

National Park Service, Interior

§ 62.2

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PART 62—NATIONAL NATURAL LANDMARKS PROGRAM

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§ 62.1 Purpose.

The purpose of these procedures is to set forth the processes and criteria used to identify, study, designate, recognize, and monitor national natural landmarks. The purpose of the natural

landmarks program is to identify and encourage the preservation of nationally significant examples of the full range of ecological and geological features that constitute the nation's natural heritage.

§ 62.2 Definitions.

National Natural Landmark means an area of national significance located within the boundaries of the United States or on the Outer Continental Shelf designated by the Secretary of the Interior that contains an outstanding representative example(s) of the nation's natural heritage, including terrestrial communities, aquatic communities, landforms, geological features, habitats of native plant and animal species, or fossil evidence of the development of life on earth.

National Registry of Natural Landmarks means the official listing of all national natural landmarks.

National Significance denotes a site which exemplifies one of a natural region's characteristic biotic or geologic features which has been evaluated, using Department of Interior standards, as one of the best examples of that feature known.

Natural Region means a distinct geographic province having similar geologic history, structures, and landforms. The basic physiographic characteristics of a natural region influence its vegetation, climate, soils, and animal life. The 33 natural regions of the United States, Puerto Rico, Virgin Islands, and Pacific Trust Territories used in the natural landmarks program are based largely on Fenneman's "Physiographic Divisions of the United States" (1928). Examples include the Atlantic Coastal Plain, Great Basin, and Brooks Range natural regions.

Owner means the individual(s) or organization(s) of record that own private land, or the head of the public agency, or subordinate employee of the public agency to whom such authority has been delegated, responsible for administering public land.

Secretary means the Secretary of the Interior or the designee authorized to

carry out the Secretary's responsibilities.

[45 FR 81190, Dec. 9, 1980. Redesignated at 46 FR 34329, July 1, 1981, and amended at 52 FR 5458, Feb. 23, 1987]

§ 62.3 Authority.

The policies and procedures contained herein are based on the authority of the Secretary of the Interior under the Historic Sites Act of 1935 (Pub. L. 74-292, 49 Stat. 666, 16 U.S.C. 461 et seq.).

§ 62.4 Natural landmark designation and recognition process.

(a) *Identification.* (1) Suggestions for potential natural landmarks are derived from the following sources:

(i) *Natural Region Studies.* The National Park Service (NPS) conducts studies of the ecological and geological features in each natural region to provide a scientific basis for identifying potential national natural landmarks. NPS is responsible for monitoring these studies, which are usually done under contract with natural scientists. A study of each natural region produces a classification and description of ecological and geological features in that natural region and an annotated list of areas that best illustrate those features.

(ii) *Federal Agency Programs.* Certain Federal agencies conduct inventories in order to identify areas of special concern to their programs, for example: essential wildlife habitat, research natural areas, and areas of critical environmental concern.

(iii) *State Natural Area Programs.* These programs systematically and comprehensively classify, identify, locate, and assess the relative value and protection status of the ecological and geological features located in the respective States.

(iv) *Other Sources.* Any other source, public or private, may recommend an area to NPS for consideration for landmark study and designation.

(2) After receiving the suggestions from a completed natural region study, Federal agency, State natural area program, and/or other source, the NPS Division of Natural Landmarks determines which areas merit further study as potential natural landmarks. NPS

receives suggestions from paragraphs (a)(1) (ii), (iii), and (iv) of this section through a Suggested Natural Landmark Form available from NPS. This form provides NPS with information on an area's location, ownership, natural values, condition, and other factors that is needed to evaluate an area's potential for landmark designation. This determination is based on comparison with existing and potential natural landmarks in the natural region, the landmark criteria (see § 62.5), and other information and studies, as available.

(b) *First Notification.* (1) Before a potential natural landmark is evaluated by scientists as described in paragraph (c) of this section, NPS notifies the area's owner(s) in writing, except as specified in paragraph (b)(2) of this section. This notice advises the owner(s) that the area is being considered for study for possible natural landmark designation and solicits comments on the significance of the area's natural values, including information on current or anticipated land use, threats that may affect the area's natural values, or other matters of concern. Owner notice includes information on the National Natural Landmarks Program, available information describing the area and its significance, and a request for permission to conduct an on-site evaluation.

(2) Before a potential natural landmark that has more than 50 owners is evaluated by scientists as described in paragraph (c) of this section, NPS provides general notice to the owners that the area is being studied for possible natural landmark designation and solicits comments on possible designation. This general notice includes information on the National Natural Landmarks Program, available information describing the area and its significance, and notification that NPS representatives may conduct an on-site evaluation. Owner permission is required before NPS representatives enter onto the land. This notice is published in one or more local newspapers of general circulation in the area in which the potential national natural landmark is located.

(c) *Evaluation.* NPS evaluates areas identified as potential national natural

landmarks to assess their natural values using the criteria for national significance (§ 62.5). The evaluation of potential natural landmarks is completed on a natural region basis, i.e., similar areas that represent a particular type of feature located in the same natural region are evaluated and compared in order to identify examples which best represent the feature. Evaluators develop a detailed description of the area, and assess the significance of the areas under study using the natural landmark criteria (§ 62.5). On the basis of evaluation report(s) which include information on an area's location, ownership, natural features and significance, the NPS Division of Natural Landmarks makes a decision that: (i) the area does not qualify for landmark designation; (ii) the area appears to qualify for landmark designation; or (iii) additional information is required before a decision can be made regarding the area's status.

(d) *Second Notification.* (1) When an area appears to qualify for designation as a national natural landmark, NPS notifies the owner(s) in writing, except as specified in paragraph (d)(2) of this section. In addition, NPS notifies:

(i) The executive of the local governmental jurisdiction in which the area is located;

(ii) The Governor of the State;

(iii) The A-95 Clearinghouse for the State;

(iv) The Members of Congress who represent the district and the State in which the area is located; and

(v) Other interested authorities, organizations, and individuals as deemed appropriate.

These notices advise the recipients of the proposed action, reference these rules, and notify the owner(s) of the procedures that NPS will follow. Notice of this proposed action also appears in the FEDERAL REGISTER. Those individuals notified have 60 days from the date of the notice within which to provide comments before any decision is made to nominate the area to the Secretary. To assist in the evaluation of an area's features, comments should, among other factors, discuss the significance of the area's natural values, including information on current or anticipated land use or threats that

may affect the area's natural values. Any party may request a reasonable extension of the comment period when additional time is required to study and comment on the landmark proposal. All comments received are considered in the natural landmark designation process.

(2) When an area appears to qualify for designation as a national natural landmark and has more than 50 owners, NPS again provides general notice to the owners of the area, as specified in paragraph (b)(2) of this section. Notification to local and State officials, and Members of Congress is undertaken and comments are received as specified in paragraph (d)(1) of this section. Notice of this proposed action also appears in the FEDERAL REGISTER.

(3) When an area is determined not to satisfy the natural landmark criteria (see § 62.5), NPS notifies the owner(s), as outlined in paragraph (b) of this section, that no further action will be taken regarding landmark designation. NPS places areas which do not appear to qualify for landmark designation on a list of areas that will not be nominated for landmark status.

(e) *Nomination and Designation.* The Director, NPS, reviews the documentation for each area which appears to qualify for landmark designation, and ensures that the procedural requirements set forth in this section have been met. Once he or she determines that the area(s) satisfy the landmark criteria, the Director, NPS, nominates the area(s) to the Secretary, through the Assistant Secretary for Fish and Wildlife and Parks, for review and designation as natural landmarks. The nomination(s) includes information on the area's natural values and comments received on the potential designation. Areas which the Secretary designates as natural landmarks are included on the National Registry of Natural Landmarks.

(f) *Third Notification.* When the Secretary designates an area as a national natural landmark, the Secretary notifies:

(1) The landmark owner(s), as outlined in paragraph (b) of this section,

(2) The executive of the local governmental jurisdiction in which the landmark is located,

(3) The Governor of the State,

(4) The Members of Congress who represent the District and State in which the landmark is located, and

(5) Other interested authorities, organizations, and individuals as deemed appropriate.

NPS prepares the notification documents and is responsible for their distribution. Notice of new designations is included in the annual October FEDERAL REGISTER listing and April update of the National Registry of Natural Landmarks.

(g) *Owner Agreement.* (1) After the Secretary designates an area as a national natural landmark, the owner(s) may enter into a voluntary agreement with NPS indicating a willingness to protect the landmark's nationally significant values. NPS provides owners with sample letters of agreement. When NPS receives agreements from all the owner(s) of a landmark, NPS, through its appropriate Regional Office, provides each owner with a certificate signed by the Secretary of the Interior and the Director of the National Park Service at no cost to the owner(s). This certificate recognizes the voluntary commitment which the owner(s) has made to protect, use, and manage the area in a manner which prevents the destruction or deterioration of the natural values on which landmark designation is based. The agreement is nonbinding and may be terminated by either the owner(s) or the Director, NPS. The owner(s) gives up none of the legal rights and privileges of ownership or use of the area. The Department of the Interior does not gain any property interest in these lands. The NPS Regional Office will provide a bronze plaque, free of charge, for display at the site if such display is deemed appropriate. Upon request and to the extent NPS resources permit, representatives from the Regional Office help arrange and participate in a presentation ceremony.

(2) If the agreement is not signed by all the owner(s) of a landmark, the area retains its status as a national natural landmark, but the owner(s) is awarded neither the certificate nor the plaque.

(3) There is no time limit for signing the agreement and accepting the cer-

tificate and/or plaque. The owner(s) may choose to do so at any time following the designation of the area as a national natural landmark.

(4) When the owner agreement in paragraph (g)(1) of this section no longer exists due to a change in ownership, a new agreement is required to maintain the landmark's recognition status.

(5) Following presentation, the certificate and plaque remain the property of NPS. Should any owner no longer voluntarily agree to protect the landmark's natural values as described in paragraph (g)(1) of this section, or if the landmark designation is removed in accordance with the procedures specified in § 62.8, NPS may reclaim the plaque and certificate(s).

§ 62.5 National natural landmark criteria.

(a) *Introduction.* "National Significance" denotes a site which exemplifies one of a natural region's characteristic biotic or geologic features which has been evaluated, using Department of Interior standards, as one of the best examples of that feature known. Such features include terrestrial and aquatic ecosystems, geologic structures, exposures, and landforms that record active geologic processes or portions of earth history; and fossil evidence for biological evolution. Because the general character of natural diversity is regionally distinct according to broad patterns of physiography, many types of natural features lie wholly within one of the 33 physiographic provinces of the Nation, as defined by Fenneman (1928) and modified by the National Park Service. For that reason, and because no uniform, nationally applicable classification schemes for biotic communities or geologic features have gained wide acceptance and use in lieu of other classification schemes by the majority of organizations involved in natural area inventory activities, individual classification systems are developed for each inventory study of a physiographic province to identify the types of regionally characteristic natural features sought for representation on the National Registry of Natural Landmarks. Most types represent the scale

of distinct biotic communities or individual geologic, paleontologic or physiographic features, most of which are mappable at the Earth's surface at scales on the order of 1:24,000 or are traceable in the subsurface. Nearly two-thirds of all National Natural Landmarks range in size between about 30 and 2,000 hectares (about 12 and 5,000 acres), but larger and smaller sites also occur owing to the wide variety of natural features recognized by the National Natural Landmarks Program.

(b) *Criteria.* (1) The following criteria form the guidelines used to evaluate the relative quality of sites as examples of regionally characteristic natural features. Primary criteria relating to a specific type of natural feature form the principal basis for selection and must be met for a site to be considered for National Natural Landmark designation. Secondary criteria relating to significant features or qualities in addition to the principal feature are provided for additional consideration when two or more sites are found to meet the primary criteria.

(2) Primary Criteria.

(i) *Illustrative Character.* A site exhibits a combination of well-developed component features that are recognized in the appropriate scientific literature as characteristic of a particular type of natural feature. What is sought is not necessarily the statistically representative, but rather the unusually illustrative.

Example: An alpine glacier, which exhibits classic shape, an unusual number of glaciologic structures like crevasses, and well-developed bordering moraine sequences.

(ii) *Present Condition.* A site has received less human disturbance than other examples.

Example: A large beech-maple forest, only a small portion of which has been disturbed by logging.

(3) Secondary Criteria.

(i) *Diversity.* A site, in addition to its primary natural feature, contains high quality examples of other ecological and/or geological features.

Example: A composite volcano, which also illustrates geothermal phenomena.

(ii) *Rarity.* A site, in addition to its primary natural feature, contains a rare geological or paleontological feature or biotic community, or provides high quality habitat for one or more

rare, threatened, or endangered species.

Example: Badlands, which also are composed of strata containing rare fossils.

(iii) *Value for Science and Education.* A site is associated with a significant scientific discovery or concept, possesses an exceptionally extensive and long-term record of onsite research, or offers unusual opportunities for public interpretation of the natural history of the United States.

Example: A dunes landscape, which was the subject of pioneering studies that first recognized the process of ecological succession.

[52 FR 5458, Feb. 23, 1987]

§ 62.6 Natural landmark monitoring.

(a) NPS, through its Regional Offices, maintains a continuing relationship with the owners of national natural landmarks in the form of periodic contacts to determine whether the landmarks have retained those values which initially qualified them for landmark designation, to advise owners who request information on conservation practices, and to update records on the areas.

(b) The Secretary, through NPS, prepares an annual report to the Congress on all landmarks which exhibit known or anticipated damage or threats to the integrity of their resources. This report is mandated by section 8 of the National Park System General Authorities Act of 1970, (90 Stat. 1940) as amended, (16 U.S.C. 1a-5). A landmark is included in this report if it has lost, or is in danger of losing, in whole or in part, its natural character to such a degree that one or more of the values that made it nationally significant is or will be irreversibly damaged or destroyed. The condition of the landmark at the time of designation, protection alternatives which may eliminate or mitigate the damage or threat, and indirect or unseen threats are considered in assessing the status of a landmark. The NPS Regional Offices are responsible for monitoring the status of all national landmarks in their region. The Regional Offices forward their findings and recommendations to the NPS Division of Natural Landmarks.

(c) Whenever the Secretary determines that a landmark may be irreparably lost or destroyed in whole or in

part by any surface mining activity, including exploration for or removal or production of minerals or materials, the Secretary shall notify the person conducting such activity and prepare a report, including the basis for the Secretary's finding that such activity may cause irreparable loss or destruction of a landmark. The Secretary submits the report to the Advisory Council on Historic Preservation, along with a request for advice from the Council as to alternative measures that may be taken by the United States to mitigate or abate such activity. Authority for this Secretarial action is contained in section 9 of the Mining in National Parks Act of 1976 (90 Stat. 1342, 16 U.S.C. 1908).

(d) *Environmental Review.* Federal agencies are responsible for considering the existence and location of natural landmarks when assessing the effects of their actions on the environment under section 102(2)(c) of the National Environmental Policy Act (83 Stat. 852; 42 U.S.C. 4321). NPS is responsible for providing natural landmark information for these assessments.

§ 62.7 Natural landmark modifications.

(a) After designation, it may be appropriate to modify a natural landmark. For example, due to new information or changes in the condition of an area, it may be necessary to expand or reduce a natural landmark boundary, or otherwise modify information describing the area. Additional study may reveal that the site possesses nationally significant values which had not been previously documented. Also, the ownership of a landmark may change, or the present owner(s) may not fulfill the voluntary agreement, and the plaque and certificate may be reclaimed.

(b) If the modification involves only a change in owner agreement status due to a change in ownership, the agreement with the previous owner(s) is terminated, and an agreement is sought with the new land owner by the appropriate NPS Regional Office, according to § 62.4(g).

(c) NPS determines that landmark modifications are necessary through administration of the program. In addition, NPS receives suggestions for

landmark modifications from other Federal agencies, State natural area program, and other public and private organizations or individuals. NPS determines the validity of these suggestions by applying the natural landmark criteria and/or conducting additional study, as needed. If they are determined to be valid, the designation process outlined in § 62.4 (b) through (f) is used. The Secretary approves all modifications in natural landmark boundaries, and the description of a landmark's nationally significant values. Secretarial approval is not required for other changes in landmark documentation.

§ 62.8 Natural landmark designation removal.

Natural landmark designation is removed from an area (i) when the values which originally qualified it for designation have been lost or destroyed; (ii) upon proof that an error in professional judgment has been made; or (iii) for substantial failure to follow the procedures set forth herein. Any party may initiate a removal action by submitting a petition specifying the loss of natural values, error in professional judgment, or procedural error to the Director, National Park Service, Washington, D.C. 20243. If NPS verifies that a natural landmark appears to no longer merit designation, the following procedure is used:

(a) *Evaluation.* Information outlining the grounds for removal is evaluated by NPS, as outlined in § 62.4(c). Based on this evaluation, NPS determines whether grounds for removal appear to exist.

(b) *Notification of Potential Removal from the Registry.* (1) When NPS determines that grounds for removal appear to exist, NPS notifies the owner(s) and the other recipients identified in § 62.4(d). Notice of the proposed removal appears in the FEDERAL REGISTER. The individuals notified have an opportunity to comment within 60 days of the date of the notice before a recommendation for removal is submitted to the Secretary. All comments received are considered in the review and decision to remove the national natural landmark designation.

(c) *Removal from the Registry.* The Director, NPS, reviews the findings regarding a possible removal from the National Registry of Natural Landmarks, and ensures that the procedural requirements set forth in this section have been met. If the Director concurs in the findings, the Director submits a recommendation to the Secretary, through the Assistant Secretary for Fish and Wildlife and Parks, for removal. If the Secretary concurs in the Director's recommendation, the Secretary directs that the landmark be removed from the National Registry of Natural Landmarks.

(d) *Notification of Removal from the Registry.* When the Secretary removes a landmark from the National Registry of Natural Landmarks, the Secretary notifies:

- (1) The owner(s),
- (2) the executive of the local government jurisdiction in which the landmark was located,
- (3) the Governor of the State,
- (4) the Members of Congress who represent the district and State in which the landmark was located, and
- (5) other interested authorities, organizations, and individuals, as outlined in § 62.4(f).

NPS is responsible for preparing and distributing the written notices. NPS periodically publishes notice(s) of removal in the FEDERAL REGISTER. NPS may reclaim the plaque and certificate(s) when a landmark is removed from the National Registry of Natural Landmarks.

(e) No person shall be considered to have exhausted his or her administrative remedies with respect to the designation of a national natural landmark, or removal of such designation, until compliance with the procedures set forth in this section.

§ 62.9 General provisions.

(a) NPS may enter into memoranda of agreement, cooperative agreements, or other types of agreement with other Federal agencies, States, counties, local communities, private organizations, owners, or other interested parties to assist in administering the natural landmarks program. The agreements may include, but not be limited to, provisions relating to identifica-

tion, evaluation, monitoring, and/or protecting natural landmarks.

(b) NPS may undertake studies of potential or designated natural landmarks and/or program procedures as a means of assessing their relationship to other natural area conservation programs, including, but not limited to, the Man and the Biosphere Programs, the World Heritage Convention, and land management activities of Federal agencies.

(c) NPS may undertake educational and scientific activities to disseminate information on natural landmarks and the benefits derived from systematic surveys of important natural features to the general public and to interested local, State and Federal agencies, and private groups.

PART 63—DETERMINATIONS OF ELIGIBILITY FOR INCLUSION IN THE NATIONAL REGISTER OF HISTORIC PLACES

Sec.

- 63.1 Purpose and authorities.
- 63.2 Determination of eligibility process.
- 63.3 Procedures to be applied when the agency and the State Historic Preservation Officer agree a property is eligible.
- 63.4 Other properties on which determinations of eligibility may be made by the Secretary of the Interior.
- 63.5 FEDERAL REGISTER publication of properties determined eligible.
- 63.6 Review and nomination of properties determined eligible.

AUTHORITY: Sec. 2(k), Historic Sites Act of 1935, 16 U.S.C. 462(K) (1970 ed); sec. 101(a)(1), National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470(a)(1) (1970 ed); secs. 3(b) and 4(f), E.O. 11593; sec. 2 of Reorganization Plan No. 3 of 1950 (34 Stat. 1262).

SOURCE: 42 FR 47661, Sept. 21, 1977. Redesignated at 45 FR 28716, Apr. 30, 1980, and 46 FR 34329, July 1, 1981, unless otherwise noted.

§ 63.1 Purpose and authorities.

(a) These regulations have been developed to assist Federal agencies in identifying and evaluating the eligibility of properties for inclusion in the National Register. The regulations explain how to request determinations of eligibility under section 2(b) of Executive Order 11593 and the regulations of