

§ 1104.7

22 CFR Ch. XI (4-1-04 Edition)

to public lands under the Commissioner's jurisdiction, the Commissioner may seek to communicate with official representatives of that group to obtain information on sites they may consider to be of religious or cultural importance.

(3) The Commissioner may enter into agreement with any Indian tribe or other Native American group for determining locations for which such tribe or group wishes to receive notice under this section.

§ 1104.7 Issuance of permits.

(a) The Commissioner may issue a permit, for a specified period of time appropriate to the work to be conducted, upon determining that:

(1) The applicant is appropriately qualified, as evidenced by training, education, and/or experience, and possesses demonstrable competence in archaeological theory and methods, and in collecting, handling, analyzing, evaluating, and reporting archaeological data, relative to the type and scope of the work proposed, and also meets the following minimum qualifications:

(i) A graduate degree in anthropology or archaeology, or equivalent training and experience;

(ii) The demonstrated ability to plan, equip, staff, organize, and supervise activity of the type and scope proposed;

(iii) The demonstrated ability to carry research to completion, as evidenced by timely completion of theses, research reports, or similar documents;

(iv) Completion of at least 16 months of professional experience and/or specialized training in archaeological field, laboratory, or library research, administration, or management, including at least 4 months experience and/or specialized training in the kind of activity the individual proposes to conduct under authority of a permit; and

(v) Applicants proposing to engage in historical archaeology should have had at least one year of experience in research concerning archaeological resources of the prehistoric period.

(2) The proposed work is to be undertaken for the purpose of furthering archaeological knowledge in the public interest, which may include but need

not be limited to, scientific or scholarly research, and preservation of archaeological data;

(3) The proposed work, including time, scope, location, and purpose, is not inconsistent with any management plan or established policy, objectives, or requirements applicable to the management of the public lands concerned;

(4) Where the proposed work consists of archaeological survey and/or data recovery undertaken in accordance with other approved uses of the public lands, and the proposed work has been agreed to in writing by the Commissioner pursuant to section 106 of the National Historic Preservation Act (16 U.S.C. 470f), paragraphs (a)(2) and (a)(3) of this section shall be deemed satisfied by the prior approval;

(5) Evidence is submitted to the Commissioner that any university, museum, or other scientific or educational institution proposed in the application as the repository possesses adequate curatorial capability for safeguarding and preserving the archaeological resources and all associated records; and

(6) The applicant has certified that, not later than 90 days after the date the final report is submitted to the Commissioner, the following will be delivered to the appropriate official of the approved university, museum, or other scientific or educational institution, which shall be named in the permit:

(i) All artifacts, samples, collections, and copies of records, data, photographs, and other documents resulting from work conducted under the requested permit where the permit is for the excavation and/or removal of archaeological resources from public lands.

(b) When the area of the proposed work would cross jurisdictional boundaries, so that permit applications must be submitted to more than one Federal agency, the Commissioner shall coordinate the review and evaluation of applications and the issuance of permits.

§ 1104.8 Terms and conditions of permits.

(a) In all permits issued, the Commissioner 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 institutions in which any collected materials and data shall be deposited; and

(4) Reporting requirements.

(b) The Commissioner 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) 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.

(d) 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.

(e) The permittee may request that the Commissioner extend or modify a permit.

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

§ 1104.9 Suspension and revocation of permits.

(a) *Suspension or revocation for cause.*

(1) The Commissioner 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 § 1104.3. The Commissioner shall provide written notice to the permittee of the suspension, the cause thereof, and the requirements which must be met before the suspension will be removed.

(2) The Commissioner may revoke a permit upon assessment of a civil penalty under § 1104.14 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 Commissioner 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 Commissioner shall provide written notice to the permittee stating the nature of and basis for the suspension or revocation.

§ 1104.10 Appeals relating to permits.

Any affected person may appeal permit issuance, denial of permit issuance, suspension, revocation, and terms and conditions of a permit.

§ 1104.11 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, 1966 (16 U.S.C. 470f). However, the mere issuance of such a permit does not excuse the Commissioner from compliance with section 106 where otherwise required.

§ 1104.12 Custody of archaeological resources.

(a) Archaeological resources excavated or removed from the public lands remain the property of the United States.

(b) The Commissioner may provide for the exchange of archaeological resources among suitable universities, museums, or other scientific or educational institutions, when such resources have been excavated or removed from public lands under the authority of a permit issued by the Commissioner.

§ 1104.13 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 § 1104.3 of this part or conditions of a permit issued pursuant to this part