

§ 7.31

§ 7.31 Scope and authority.

The regulations in this subpart are promulgated pursuant to section 10(b) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470ii), which requires agencies to develop rules and regulations for carrying out the purposes of the Act, consistent with the uniform regulations issued pursuant to section 10(a) of the Act (subpart A of this part).

§ 7.32 Supplemental definitions.

For purposes of this subpart, the following definitions will be used:

(a) *Site of religious or cultural importance* means, for purposes of § 7.7 of this part, a location which has traditionally been considered important by an Indian tribe because of a religious event which happened there; because it contains specific natural products which are of religious or cultural importance; because it is believed to be the dwelling place of, the embodiment of, or a place conducive to communication with spiritual beings; because it contains elements of life-cycle rituals, such as burials and associated materials; or because it has other specific and continuing significance in Indian religion or culture.

(b) *Allotted lands* means lands granted to Indian individuals by the United States and held in trust for those individuals by the United States.

§ 7.33 Determination of loss or absence of archaeological interest.

(a) Under certain circumstances, a Federal land manager may determine, pursuant to § 7.3(a)(5) of this part, that certain material remains are not or are no longer of archaeological interest, and therefore are not to be considered archaeological resources under this part.

(b) The Federal land manager may make such a determination if he/she finds that the material remains are not capable of providing scientific or humanistic understandings of past human behavior, cultural adaptation, and related topics.

(c) Prior to making a determination that material remains are not or are no longer archaeological resources, the Federal land manager shall ensure that

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the following procedures are completed:

(1) A professional archaeological evaluation of material remains and similar materials within the area under consideration shall be completed, consistent with the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (48 FR 44716, Sept. 29, 1983) and with 36 CFR parts 60, 63, and 65.

(2) The principal bureau archaeologist or, in the absence of a principal bureau archaeologist, the Department Consulting Archeologist, shall establish whether the material remains under consideration contribute to scientific or humanistic understandings of past human behavior, cultural adaptation and related topics. The principal bureau archaeologist or the Department Consulting Archeologist, as appropriate, shall make a recommendation to the Federal land manager concerning these material remains.

(d) The Federal land manager shall make the determination based upon the facts established by and the recommendation of the principal bureau archaeologist or the Departmental Consulting Archeologist, as appropriate, and shall fully document the basis therefor, including consultation with Indian tribes for determinations regarding sites of religious or cultural importance.

(e) The Federal land manager shall make public notice of the determination and its limitations, including any permitting requirements for activities associated with the materials determined not to be archaeological resources for purposes of this part.

(f) Any interested individual may request in writing that the Departmental Consulting Archeologist review any final determination by the Federal land manager that certain remains, are not, or are no longer, archaeological resources. Two (2) copies of the request should be sent to the Departmental Consulting Archeologist, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, and should document why the requestor disagrees with the determination of the Federal land manager. The Departmental Consulting Archeologist shall review the