the work proposed would further ar-
chaeological knowledge, that archae-
ological resources and associated
records and data will be properly pre-
served, and that the permitted activity
would not conflict with the manage-
ment of the public lands involved. Re-
response to the information requirement
is necessary in order for an applicant
to obtain a benefit.

(Approved by the Office of Management and
Budget under control number 1024–0037)

§ 1312.7 Notification to Indian tribes of
possible harm to, or destruction of,
sites on public lands having reli-
gious or cultural importance.

(a) If the issuance of a permit under
this part may result in harm to, or de-
struction of, any Indian tribal religious
or cultural site on public lands, as de-
termined by the Federal land manager,
at least 30 days before issuing such a
permit the Federal land manager shall
notify any Indian tribe which may con-
sider the site as having religious or
cultural importance. Such notice shall
not be deemed a disclosure to the pub-
lic for purposes of section 9 of the Act.

(1) Notice by the Federal land man-
ger to any Indian tribe shall be sent
to the chief executive officer or other
designated official of the tribe. Indian
tribes are encouraged to designate a
tribal official to be the focal point for
any notification and discussion be-
tween the tribe and the Federal land
manager.

(2) The Federal land manager may
provide notice to any other Native
American group that is known by the
Federal land manager to consider sites
potentially affected as being of reli-
gious or cultural importance.

(3) Upon request during the 30-day pe-
riod, the Federal land manager may
meet with official representatives of
any Indian tribe or group to discuss
their interests, including ways to avoid
or mitigate potential harm or destruc-
tion such as excluding sites from the
permit area. Any mitigation measures
which are adopted shall be incor-
porated into the terms and conditions
of the permit under §1312.9.

(4) When the Federal land manager
determines that a permit applied for
under this part must be issued imme-
diately because of an imminent threat
of loss or destruction of an archae-
ological resource, the Federal land
manager shall so notify the appro-
priate tribe.

(b)(1) In order to identify sites of reli-
gious or cultural importance, the Fed-
eral land manager shall seek to iden-
tify all Indian tribes having aboriginal
or historic ties to the lands under the
Federal land manager’s jurisdiction
and seek to determine, from the chief
executive officer or other designated
official of any such tribe, the location
and nature of specific sites of religious
or cultural importance so that such in-
formation may be on file for land man-
agement purposes. Information on sites
eligible for or included in the National
Register of Historic Places may be
withheld from public disclosure pursu-
ant to section 304 of the Act of October

(2) If the Federal land manager be-
comes aware of a Native American
group that is not an Indian tribe as de-
 fined in this part but has aboriginal or
historic ties to public lands under the
Federal land manager’s jurisdiction,
the Federal land manager may seek to
 communicate with official representa-
tives of that group to obtain informa-
tion on sites they may consider to be of
religious or cultural importance.

(3) The Federal land manager 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.

(4) The Federal land manager should
also seek to determine, in consultation
with official representatives of Indian
tribes or other Native American
groups, what circumstances should be
the subject of special notification to
the tribe or group after a permit has
been issued. Circumstances calling for
notification might include the discov-
ery of human remains. When cir-
cumstances for special notification
have been determined by the Federal
land manager, the Federal land man-
ager will include a requirement in the
terms and conditions of permits, under
§1312.9(c), for permittees to notify the
Federal land manager immediately upon
the occurrence of such circumstances.

Following the permittee’s notification,
the Federal land manager will notify
§ 1312.8 Issuance of permits.

(a) The Federal land manager 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 historic period. Applicants proposing to engage in prehistoric 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 or Indian lands, and the proposed work has been agreed to in writing by the Federal land manager pursuant to section 106 of the National Historic Preservation Act (16 U.S.C. 470f), paragraphs (a)(2) and (3) shall be deemed satisfied by the prior approval.

(5) Written consent has been obtained, for work proposed on Indian lands, from the Indian landowner and the Indian tribe having jurisdiction over such lands;

(6) Evidence is submitted to the Federal land manager 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

(7) The applicant has certified that, not later than 90 days after the date the final report is submitted to the Federal land manager, 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.

(ii) All artifacts, samples and collections resulting from work under the requested permit for which the custody or disposition is not undertaken by the Indian owners, and copies of records, data, photographs, and other documents resulting from work conducted