

§ 700.817 Terms and conditions of permits.

(a) In all permits issued, the Federal Land Manager shall specify:

(1) The nature and extent of work allowed and required under the permit, including the time, duration, scope, location and purpose of the work;

(2) The name of the individual(s) responsible for conducting the work and, if different, the name of the individual(s) responsible for carrying out the terms and conditions of the permit;

(3) The name of any university, museum, or other scientific or educational institution in which any collected materials and data shall be deposited; and

(4) Reporting requirements.

(b) The Federal Land Manager may specify such terms and conditions as deemed necessary, consistent with this part, to protect public safety and other values and/or resources, to secure work areas to safeguard other legitimate land uses, and to limit activities incidental to work authorized under a permit.

(c) The Federal Land Manager shall include in permits issued for archaeological work on the New Lands such terms and conditions as may be requested by the Indian landowner and the Navajo Nation.

(d) Initiation of work or other activities under the authority of a permit signifies the permittee's acceptance of the terms and conditions of the permit.

(e) The permittee shall not be released from requirements of a permit until all outstanding obligations have been satisfied, whether or not the term of the permit has expired.

(f) The permittee may request that the Federal Land Manager extend or modify a permit.

(g) The permittee's performance under any permit issued for a period greater than 1 year shall be subject to review by the Federal Land Manager, at least annually.

§ 700.819 Suspension and revocation of permits.

(a) *Suspension or revocation for cause.*

(1) The Federal Land Manager may suspend a permit issued pursuant to this part upon determining that the permittee has failed to meet any of the terms and conditions of the permit or

has violated any prohibition of the Act or § 700.807. The Federal Land Manager shall provide written notice to the permittee of suspension, the cause thereof, and the requirements which must be met before the suspension will be removed.

(2) The Federal Land Manager may revoke a permit upon assessment of a civil penalty under § 700.831 upon the permittee's conviction under section 6 of the Act, or upon determining that the permittee has failed after notice under this section to correct the situation which led to suspension of the permit.

(b) *Suspension or revocation for management purposes.* The Federal Land Manager may suspend or revoke a permit without liability to the United States, its agents, or employees when continuation of work under the permit would be in conflict with management requirements not in effect when the permit was issued. The Federal Land Manager shall provide written notice to the permittee stating the nature of and basis for the suspension or revocation.

§ 700.821 Appeals relating to permits.

Any affected person may appeal permit issuance, denial of permit issuance, suspension, revocation, and terms and conditions of a permit through existing administrative appeal procedures, or through procedures which may be established by the Federal Land Manager pursuant to section 10(b) of the Act and this part.

§ 700.823 Permit reviews and disputes.

(a) Any affected person disputing the decision of the Federal Land Manager with respect to the issuance or denial of a permit, the inclusion of specific terms and conditions in a permit, or the modification, suspension, or revocation or a permit may request the Federal Land Manager to review the disputed decision and may request a conference to discuss the decision and its basis.

(b) Any disputant unsatisfied with the higher level review, and desiring to appeal the decision, pursuant to § 700.821 of this part, should consult with the Federal Land Manager regarding the existence of published appeal

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procedures. In the absence of published appeal procedures, the review by the head of the Office will constitute the final decision.

(c) Any affected person may request a review by the Department of Interior Consulting Archaeologist of any professional issues involved in a permitting decision, such as professional qualifications, research design, or other professional archaeological matters. The Departmental Consulting Archaeologist shall make a final professional recommendation to the head of the Office. The head of the Office will consider the recommendation, but may reject it, in whole or in part, for good cause. This request should be in writing and should state the reasons for the request.

§ 700.825 Relationship to section 106 of the National Historic Preservation Act.

Issuance of a permit in accordance with the Act and this part does not constitute an undertaking requiring compliance with section 106 of the Act of October 15, 1996 (16 U.S.C. 470f). However, the mere issuance of such a permit does not excuse the Federal Land Manager from compliance with section 106 where otherwise required.

§ 700.827 Custody of Archaeological resources.

(a) Archaeological resources excavated or removed from the New Lands remain the property of the Navajo Nation.

(b) [Reserved]

§ 700.829 Determination of archaeological or commercial value and cost of restoration and repair.

(a) *Archaeological value.* For purposes of this part, the archaeological value of any archaeological resource involved in a violation of the prohibitions in § 700.807 of this part or conditions of a permit issued pursuant to this part shall be the value of the information associated with the archaeological resource. This value shall be appraised in terms of the costs of the retrieval of the scientific information which would have been obtained prior to the violation. These costs may include, but need not be limited to, the cost of preparing a research design, conducting field

work, carrying out laboratory analysis, and preparing reports as would be necessary to realize the information potential.

(b) *Commercial value.* For purposes of this part, the commercial value of any archaeological resource involved in a violation of the prohibitions in § 700.807 of this part or conditions of a permit issued pursuant to this part shall be for its fair market value. Where the violation has resulted in damage to the archaeological resource, the fair market value should be determined using the condition of the archaeological resource prior to the violation to the extent that its prior condition can be ascertained.

(c) *Cost of restoration and repair.* For purposes of this part, the cost of restoration and repair of archaeological resources damages as a result of a violation or prohibitions or conditions pursuant to this part, shall be the sum of the costs already incurred for emergency restoration or repair work, plus those costs projected to be necessary to complete restoration and repair, which may include, but need not be limited to, the costs of the following.

(1) Reconstruction of the archaeological resource;

(2) Stabilization of the archaeological resource;

(3) Ground contour reconstruction and surface stabilization;

(4) Research necessary to carry out reconstruction or stabilization;

(5) Physical barriers or other protective devices, necessitated by the disturbance of the archaeological resource, to protect it from further disturbance;

(6) Examination and analysis of the archaeological resource including recording remaining archaeological information, where necessitated by disturbance, in order to salvage remaining values which cannot be otherwise conserved;

(7) Reinterment of human remains in accordance with Pub. L. 101-601, the Native American Grave Protection and Repatriation Act.

(8) Preparation of reports relating to any of the above activities.