

# ARCHAEOLOGICAL PERMITS

FREQUENTLY ASKED QUESTIONS

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## **Permit Application Process**

### ***How do I get qualified to apply for a permit?***

The Qualified Archaeologist Requirements and Checklist are available at <http://www.oregon.gov/OPRD/HCD/ARCH/Pages/index.aspx>. Applicants with a post graduate degree in Archaeology or related field with a specialization in archaeology, 12 weeks supervised archaeological field experience, four weeks of laboratory analysis or curating, and a Master's Thesis or Doctoral Dissertation that deals with archaeological field research are eligible. Reports of equivalent scope and quality that deal with archaeological field research may be substituted for the thesis or dissertation requirement. The applicant must be the sole author of the report.

### ***What information is required in an Oregon archaeological permit application?***

For a permit application to be considered complete, it must contain specific information necessary for processing. Each applicant and all field supervisors listed on the permit must submit a Qualified Archaeologist Checklist (unless already on file at SHPO). In addition, the application form must include:

- Contact information of the applicant and their signature, project name and location (Township, Range and Section) and Smithsonian Trinomial (as applicable);
- Surface owner's contact information;
- Agency with management control over the project and their contact information;
- List of Qualified Archaeologists (per ORS 390.235) in the field that will supervise excavations;
- Scope of work (a complete project description, methods, post field analyses) and research design (see Archaeological Excavation Permit Research Design at <http://www.oregon.gov/oprd/HCD/ARCH/Pages/index.aspx>);
- Curation facility (temporary and permanent curatorial facility) and proposed delivery date-for final curation. If an alternative curation facility will be used, a letter from the University of Oregon Museum of Natural and Cultural History (UOMNCH) approving the selected facility and a letter from the alternate facility accepting the curation agreement is needed (excepting Southern Oregon University Laboratory of Anthropology [SOULA], Oregon State University [OSU] and the Columbia River Gorge Discovery Center [CRGDC]). On private lands, a letter from the landowner indicating if they wish to retain the artifacts or donate to a facility of their choosing, a tribe or to UOMNCH;
- Method of tribal notification (e.g. contact procedures to discuss terms or conditions, monitoring, inadvertent discovery plans for human remains or curation);
- Appropriate county or city planning department;
- Copy of a site form if the permit is for archaeological excavations within a known site.
- A USGS 7.5' map that clearly depicts the proposed area of excavation.

### ***Can SHPO start processing my permit without all of the required information?***

No. Permit applications submitted to SHPO need to be complete before they are processed. In emergencies SHPO is able to begin processing a permit application that is submitted electronically to the office but an original signature from the applicant will be needed before the permit can be issued.

***Can I submit my permit application via email?***

For normal 30 day review permits, all applications need to be submitted in hardcopy due to the need for the applicant's signature. You may send SHPO staff an email asking about the status of a permit application (e.g., was it received, has it been sent out for review, who has yet to respond), but a permit application received by email will not be processed unless it is an expedited permit.

***Do I need to submit a landowner permission letter if the application is for public lands?***

No.

***Who determines landownership (private or public) or which local planning department has review authority?***

The applicant is responsible for all contact information and its accuracy. The SHPO maintains addresses for local planning departments. If a city or county planning department is referenced in an application, the SHPO address for that agency will be used unless otherwise specified by the applicant.

***What is a Research Design and how would it apply for a permit that is only looking to see if an archaeological site exists within a project area?***

Refer to the SHPO guideline on Archaeological Excavation Permit Research Design for more explicit information on what a research design is and how it relates to a permit application. It can be found at <http://www.oregon.gov/oprd/HCD/ARCH/Pages/index.aspx>.

***Why do I need to include research questions?***

Oregon Administrative Rule (OAR 736-051-0080[4][c]), describing the process for applying for an archaeological permit, states that a permit application must include a research design that explicitly develops the rationale, theoretical orientation, justification, logic and procedures for the proposed excavation, including the universe of study. In an attempt to simplify the requirement, research questions are believed to assist with the intent of the study, that combined with the stated methods, addresses the administrative rule requirements.

***Can I use my own landowner curation permission letter or must I use the example found on the SHPO web page?***

SHPO recommends that you use the form with landowner signature line available on the web page with your permit application or one that has been approved by SHPO. All landowner curation forms must address the location of final curation of recovered artifacts as well as the return to tribes of any human remains and associated artifacts, sacred objects and objects of cultural patrimony. If these components are not clearly included in a curation form for the landowner to sign, the permit will be considered incomplete and will not be sent out for review until such details have been added.

***Aside from the University of Oregon Museum of Natural and Cultural history (UOMNCH), what alternative curation facilities are available in Oregon?***

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.

## **Permit Review Process**

***Is it possible to get a permit in less than 30 days?***

An applicant may speed up the normal review process (OAR 736-051-0000 to 736-051-0090) by contacting the reviewers and asking them to submit their approval or conditions. A permit will be issued once SHPO hears from all reviewers and no objections have been received, whether 30 days have passed or not. An expedited permit can occur in cases of “extreme economic hardship” as defined in (OAR 756-051-0080[9][c]).

***What tribes are considered appropriate reviewers of Archaeology Permits?***

The information CIS submits to SHPO includes the most appropriate federally recognized tribes within Oregon. These tribes have review authority and a permit will not be issued until any objections or conditions have been addressed. In addition, CIS will send SHPO a list of any out of state tribes that warrant receipt of a courtesy copy. Out of state tribes do not have review authority, but they may submit formal comments through an appropriate in-state tribe. They may also provide informal comments if they choose. Oregon SHPO strongly recommends working with all tribes that receive a copy of the permit.

***When does the 30 day review process actually start for an archaeology permit?***

Once SHPO receives a permit application and finds it possesses all the necessary information, it is sent to the Commission on Indian Services (CIS) for most appropriate tribe(s) designation. Once the information is received from CIS (usually within 48 business hours), SHPO sends the permit out for review. At that time, the 30-day period begins.

***The permit application states that the applicant should consult with the appropriate tribes.***

***What is considered the appropriate level of consultation before any fieldwork is conducted?***

Each tribe is different. Some may prefer phone calls, letters, emails or face-to-face meetings. To offer some assistance with in-state tribes, please refer to “Oregon’s Nine Federally Recognized Tribes” at <http://www.oregon.gov/oprd/HCD/ARCH/Pages/index.aspx> for a list of cultural resources staff and THPO contact information.

***I received a conditional response from a permit reviewer. How do I address the conditions? or If there is an objection to my permit how is this handled and what kind of delays might I expect?***

It is the responsibility of the applicant to contact the reviewer to discuss any questions or conditions they have before they will approve the archaeology permit. No permit will be issued until outstanding issues with regards to a permit application have been adequately addressed. Once SHPO receives written approval from the reviewer, the permit will be issued. If the applicant and reviewing agency cannot agree on how to address the condition or objection, the permit application would go into a mediation and/or arbitration process that is outlined under ORS 390.240.

### **Post permit considerations**

***Are there any required deliverables after a permit has been issued?***

A final report (copies submitted to SHPO, CIS, Tribes and UOMNCH) is required for all archaeology permits. If artifacts were recovered from an excavation, curation of all artifacts is also required. To document that curation has occurred, SHPO requires the accession number for the collection and the date the materials were received by the facility. All artifacts from public lands need to be submitted to UOMNCH (or another approved facility that was listed on the original permit application). For private land, artifacts should be submitted to the approved museum or tribe, or returned to the landowner after undergoing 30-day tribal review. A complete copy of the fieldnotes, artifact catalog and photographs need to be submitted to UOMNCH, along with a copy of the final report regardless of where the artifacts will be curated (e.g. museum, tribe or landowner).

***How should an applicant handle a repatriation request from a state tribe to have artifacts returned to them as burial related, sacred objects or objects of cultural patrimony?***

All appropriate tribes should be allowed a minimum of 30 days to review all artifacts obtained from an excavation permit before they are submitted to the approved museum or returned to the landowner. If a permit applicant receives a repatriation request from a tribe the tribe should be asked to complete and submit a *Repatriation of Archaeological Material* form (a copy can be found at <http://www.oregon.gov/oprd/HCD/ARCH/Pages/index.aspx>) to the Oregon SHPO who will review the request form for completeness before forwarding it to the UOMNCH for final approval. After obtaining approval of the request, the requested artifact(s) should be delivered to the appropriate tribe. No artifacts that have been requested by a tribe for repatriation should be returned to a landowner until the review process is completed.

***What is considered a permit violation and what are the penalties for violating a permit?***

Permit violations include any non-approved changes in the permit conditions and methods being followed. Such violations can include: exceeding the number of excavation units that have been approved, excavation of round probes within a known site, failure to complete a final report or curate all artifacts obtained under a permit, excavating without an approved supervisor in the field at all times, or excavating without obtaining a permit on public lands. Oregon SHPO has the authority to deny any future permits to applicants that have violated state archaeology permits. For a list of the current status of permit applications issued since 2007, refer to the SHPO web site (<http://www.oregon.gov/oprd/HCD/ARCH/Pages/index.aspx>).

***My permit included excavation of 10 50x50 cm square test units. Can I combine them to make one or more 1 m x 50 cm unit or 1x1m units?***

Yes, square test units can be combined into other configurations (e.g., 0.5x 1.0m, 1x1m, 1x2m) as long as you do not exceed the total area of approved excavation units.

***How can I ensure that when my report has been submitted to a federal agency for a Section 106 project that my permit obligations have been met?***

Ultimately, the applicant is responsible to satisfy permit requirements. As such, for Section 106 projects, it is beneficial to have the federal agency approve the report before it is sent to the SHPO, agencies (CIS and UOMNCH) and tribes. It is the responsibility of the applicant to submit a copy of the final report to SHPO and the reviewing agencies, not the federal agency.

## **General Questions**

***Can I dig round holes in a known archaeological site?***

No, round holes (i.e., shovel probes) lack controlled data compared with more formal excavation units (i.e., square). Working in cooperation with Oregon's nine federally recognized tribes, Oregon SHPO guidelines state that all field excavation methods incorporate square units (e.g., 50cm x 50cm, 1m x 1m) within a known site; however, round, cylindrical shovel probes ( $\geq 30$ cm diameter) can be used outside a known site to help establish presence or absence of cultural material and to determine site boundaries (see Conducting Field Archaeology in Oregon: 31 at <http://www.oregon.gov/oprd/HCD/ARCH/Pages/index.aspx>). For National Register of Historic Places evaluation testing and data recovery, Oregon SHPO prefers 1 m x 1 m excavation units.

***If my permit application is for determining the presence or absence of archaeological materials, do I need to change my field methods in the event that a site is found?***

It would depend on what types of probes were being used. If a site is found, there should be at least a 40 meter buffer between it and any subsequent round presence/absence probes. If square units no smaller than 50 cm by 50 cm are used from the start of an excavation, a change in unit size and shape are not needed if a site is found. If using round 30 cm diameter probes and a site is found, you will need to switch to  $\geq 50$  cm x 50 cm square units to continue within the site.

***If round shovel probes are not allowed within a known site, does this apply to round auger holes as well?***

All units within a site must be square. However, round auger probes may be used at the base of a formal square excavation unit, after it has extended at least 50 cm below surface and terminated after two sterile levels, in order to gain an understanding of the potential for deeper deposits prior to stopping. In some areas buried cultural deposits are likely to be found deeper than can be reached by standard round or square probes and the use of an auger or core is warranted at the base of excavated units or through documented fill deposits.

***If my permit is designed strictly for presence/absence testing and has been approved for the use of up to 50 round shovel probes, if I find a site (10 artifacts or a feature), can I continue digging if I have not reached my quota?***

It depends. Excavation units within a site, once it has been identified, need to be square and no smaller than 50 cm x 50 cm. If your permit does not provide for the use of square units, probing could continue at a reasonable distance (40 meters) from the known site, without resulting in a violation of the permit. If cultural material is not present, you could work inward (e.g. 20 meters) trying to determine where the boundary of the identified site is. If the probe is positive, you could again move out an additional 40 meters and repeat the process. If the permit's approved methods accommodate a switch to square formal excavation units in the event a site is encountered, there would be no need to stop the investigation.

***Can SHPO deny permits?***

Yes. Oregon SHPO will not send permits out for review unless they are complete. However, Oregon SHPO may also deny permit applications to companies or individuals that have a history of failing to comply with past permits or applying for them in the first place. To avoid the potential to have the ability to apply for permits revoked for any period of time it is strongly recommended that applicants follow all methods, conditions and timelines defined in their permit. If SHPO has not received and approved the report from the investigations (a requirement for all permits) within the specified timeframe (usually within two years), the conditions have not been met. It is important that all permit related curation issues have also been addressed. It is strongly recommended that applicants track the status of their reports. It is the responsibility of the applicant to provide SHPO with curation accession numbers and the date when the museum/tribe/landowner received the collection. A copy of the current status of all permit application since 2007 is available on the SHPO web page <http://www.oregon.gov/oprd/HCD/ARCH/Pages/index.aspx>.

***Can I combine field methods for both presence/absence testing and site eligibility within one permit?***

Yes. Both of these strategies can be combined into a single permit as long as the conditions for the use of the various excavation testing units (e.g. round probes and square units) is included in the permit. However, site mitigation cannot be combined within such a permit. For mitigation, a separate permit is necessary so all permit reviewers are aware of the scope of any discovered site, its eligibility and the methods that will be taken to mitigate any damage that will result from the project.

***Does it matter where I place excavation units for a project?***

The placement of excavation units is the responsibility of the applicant. They should be the most knowledgeable about a given site and its potential to yield buried cultural deposits. However, Oregon SHPO Field Guidelines provide a discussion of the methods for presence/absence testing and boundary determination. When an archaeologist is assessing NRHP eligibility, Oregon SHPO expects the archaeological investigations will attempt to collect data to support significance. If units are located to avoid surface features or concentrations, Oregon SHPO will have concerns with eligibility concurrence. For National Register of Historic Places evaluation testing and data recovery, Oregon SHPO prefers 1 x 1 meter excavation units.



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