

§ 700.841 Determination of loss or absence of archaeological interest.

(a) Under certain circumstances, a Federal land manager may determine, pursuant to § 700.805(a)(5) of this part, that certain material remains are not or are no longer of archaeological interest, and therefore 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 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 Interior's Standards and Guidelines for Archaeology and Historic Preservation and with the 36 CFR parts 60, 63, and 65.

(2) The principal Office archaeologist or, in the absence of a principal Office archaeologist, the Office Consulting Archaeologist, 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 Office archaeologist or the Office Consulting Archaeologist, 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 Office archaeologist or the Office Consulting Archaeologist, 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 determina-

tion and its limitations, including any permitting requirements, for activities associated with the materials determined not to be archaeological resources for the purposes of this part.

(f) Any interested individual may request in writing that the Office Consulting Archaeologist 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 Office Consulting Archaeologist, care of Land Use Manager, Office of Navajo and Hopi Indian Relocation, PO Box KK, Flagstaff, AZ 86002, and should document why the requestor disagrees with the determination of the Federal land manager. The Office Consulting Archaeologist shall review the request, and, if appropriate, shall review the Federal land manager's determination and its supporting documentation. Based upon this review, the Departmental Consulting Archaeologist shall prepare a final professional recommendation, and shall transmit the recommendation and the basis therefor to the head of the bureau for further consideration within 60 days of the receipt of the request.

(g) Any determination made pursuant to this section shall in no way affect the Federal land manager's obligation under other applicable laws or regulations.

§ 700.843 Permitting procedures for Navajo Nation Lands.

(a) Pursuant to the Act and this subpart, the written consent of the Navajo Nation is required. Written consent shall consist of a Navajo Nation permit issued in accordance with the Navajo Nation Code or a resolution of the Navajo Nation Council or delegated committee of that Council.

(b) When Indian tribal lands are involved in an application for a permit or a request for extension or modification of a permit, the consent of the Indian tribal government must be obtained. For Indian allotted lands outside reservation boundaries, consent from only the individual landowner is needed. When multiple-owner allotted lands are involved, consent by more than 50 percent of the ownership interest is