and more affordable to those seeking career advancement, while university archaeology and anthropology programs are being removed, downsized, or shifted under the umbrella of other departments. Please consider increasing transparency in the application process, clarification and justification of requirements, and including alternative pathways to qualification. Comment 736-051-0020(1)(b): Regarding the proposed changes to the permit dispute procedures, clarification is needed to elucidate permit status when a dispute is made after the permit has been issued-is the issuance rescinded? Comment 736-051-0090(1): Please clearly state if shovel testing can be conducted around an archaeological object on private land, without a permit being required, until the presence of a site has been determined.
Teresa	Trost	08/14/26	Please see the attached PDF. I appreciate the time and effort to refine the rules implemented in July 2024. The current qualification process for Oregon archaeologists lacks sufficient transparency and consistency. The proposed revisions to 736-051-0070(23) make this problem even worse by establishing increasingly rigid and arbitrary requirements that unfairly discriminate against competent and capable archaeologists, compounding the legal and constitutional problems that already exist with the current rules, including due process problems. If the SHPO intends to continue to apply educational requirements beyond those specifically identified in the statute or rule, those expectations must be clearly defined so applicants can understand what is required and how their qualifications will be evaluated. Specifically, if an applicant is required to complete a precise number of credits or specific courses, these should be defined and outlined in the updated rules, with corresponding rationales provided. Similarly, if the SHPO continues to deny applicants who have received degrees from accredited universities on the basis of their degree, a list of those universities that do not meet the SHPO's standards should be provided along with specific reasons why the current universal accreditation system determination is being unilaterally deemed as sub-standard in Oregon. The purpose of the qualification process should be to determine whether an individual is competent and capable of conducting archaeological work under an Oregon permit, not whether that individual followed a single preferred educational pathway. This is especially pertinent in the current academic climate where archaeology programs are increasingly being subsumed into other departments, more courses are moving online, and rising tuition costs make traditional academic pathways less accessible to students. The proposed revisions to 736-051-0070(23) should therefore be reconsidered to ensure that they do not unnecessarily restrict legitimate pathways to becoming qualified to conduct archaeological work under permit in Oregon.
Teara	Farrow Ferman	08/14/26	See attached for full comment

This proposed rule change adds some clarity to the dispute resolution process, which is a good thing. I am concerned about the proposed changes to 736-051-0080(9)(a)(A), which adds the potential for another 30-day review period should SHPO request a permit application be revised. Given that comments often come in at the end of an application's 30-day review period, adding a second 30-day review period is overly burdensome for project schedules. I suggest reducing a second review period for revisions of already reviewed permit applications, such as 10 days, similar to permit amendments.

I am also concerned about some of the changes to OAR 736-051-0070(23), which is focused on the definition of "Qualified Archaeologist." These changes continue a long-term trend of SHPO continuing to tighten the requirements of who can become a Qualified Archaeologist, which in my opinion is to the detriment of Oregon archaeology. I understand the need to ensure professionals conducting archaeology in Oregon are properly qualified. However, the system that SHPO has put into place results in competent archaeologists with over a decade of experience conducting archaeology in Oregon being denied based on the academic program they chose to attend.

Now more than ever we need competent, ethical professionals who can do the work of cultural resources management and fulfill the stated goal of the National Historic Preservation Act of modern society and cultural resources existing in productive harmony. However, the current implementation of the Oregon Qualified Archaeologist application process excludes many competent professionals who can help meet this goal, often for opaque and unstated reasons, and is seemingly arbitrarily applied. I have personally seen archaeologists whose thesis DOES NOT deal with any sort of fieldwork or artifact analysis get approved as Qualified Archaeologists, while others whose thesis includes artifact analysis get denied, even after appeal.

Without additional transparency with regard to decision making processes, it would appear the deciding factor comes down to the SHPO reviewer's opinion on the applicant's thesis topic or the reputation of the academic program they attended, rather than an impartial evaluation of the merits of the application when compared to the criteria laid out in OAR 736-051-0070(23)(c). Other commenters have pointed out that the tightening of requirements around who can become a Qualified Archaeologist also adds unnecessary barriers to systemically disenfranchised groups. This is not necessarily my criticism to make, but I agree with the sentiments expressed by others.

The pairing of the recent expansion of what kind of work requires a permit with the further tightening of requirements for Qualified Archaeologists will inevitably result in a sharp increase in the number of permitted excavations and a decrease in the number of new Qualified Archaeologists who can carry out these permitted excavations. We are rapidly moving towards a crisis in Oregon archaeology where not enough professionals are available to do the work, the process of completing the work will take longer and result in higher costs related to artifact collection and curation, and the space taken up by curated archaeological materials will rapidly increase, causing further strain on the State's curation infrastructure. I strongly encourage SHPO to reconsider the proposed changes to both the requirements for Qualified Archaeologist applicants, and the administrative rules that govern when an excavation permit is needed.

Nick

Hlatky

08/13/26

736-0051-0000(1)(d):

This addition states that disputes can arise from “Conditions of a permit after its issuance.” [underline added].

Comment: This is at odds with 736-051-0020(1) and 736-051-0030(1), which specify that disputes of conditions can also occur prior to issuance while the permit application is in review.

Suggested Edit: Update language here to include disputes of conditions prior to issuance during the permit application review period.

736-051-0020(1)(b):

“The applicant disagrees with any terms or conditions of a permit up to 30 days after its issuance, if fieldwork authorized under the permit has not started;”

Question: If the applicant disputes, is the permit issuance rescinded?

Suggested Edit: Add clarification of what status the permit has if the applicant disputes the permit terms or conditions after its issuance.

736-051-0030(2):

“...the disputing parties may include the director, designees of the director, which may include the state archaeologist or other staff of the State Historic Preservation Office to serve as subject matter experts...”

Question: If SHPO is a disputing party, even as a “subject matter expert,” does this contradict the statement in the current permit request for review email disclaimer: “SHPO processing of an archaeological permit application or any of its products, such as a report, does not constitute consultation for a project or undertaking and in no way suggests approval of the level of investigation necessary for a project or undertaking.”? [underline added]

Comment: Further, the statement that the processing of an archaeological permit application does not constitute consultation contradicts ORS 390.235(1)(f): “Before issuing a permit, the State Parks and Recreation Director shall consult with: (A) The landowner or land managing agency; and (B) If the archaeological site is associated with a prehistoric or historic native Indian culture: (i) The Commission on Indian Services; and (ii) The most appropriate Indian tribe.” [underline added]

Suggested Edit: Clarify that dispute resolution negotiations are considered consultation.

736-051-0030(5)(a):

“Grant a 30-day extension if disputing parties mutually agree in writing to continue negotiations;”

Question: Are there limits to the number of 30-day extensions during dispute negotiations, or is it a one-time extension?

Suggested Edit: Clarify if this is a one-time 30-day extension, or if multiple extensions can be agreed upon if negotiations need to continue longer.

736-051-0030(5)(d), 736-051-0030(6); 736-051-0040(3)(b); 736-051-0050(6), and 736-051-0050(8):

These rules state that in situations wherein a resolution is not reached within 60 days during dispute negotiations [736-051-0030(5)(d)], mediation is refused [736-051-0030(6)], the parties fail to choose a mediator [736-051-0040(3)(b)], arbitration is declined [736-051-0050(6)], or the arbitration panel fails to come to an agreement [736-051-0050(8)], the dispute process can be ended by the director approving or denying the permit based on the objection(s) and condition(s) received.

Comment: It does not seem reasonable to approve or deny a permit with conditions that are in dispute.

Suggested Edit: These rules are new additions, and clarification and transparency are recommended regarding how to treat objections and conditions that are in dispute when the dispute process is ended by the director. **Recommend adding** "Conditions in dispute will not be approved in an issued permit."

736-051-0030(6):

"If one or more parties refuse to enter mediation the director will end the process by approving or denying the permit based on the objection(s) and condition(s) received by the director at the close of the informal dispute process. If the permit is denied, the provisions in 736-051-0055 will apply."

Question: Since this rule states that if the mediation process has ended due to parties refusing to enter mediation, is it correct that there is no avenue for arbitration under 736-051-0050 to be the next step in this case?

Suggested Edit: Clarification that arbitration is not an option if one or more parties refuse to enter mediation.

736-051-0030(7):

"...notifying the director in writing."

Suggested Edit: Add "in writing (email is sufficient)."

736-051-0040(3)(a), 736-051-0040(7), and 736-051-0040(8):

These rules state that the dispute process or mediation process "will end" or "the disputing parties decide to end the mediation process,"

Comment: These rules fail to reference the next step after the process "ends," Arbitration (736-051-0050).

Suggested Edit: Add reference to 736-051-0050(1) as the next step after each instance of "will end" or "decide to end."

736-051-0050(2):

"The director, who will serve as a member of the arbitration panel or appoint a designee to serve, will notify each of the following of the need to designate one representative to additionally serve on an arbitration panel: (a) The LCIS; (b) The governing bodies of the most appropriate Indian tribes or their representative; (c) The state archaeologist, assistant state archaeologist, and/or the archaeology survey and inventory coordinator of the State Historic Preservation Office to serve as subject matter expert(s)."

Comment: The parties identified to serve on the arbitration panel may not be a "neutral third party or panel," as defined in 736-051-0010(4). However, conflicts of interest may arise amongst the arbitration panelists if these parties are involved in the dispute brought to arbitration.

Suggested Edit: "The director, who will serve as a member of the arbitration panel or appoint a designee to serve, will notify each of the following of the need to designate one representative to additionally serve on an arbitration panel, unless they are associated with one of the disputing parties."

736-051-0050(6):

The drafted edit of this rule removed the current language that states “Any party that declines to participate in the mediation or arbitration process waives its right to approve the permit application, or to set conditions on the approval of the permit application.”

Comment: This language needs to be put back in.

Suggested Edit: “If any of the disputing parties decline to participate in arbitration, the process will end, and the director will approve or deny the permit based on the objection(s) and condition(s) received by the director. If the permit is denied, the provisions in 736-051-0055 will apply. Any party that declines to participate in the mediation or arbitration process waives its right to approve the permit application, or to set conditions on the approval of the permit application.” Also, as in the above comment, it does not seem reasonable to approve or deny a permit with conditions that are in dispute. **Recommend adding** “Conditions in dispute will not be approved in an issued permit.”

736-051-0050(7):

“The applicant and disputing parties...” suggests that “the applicant” may not be a disputing party.

Comment: There is no definition for disputing parties in the revised rules.

Suggested Edit: **Recommend adding definition for** “disputing parties” in the rules under 736-051-0010.

736-051-0055(1):

“Within 48 hours..., the director will serve written notice.”

Question: Within 48 hours of what?

Suggested Edit: Specify what starts the 48-hour period to serve written notice of application denial.

736-051-0070(23)(b)(A):

The addition of “paid” professional level or “is experience gained from an archaeological field school sponsored by an accredited educational institution, tribe, or federal or state agency.”

Comment: This rule change here adds further barriers for those trying to gain experience to enter the field, where unpaid experience outside of a formal field school, including those opportunities with an educational institution or agency, may offer valuable and equivalent expertise. There is nowhere in ORS390.235 that says the field research experience must be paid or a field school.

Suggested Edit: Remove “paid” and add “archaeological field school sponsored by an accredited educational institution, tribe, or federal or state agency, or comparable demonstrated experience.”

736-051-0070(23)(c):

The addition of “(c) A portion of the excavation must include the systematic removal and screening of sediment from square excavation units.”

Comment: This addition does not seem to belong as its own item under 736-051-0070(23). The addition of (c) means the rules no longer follow the order of ORS390.235(6)(b)(A-C) for the corresponding rules 736-051-0070(23)(a-c).

Suggested Edit: Make the added 736-051-0070(23)(c) rule a subpoint of (b) as (C). Then (d) would be returned to the original (c): Have designed and executed an archaeological study, as evidenced by a Master’s thesis or report equivalent in scope and quality, dealing with archaeological field research, of which they are the sole, or primary/lead author.

736-051-0070(23)(d)(B)(ii):

The rule was revised to add "...which may be curated..."

Question: Why was the addition of "which may be curated with..." made? The previous point (i) states the collection may be analyzed prior to or after curation.

Suggested Edit: Please confirm the meaning here. This currently gives the impression the collection consists of archaeological objects but need not necessarily include curated associated data.

736-051-0070(23)(d)(E):

"Where an applicant's direct supervisor or co-author may submit written testimony to the director supporting the applicant's role as the lead archaeologist responsible for designing and executing the study. It must be clear from the study which parts were not directly authored by the applicant."

Comment: The addition of a direct supervisor or co-author submitting written testimony of support is in conflict with the current Oregon Qualified Archaeologist Application Instructions and Guidance that state "There are no exceptions regardless of: years of experience and research, letters of support..." [underline added]

Suggested Edit: Reconcile this edit of letters of support in the proposed rule update with the Oregon Qualified Archaeological Application Instructions and Guidance.

736-051-0080(9)(a)(A):

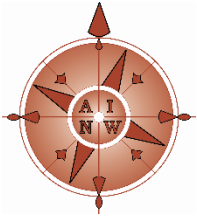
The new addition states "A new 30-day review period begins once the director sends the revised application to all entities with review authority."

Comment: It is overly burdensome to re-submit an application and start a new 30-day review period to comply with a condition, especially when conditions are often submitted at the end of the 30-day review period.

Suggested Edit: Please consider a reduced second review period for revisions of already reviewed permit applications. Perhaps 10 days like amendments?

General Comments:

- No red-line version showing the edits in track changes was provided to demonstrate transparency for the proposed changes to the rules.
- The hearing on 7-21-26 outlined that proposed rule updates included updating permit application and amendment procedures. We do not see updates to the amendment procedures [736-051-0080(12) and 736-051-0090(5)].



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MEMO

Date: August 14, 2026

To: Oregon Parks and Recreation Department

From: Jo Reese, M.A., R.P.A., President/Senior Archaeologist

Re: Public Comments: OPRD Proposed Archaeological Permit Rule Revisions
736-0051-0000(1)(d)

While I believe the current permit rules may benefit from improvements, I cannot support the current process that is attempting to do so. The archaeologists who work under Oregon Archaeological Excavation Permits were not included as “Stakeholders” nor was the professional organization, the Association of Oregon Archaeologists, included. The changes proposed would benefit from insights that come from working under the permits issued by the State Historic Preservation Office. Proposed changes in permit conditions and disputes may greatly impact companies and educational programs under which permissible archaeologists are working.

The extreme limitations of who can qualify for “permissible” status by SHPO is creating a serious situation. The standards applied are not realistic. Universities are cutting back on their programs in Oregon and elsewhere, which limits the number of new archaeologists who can meet the academic standards. Further, the standards do not take into account the experience that archaeologists bring outside of the academic program. This is not reasonable and prevents highly skilled and experienced archaeologists from being permissible.

I am submitting the following detailed comments in addition to my general comments, above.

736-0051-0000(1)(d):

This addition states that disputes can arise from “Conditions of a permit after its issuance.” [underline added].

Comment: This is at odds with 736-051-0020(1) and 736-051-0030(1), which specify that disputes of conditions can also occur prior to issuance while the permit application is in review.

Suggested Edit: Update language here to include disputes of conditions prior to issuance during the permit application review period.

736-0051-0010(21):

The new definition reads “‘Terms’ means any obligations or requirements of an issued permit.”

Suggested Edit: Define “obligations and requirements.”

736-051-0020(1)(b):

“The applicant disagrees with any terms or conditions of a permit up to 30 days after its issuance, if fieldwork authorized under the permit has not started;”

Question: If the applicant disputes, is the permit issuance rescinded?

Suggested Edit: Add clarification of what status the permit has if the applicant disputes the permit terms or conditions after its issuance.

736-051-0030(2):

“...the disputing parties may include the director, designees of the director, which may include the state archaeologist or other staff of the State Historic Preservation Office to serve as subject matter experts...”

Question: If SHPO is a disputing party, even as a “subject matter expert,” does this contradict the statement in the current permit request for review email disclaimer: “SHPO processing of an archaeological permit application or any of its products, such as a report, does not constitute consultation for a project or undertaking and in no way suggests approval of the level of investigation necessary for a project or undertaking.”? [underline added]

Comment: Further, the statement that the processing of an archaeological permit application does not constitute consultation contradicts ORS 390.235(1)(f): “Before issuing a permit, the State Parks and Recreation Director shall consult with: (A) The landowner or land managing agency; and (B) If the archaeological site is associated with a prehistoric or historic native Indian culture: (i) The Commission on Indian Services; and (ii) The most appropriate Indian tribe.” [underline added]

Suggested Edit: Clarify that dispute resolution negotiations are considered consultation.

736-051-0030(5)(a):

“Grant a 30-day extension if disputing parties mutually agree in writing to continue negotiations;”

Question: Are there limits to the number of 30-day extensions during dispute negotiations, or is it a one-time extension?

Suggested Edit: Clarify if this is a one-time 30-day extension, or if multiple extensions can be agreed upon if negotiations need to continue longer.

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Comment: It does not seem reasonable to approve or deny a permit with conditions that are in dispute.

Suggested Edit: These rules are new additions, and clarification and transparency are recommended regarding how to treat objections and conditions that are in dispute when the dispute process is ended by the director. **Recommend adding** “Conditions in dispute will not be approved in an issued permit.”

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“If one or more parties refuse to enter mediation the director will end the process by approving or denying the permit based on the objection(s) and condition(s) received by the director at the close of the informal dispute process. If the permit is denied, the provisions in 736-051-0055 will apply.”

Question: Since this rule states that if the mediation process has ended due to parties refusing to enter mediation, is it correct that there is no avenue for arbitration under 736-051-0050 to be the next step in this case?

Suggested Edit: Clarification that arbitration is not an option if one or more parties refuse to enter mediation.

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“...notifying the director in writing.”

Suggested Edit: Add “in writing (email is sufficient).”

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Comment: This language needs to be put back in.

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736-051-0030(5)(d), 736-051-0030(6); 736-051-0040(3)(b); 736-051-0050(6), and 736-051-0050(8):

These rules state that in situations wherein a resolution is not reached within 60 days during dispute negotiations [736-051-0030(5)(d)], mediation is refused [736-051-0030(6)], the parties fail to choose a

mediator [736-051-0040(3)(b)], arbitration is declined [736-051-0050(6)], or the arbitration panel fails to come to an agreement [736-051-0050(8)], the dispute process can be ended by the director approving or denying the permit based on the objection(s) and condition(s) received.

Comment: It does not seem reasonable to approve or deny a permit with conditions that are in dispute.

Suggested Edit: These rules are new additions, and clarification and transparency are recommended regarding how to treat objections and conditions that are in dispute when the dispute process is ended by the director. **Recommend adding** "Conditions in dispute will not be approved in an issued permit."

736-051-0030(6):

"If one or more parties refuse to enter mediation the director will end the process by approving or denying the permit based on the objection(s) and condition(s) received by the director at the close of the informal dispute process. If the permit is denied, the provisions in 736-051-0055 will apply."

Question: Since this rule states that if the mediation process has ended due to parties refusing to enter mediation, is it correct that there is no avenue for arbitration under 736-051-0050 to be the next step in this case?

Suggested Edit: Clarification that arbitration is not an option if one or more parties refuse to enter mediation.

736-051-0030(7):

"...notifying the director in writing."

Suggested Edit: Add "in writing (email is sufficient)."

736-051-0040(3)(a), 736-051-0040(7), and 736-051-0040(8):

These rules state that the dispute process or mediation process "will end" or "the disputing parties decide to end the mediation process,"

Comment: These rules fail to reference the next step after the process "ends," Arbitration (736-051-0050).

Suggested Edit: Add reference to 736-051-0050(1) as the next step after each instance of "will end" or "decide to end."

736-051-0050(2):

"The director, who will serve as a member of the arbitration panel or appoint a designee to serve, will notify each of the following of the need to designate one representative to additionally serve on an arbitration panel: (a) The LCIS; (b) The governing bodies of the most appropriate Indian tribes or their representative; (c) The state archaeologist, assistant state archaeologist, and/or the archaeology survey and inventory coordinator of the State Historic Preservation Office to serve as subject matter expert(s)."

Comment: The parties identified to serve on the arbitration panel may not be a "neutral third party or panel," as defined in 736-051-0010(4). However, conflicts of interest may arise amongst the arbitration panelists if these parties are involved in the dispute brought to arbitration.

Suggested Edit: "The director, who will serve as a member of the arbitration panel or appoint a designee to serve, will notify each of the following of the need to designate one representative to additionally serve on an arbitration panel, unless they are associated with one of the disputing parties."

736-051-0050(6):

The drafted edit of this rule removes the current language that states “Any party that declines to participate in the mediation or arbitration process waives its right to approve the permit application, or to set conditions on the approval of the permit application.”

Comment: This language needs to be put back in.

Suggested Edit: “If any of the disputing parties decline to participate in arbitration, the process will end, and the director will approve or deny the permit based on the objection(s) and condition(s) received by the director. If the permit is denied, the provisions in 736-051-0055 will apply. Any party that declines to participate in the mediation or arbitration process waives its right to approve the permit application, or to set conditions on the approval of the permit application.” Also, as in the above comment, it does not seem reasonable to approve or deny a permit with conditions that are in dispute. **Recommend adding** “Conditions in dispute will not be approved in an issued permit.”

736-051-0050(7):

“The applicant and disputing parties...” suggests that “the applicant” may not be a disputing party.

Comment: There is no definition for disputing parties in the revised rules.

Suggested Edit: **Recommend adding definition for** “disputing parties” in the rules under 736-051-0010.

736-051-0055(1):

“Within 48 hours..., the director will serve written notice.”

Question: Within 48 hours of what?

Suggested Edit: Specify what starts the 48-hour period to serve written notice of application denial.

736-051-0070(23)(b)(A):

The addition of “paid” professional level or “is experience gained from an archaeological field school sponsored by an accredited educational institution, tribe, or federal or state agency.”

Comment: This rule change here adds further barriers for those trying to gain experience to enter the field, where unpaid experience outside of a formal field school, including those opportunities with an educational institution or agency, may offer valuable and equivalent expertise. There is nowhere in ORS390.235 that says the field research experience must be paid or field school.

Suggested Edit: Remove “paid” and add “archaeological field school sponsored by an accredited educational institution, tribe, or federal or state agency, or comparable demonstrated experience.”

736-051-0070(23)(c):

The addition of “(c) A portion of the excavation must include the systematic removal and screening of sediment from square excavation units.”

Comment: This addition does not seem to belong as its own item under 736-051-0070(23). The addition of (c) means the rules no longer follow the order of ORS390.235(6)(b)(A-C) for the corresponding rules 736-051-0070(23)(a-c).

Suggested Edit: Make the added 736-051-0070(23)(c) rule a subpoint of (b) as (C). Then (d) would be returned to the original (c): Have designed and executed an archaeological study, as evidenced by a Master’s thesis or report equivalent in scope and quality, dealing with archaeological field research, of which they are the sole, or primary/lead author.

736-051-0070(23)(d)(B)(ii):

The rule was revised to add "...which may be curated..."

Question: Why was the addition of "which may be curated with..." made? The previous point (i) states the collection may be analyzed prior to or after curation.

Suggested Edit: Please confirm the meaning here. Addition seems redundant without further clarification, and gives the impression the collection consists of archaeological objects but need not necessarily include curated associated data.

736-051-0070(23)(d)(E):

"Where an applicant's direct supervisor or co-author may submit written testimony to the director supporting the applicant's role as the lead archaeologist responsible for designing and executing the study. It must be clear from the study which parts were not directly authored by the applicant."

Comment: The addition of a direct supervisor or co-author submitting written testimony of support is in conflict with the current Oregon Qualified Archaeologist Application Instructions and Guidance that state "There are no exceptions regardless of: years of experience and research, letters of support..." [underline added]

Suggested Edit : Reconcile this edit of letters of support in the proposed rule update with Oregon Qualified Archaeological Application Instructions and Guidance.

736-051-0080(9)(a)(A):

The new addition states "A new 30-day review period begins once the director sends the revised application to all entities with review authority."

Comment: It is overly burdensome to re-submit an application and start a new 30-day review period to comply with a condition, especially when conditions are often submitted at the end of the 30-day review period.

Suggested Edit: Please consider a reduced second review period for revisions of already reviewed permit applications. Perhaps 10 days like amendments?

General Comments:

- No red-line version showing the edits in track changes was provided to demonstrate transparency for the proposed changes to the rules.
- The hearing on 7-21-26 outlined that proposed rule updates included updating permit application and amendment procedures. We do not see updates to the amendment procedures [736-051-0080(12) and 736-051-0090(5)].

Thank you for taking your time re-evaluate the rule revisions made in July 2024.

AINW has submitted detailed comments (below), which I have reviewed and support.

736-0051-0000(1)(d):

This addition states that disputes can arise from “Conditions of a permit after its issuance.” [underline added].

Comment: This is at odds with 736-051-0020(1) and 736-051-0030(1), which specify that disputes of conditions can also occur prior to issuance while the permit application is in review.

Suggested Edit: Update language here to include disputes of conditions prior to issuance during the permit application review period.

736-0051-0010(21):

The new definition reads “‘Terms’ means any obligations or requirements of an issued permit.”

Suggested Edit: Define “obligations and requirements.”

736-051-0020(1)(b):

“The applicant disagrees with any terms or conditions of a permit up to 30 days after its issuance, if fieldwork authorized under the permit has not started;”

Question: If the applicant disputes, is the permit issuance rescinded?

Suggested Edit: Add clarification of what status the permit has if the applicant disputes the permit terms or conditions after its issuance.

736-051-0030(2):

“...the disputing parties may include the director, designees of the director, which may include the state archaeologist or other staff of the State Historic Preservation Office to serve as subject matter experts...”

Question: If SHPO is a disputing party, even as a “subject matter expert,” does this contradict the statement in the current permit request for review email disclaimer: “SHPO processing of an archaeological permit application or any of its products, such as a report, does not constitute consultation for a project or undertaking and in no way suggests approval of the level of investigation necessary for a project or undertaking.”? [underline added]

Comment: Further, the statement that the processing of an archaeological permit application does not constitute consultation contradicts ORS 390.235(1)(f): “Before issuing a permit, the State Parks and Recreation Director shall consult with: (A) The landowner or land managing agency; and (B) If the archaeological site is associated with a prehistoric or historic native Indian culture: (i) The Commission on Indian Services; and (ii) The most appropriate Indian tribe.” [underline added]

Suggested Edit: Clarify that dispute resolution negotiations are considered consultation.

736-051-0030(5)(a):

“Grant a 30-day extension if disputing parties mutually agree in writing to continue negotiations;”

Question: Are there limits to the number of 30-day extensions during dispute negotiations, or is it a one-time extension?

Suggested Edit: Clarify if this is a one-time 30-day extension, or if multiple extensions can be agreed upon if negotiations need to continue longer.

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(541)-429-7230
TearaFarrowFerman@ctuir.org
ctuir.org
46411 Timine Way
Pendleton, Oregon 97801

August 14, 2026

Oregon Parks and Recreation Department
Attn: Helena Kesch, Tribal Relations Coordinator
725 Summer St. NE, Suite C
Salem, OR 97301

Sent electronically to: OPRD.publiccomment@opr.d.oregon.gov and
Helena.Kesch@opr.d.oregon.gov

Re: Rulemaking on Updating Archaeological Permit rule for minor revisions

The Confederated Tribes of the Umatilla Indian Reservation (CTUIR) Department of Natural Resources Cultural Resources Protection Program (CRPP) appreciates the opportunity to review the proposed revisions to the Oregon archaeological permit rules (736-051-0000). During our review of the portions of the rule that the State proposes to change, the CTUIR identified other areas of concern. The CTUIR CRPP requests that permits issued on tribal and reservation lands, it be made more explicit that tribal governments may place conditions regarding the handling of artifacts. The CTUIR CRPP requests a meeting to discuss these comments.

Background:

In 1855, the CTUIR's predecessors—ancestors with the Cayuse, Umatilla, and Walla Walla Tribes—negotiated and signed the Treaty of 1855 with the United States. The Treaty of 1855 is enshrined in federal law at 12 Stat. 945 and is a contract between sovereign nations. Rights of the CTUIR predated the Treaty and the treaty itself reserved the preexisting tribal rights—such as fishing, hunting, grazing and gathering—so that they would be honored, and our interests would always be considered and safeguarded, in perpetuity. The CTUIR member tribes have traveled throughout Oregon and the Northwest since time immemorial, leaving traces of our presence in the archaeological record.

General Comments:

Various state and federal laws form a web of legal protections of those archaeological and cultural resources and the rights of the CTUIR that they be protected. From the

National Historic Preservation Act (NHPA) of 1966, the National Environmental Policy Act of 1970, Oregon Land Use Planning Goals of 1973 and Senate Bill 61 in 1993, the laws sought to protect both the archaeological record and the rights of the descendant tribes to protect that record.

Specific Comments:

736-051-0070: Archaeological Permits: Definitions:

CTUIR CRPP requests that “disposition” be included in the definition in subsection (9) of “conditions” for permit requirements. We also request that this be added to **736-051-0010 (9): Dispute Resolution Definitions**. As the CTUIR is an “appropriate Indian tribe” (3) and an “entity with approval authority” (13) to place conditions on permits, the CTUIR asserts that we have the authority to request that disposition of collected artifacts be a condition within a permit for resources on the tribal and reservation lands of the CTUIR. In addition, tribal lands and reservation lands are not defined in this section where “private lands” and “public lands” are defined (21-22), leaving the interpretation up to the convenience of the State. The CTUIR asserts that historic resources on the lands within the exterior boundaries of the Umatilla Indian Reservation and lands held in trust by the United States on behalf of the CTUIR, being under the jurisdiction of the Tribal Historic Preservation Office (THPO) pursuant to our agreement with the National Park Service, should be managed as such, especially regarding the disposition of archaeological materials.

736-051-0080 Archaeological Permits: Process for Applying for an Archaeological Permit on Public Lands:

The CTUIR believes this section should recognize the CTUIR’s authority over tribal and reservation lands that springs both from inherent tribal sovereignty, as recognized in ORS §§ 182.162 to 182.168, and the 1992 amendments to the National Historic Preservation Act which delegated to the tribes as Tribal Historic Preservation Offices the specific authority that had previously been exercised by State Historic Preservation Offices on tribal and reservation lands. We strongly recommend this section state that it applies to Public Lands outside the jurisdiction of tribal and reservation lands. For instance, anyone conducting work on tribal lands or within the Umatilla Indian Reservation must apply, receive and comply with an archaeological permit from the CTUIR. For the CTUIR we do not curate items left behind by our ancestors. We do not want our resources taken from our tribal and reservation lands. State entities such as ODOT, OPRD, and ODFW have lands within the exterior boundaries of the Umatilla Indian Reservation—OPRD alone has over 600 acres of managed lands on the Umatilla Indian Reservation.

Pursuant to 736-051-0070(3)(b), applicants must “Receive written or verbal permission from the most appropriate Indian tribe(s), prior to any potential recovery or collection.” Permits from the CTUIR specifically require items excavated from tribal and reservation lands, including public lands on reservation, be documented in the field and reburied rather than indefinitely curated. Culturally speaking, artifacts left behind by our ancestors are meant to be left in place. The CTUIR has long advocated for this treatment in order to preserve the cultural history of the tribe on tribal and reservation lands, within the lands of our ancestors rather than boxing up our heritage and curating it indefinitely far from our homeland.

736-051-0090 Archaeological Permits: Process for Applying for an Archaeological Permit on Private Lands:

OAR 736-051-0090 has the same issue as 736-051-0080 above. Section (1)(b) states “If an archaeological site is identified, all excavation must stop and the archaeologist shall record the site on a State of Oregon Archaeological Site Record and submit to SHPO.” This fails to recognize if the site is identified on tribal and reservation lands and that the THPO may be the relevant entity to determine the site boundary and determine if the work is in compliance with permit conditions. Please note that qualified individuals conducting work on tribal lands and within the exterior boundaries of the Umatilla Indian Reservation must compile CTUIR site or isolate forms, and/or CTUIR built environment forms for resources observed on CTUIR tribal and reservation lands. This section should include information about reaching out to the THPOs as applicable and ensuring that any additional permits or other requirements set by the THPO offices are being met. If any additional archaeological permits are required, those should be at minimum, noted to the applicant that additional permits could be needed, including the need to obtain a THPO permit.

The CTUIR is concerned about the apparent removal of the SHPO from the archaeological permit process in the conflict of interest between the Director’s goals for OPRD and the interests of the state in regard to both the Permit Application (736-051-0090 and 736-051-0100) and the Conflict Resolution process (736-051-0000 through 736-051-0060) except as spelled out in 736-051-0030(2). However, in cases where OPRD archaeologists, or the larger OPRD agency is party to a Conflict Resolution process, the Director’s authority should shift to the SHPO or other appropriate third-party subject matter experts for these processes.

Conclusion:

The CTUIR values our work with Oregon State Parks State Historic Preservation Office. We hope that these regulatory changes can further the protection of the archaeological record, our tribal cultural heritage, and our homelands. We would like to meet with you

CTUIR DNR Letter to Helena Kesch
Re: Archaeological Permit Rule Revisions
August 14, 2026
Page 4 of 4

to discuss these comments to ensure SHPO understands our concerns. Please contact me, or Carey Miller, CTUIR CRPP Senior Archaeologist/THPO at 541-429-7234 or CareyMiller@ctuir.org if you have any questions regarding this letter and to arrange a meeting to discuss this letter and future consultation on this project.

Respectfully,



Teara Farrow Ferman, Program Manager
Cultural Resources Protection Program
Department of Natural Resources

The proposed revisions in the archaeological permitting process are useful in clarifying the dispute resolution process. Unfortunately, the revisions fail completely in not addressing fundamental flaws in defining who is a “qualified archaeologist.” I recognize there have been growing concerns about individuals with degrees from online programs and for-profit institutions. I also recognize that SHPO must operate within the constraints of ORS 390.235(6)(b). However, the SHPO response to these issues and limits has been regressive, backward-looking rather than forward-looking. Instead of rigorous, qualitative criteria or standards, what has been established are rigid, quantitative standards, a checkbox approach. Some of the latter include rather absurd requirements that field research has to include excavations in square units and actually touching artifacts to qualify as a “real” archaeologist. There are equivalent problems with the term “documented equivalency,” which is defined primarily as “equivalent to that gained in conventional/accredited U.S. education programs to a MA, MS, or PhD.” There are dozens of such accredited programs, with a considerable variability. Which of these programs will SHPO propose for equivalency? Furthermore, the term “conventional” is not defined. Although this is the only use of the term, conventionality permeates the criteria, for which I will reference one definition of “conventional”--“lacking in originality or individuality.” This reflects a dependence on increasingly outdated academic standards, some of which date to the 1950s or earlier, when faculty and students were predominantly white, middle-class men. An example of the worst kind of “tradition.” Over the past 20-30 years, there has been a major shift in North American archaeology to abandon this tradition, opening the doors to more non-traditional groups and individuals, to provide different perspectives and understandings of the past. The SHPO has largely failed to respond to this shift, taking instead the most narrow possible interpretation of the ORS 390.235 definition. That definition provides an alternative to the standard graduate degree requirement (as written in 1993) but SHPO has imposed so many conditions that that alternative is no longer a real one. SHPO has therefore closed the door for individuals from non-traditional and marginalized communities to pursue a career in our field outside the standard academic route. These limits also discourage colleges and universities ~~to establish~~from establishing alternative programs that provide better opportunities for non-traditional students. I have conducted archaeological fieldwork and research in Oregon and the Pacific Northwest for almost 50 years. The “qualified archaeologist” criteria employed by SHPO constitutes a step backward for the practice of archaeology in Oregon, the quality of the research, and our understanding of our past.

Commented [JD1]: This sounds somewhat awkward. Maybe reword?



COQUILLE INDIAN TRIBE

1340 North Bayshore Drive, Coos Bay, OR 97420

Phone: (541) 756-0904

www.coquilletribe.org

July 31, 2026

Oregon Parks and Recreation Department
725 Summer Street NE, Suite C
Salem, OR 97301

RE: Archeological Permit Rule Public Comment

Dai s'la! (Greetings, Friend!),

I hope this letter finds you well. I am the Chairperson of the Coquille Indian Tribal Council and am pleased to send you these comments in response to proposed amendments to the Archeological Permit Rule, 736-051-0000, *et seq.* Thank you for proposing these draft amendments to improve the permitting process in collaboration with Oregon Tribes.

I propose changes to the following text of the Archeological Permit Rule:

Section 736-051-0030 (5)(d)

This section states “If disputing parties have not reached a resolution within 60 days, the director may...[e]nd the process by approving or denying the permit based on the objection(s) and condition(s) received.”

I am concerned that, without more directive language, this section may effectively allow the director to issue a permit over the expressed objections of entities with conditioning authority. Therefore, I suggest the following text: “End the process by approving or denying the permit based on **an impartial and fair review of all** the objection(s) and condition(s) received.”

Section 736-051-0050 (2)(c)

This section provides “The director, who will serve as a member of the arbitration panel...will notify each of the following of the need to designate one representative to additionally serve on an arbitration panel: The state archaeologist, assistant state archaeologist, and/or the archaeology survey and inventory coordinator of the State Historic Preservation Office to serve as subject matter expert(s).”

I am concerned that including “and” could create a panel in which the SHPO office is overrepresented in arbitration proceeding. I’m further concerned that an overrepresentation of SHPO officers could provide the opportunity for an imbalance of opinions and objections, thereby disfavoring other parties. I would therefor like to suggest replacing “and/or” with “or” in order to ensure that no more than one SHPO representative serves as a panelist.

Section 736-051-0050 (4)(b) and (7)

Taken together, these sections mandate that each arbitration panel establish their own procedure for arbitration and present their decision by agreement in writing. However, I am concerned that the process by which the arbitration panel will render a decision is unclear. This could lead to issues like disagreements over procedure that delay arbitration, or split decisions with no remedy.

For clarity, consistency, and transparency, I recommend that the arbitration procedure and method for decision-making be prescribed in this section rather than adopted *ad hoc*. Procedures should include rules for appointing an arbitrator, the arbitrator’s duties and responsibilities, allowable evidence and subpoenas, and the standard of review. The decision-making process should clearly define who has authority to make decisions, allowable methods of decision-making (i.e. majority or unanimous vote, consensus, and/or negotiated terms), and the binding nature and enforceability of such decisions.

Section 736-051-0050 (8)

This section suggests that the director may base a decision on the "objection(s) and condition(s) received at the close of the arbitration process..."

I am concerned that this section creates ambiguity in the director’s decision-making process. To prevent any confusion, I would like to suggest that the section be edited to clarify whether the sentence refers to the arguments made *during* arbitration or objections and decisions that the director received *at the end of or after* the arbitration process.

Thank you very much for considering my comments. I look forward to the release of the next draft.

Masi!



Brenda Meade, Chairperson
Coquille Indian Tribe