

Office of the Secretary, Interior

§ 3.3

360), and information developed by USGS under an exploratory program authorized by 30 U.S.C. 208-1 (and corresponding information under 30 U.S.C. 351-360);

(3) *Category C*. Information obtained from commercial sources which the commercial source acquired while not under contract with the United States Government;

(4) *Category D*. Information provided to the Secretary by a Federal department or agency under 30 U.S.C. 208-1(e) (and corresponding information under 30 U.S.C. 351-360); and

(5) *Category E*. The fair-market value of coal to be leased and comments received by the Secretary with respect to such value.

(c) *Availability of information*. Information obtained by the Department from various sources will be made available to the public as follows:

(1) *Category A—Information*. Category A information must not be disclosed to the public until after the areas to which the information pertains have been leased by the Department, or until the Secretary determines that release of the information to the public would not damage the competitive position of the holder of the exploration license, whichever comes first.

(2) *Category B—Information*. Category B information must not be withheld from the public; it will be made available by means of and at the time of open filing or publication by USGS.

(3) *Category C—Information*. To the extent Category C information is proprietary, such information must not be made available to the public until after the areas to which the information pertains have been leased by the Department.

(4) *Category D—Information*. To the extent Category D information is proprietary, the Department will withhold the information from the public for the length of time the department or agency providing the information agreed to when it obtained the information.

(5) *Category E—Information*. Category E information must not be made public until the lands to which the information pertains have been leased, or until the Secretary has determined that its release prior to the issuance of a lease is in the public interest.

[67 FR 64541, Oct. 21, 2002. Redesignated at 77 FR 76915, Dec. 31, 2012]

PART 3—PRESERVATION OF AMERICAN ANTIQUITIES

Sec.

3.1 Jurisdiction.

3.2 Limitation on permits granted.

3.3 Permits; to whom granted.

3.4 No exclusive permits granted.

3.5 Application.

3.6 Time limit of permits granted.

3.7 Permit to become void.

3.8 Applications referred for recommendation.

3.9 Form and reference of permit.

3.10 Reports.

3.11 Restoration of lands.

3.12 Termination.

3.13 Report of field officer.

3.14 Examinations by field officer.

3.15 Persons who may apprehend or cause to be arrested.

3.16 Seizure.

3.17 Preservation of collection.

AUTHORITY: 54 U.S.C. 320302-320303.

SOURCE: 19 FR 8838, Dec. 23, 1954, unless otherwise noted.

§ 3.1 Jurisdiction.

Jurisdiction over ruins, archeological sites, historic and prehistoric monuments and structures, objects of antiquity, historic landmarks, and other objects of historic and scientific interest, shall be exercised under the act by the respective Departments as follows:

(a) By the Secretary of Agriculture over lands within the exterior limits of forest reserves;

(b) By the Secretary of the Army over lands within the exterior limits of military reservations;

(c) By the Secretary of the Interior over all other lands owned or controlled by the Government of the United States, *Provided*, The Secretaries of the Army and Agriculture may by agreement cooperate with the Secretary of the Interior in the supervision of such monuments and objects covered by the Act of June 8, 1906 (34 Stat. 225; 16 U.S.C. 431-433), as may be located on lands near or adjacent to forest reserves and military reservations, respectively.

§ 3.2 Limitation on permits granted.

No permit for the removal of any ancient monument or structure which can be permanently preserved under the control of the United States in situ, and remain an object of interest, shall be granted.

§ 3.3 Permits; to whom granted.

Permits for the examination of ruins, the excavation of archeological sites, and the gathering of objects of antiquity will be granted, by the respective

§ 3.4

Secretaries having jurisdiction, to reputable museums, universities, colleges, or other recognized scientific or educational institutions, or to their duly authorized agents.

§ 3.4 No exclusive permits granted.

No exclusive permits shall be granted for a larger area than the applicant can reasonably be expected to explore fully and systematically within the time limit named in the permit.

§ 3.5 Application.

Each application for a permit should be filed with the Secretary having jurisdiction, and must be accompanied by a definite outline of the proposed work, indicating the name of the institution making the request, the date proposed for beginning the field work, the length of time proposed to be devoted to it, and the person who will have immediate charge of the work. The application must also contain an exact statement of the character of the work, whether examination, excavation, or gathering, and the public museum in which the collections made under the permit are to be permanently preserved. The application must be accompanied by a sketch plan or description of the particular site or area to be examined, excavated, or searched, so definite that it can be located on the map with reasonable accuracy.

§ 3.6 Time limit of permits granted.

No permit will be granted for a period of more than 3 years, but if the work has been diligently prosecuted under the permit, the time may be extended for proper cause upon application.

§ 3.7 Permit to become void.

Failure to begin work under a permit within 6 months after it is granted, or failure to diligently prosecute such work after it has been begun, shall make the permit void without any order or proceeding by the Secretary having jurisdiction.

§ 3.8 Applications referred for recommendation.

Applications for permits shall be referred to the Smithsonian Institution for recommendation.

§ 3.9 Form and reference of permit.

Every permit shall be in writing and copies shall be transmitted to the Smithsonian Institution and the field officer in charge of the land involved. The permittee will be furnished with a copy of the regulations in this part.

§ 3.10 Reports.

At the close of each season's field work the permittee shall report in duplicate to the Smithsonian Institution, in such form as its secretary may prescribe, and shall prepare in duplicate a catalogue of the collections and of the photographs made during the season, indicating therein such material, if any, as may be available for exchange.

§ 3.11 Restoration of lands.

Institutions and persons receiving permits for excavation shall, after the completion of the work, restore the lands upon which they have worked to their customary condition, to the satisfaction of the field officer in charge.

§ 3.12 Termination.

All permits shall be terminable at the discretion of the Secretary having jurisdiction.

§ 3.13 Report of field officer.

The field officer in charge of land owned or controlled by the Government of the United States shall, from time to time, inquire and report as to the existence, on or near such lands, of ruins and archaeological sites, historic or prehistoric ruins or monuments, objects of antiquity, historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest.

§ 3.14 Examinations by field officer.

The field officer in charge may at all times examine the permit of any person or institution claiming privileges granted in accordance with the act and this part, and may fully examine all work done under such permit.

§ 3.15 Persons who may apprehend or cause to be arrested.

All persons duly authorized by the Secretaries of Agriculture, Army and Interior may apprehend or cause to be

arrested, as provided in the Act of February 6, 1905 (33 Stat. 700) any person or persons who appropriate, excavate, injure, or destroy any historic or prehistoric ruin or monument, or any object of antiquity on lands under the supervision of the Secretaries of Agriculture, Army, and Interior, respectively.

§3.16 Seizure.

Any object of antiquity taken, or collection made, on lands owned or controlled by the United States, without a permit, as prescribed by the act and this part, or there taken or made, contrary to the terms of the permit, or contrary to the act and this part, may be seized wherever found and at any time, by the proper field officer or by any person duly authorized by the Secretary having jurisdiction, and disposed of as the Secretary shall determine, by deposit in the proper national depository or otherwise.

§3.17 Preservation of collection.

Every collection made under the authority of the act and of this part shall be preserved in the public museum designated in the permit and shall be accessible to the public. No such collection shall be removed from such public museum without the written authority of the Secretary of the Smithsonian Institution, and then only to another public museum, where it shall be accessible to the public; and when any public museum, which is a depository of any collection made under the provisions of the act and this part, shall cease to exist, every such collection in such public museum shall thereupon revert to the national collections and be placed in the proper national depository.

NOTE TO §3.17: Regulations concerning curation of federally owned or administered archeological collections are found in 36 CFR part 79. Objects excavated under the Antiquities Act may be eligible for disposal under subpart E of 36 CFR part 79.

[19 FR 8838, Dec. 23, 1954, as amended at 87 FR 22462, Apr. 15, 2022]

PART 4—DEPARTMENT OF THE INTERIOR HEARINGS AND APPEALS PROCEDURES

Subpart A—General Information and Authorities—Office of Hearings and Appeals

Sec.

- 4.1 Scope of authority; applicable regulations.
- 4.2 Membership and duties.
- 4.3 Representation before OHA.
- 4.4 Public records; contact information for offices.
- 4.5 Power of the Secretary and Director.
- 4.6 Definitions and acronyms.

Subpart B—General Rules Relating to Procedures and Practice

- 4.20 Purpose and scope.
- 4.21 Exhaustion and finality.
- 4.22 Retention of documents; record address; and extensions of time.
- 4.23 Hearings or related proceedings.
- 4.24 Basis of decision.
- 4.25 Oral argument and status conferences.
- 4.26 Subpoena power and witness provisions for probate proceedings.
- 4.27 Ex parte communication and disqualification.
- 4.28 Interlocutory appeals.
- 4.29 Disqualification of presiding officers and board members.
- 4.30 Alternative dispute resolution.
- 4.31 Limiting disclosure of confidential information.
- 4.32 Filing; service; issuance.

Subpart C—Rules Applicable to Proceedings Before the Departmental Cases Hearings Division

GENERAL PROCEDURAL RULES FOR PRACTICE BEFORE THE DEPARTMENTAL CASES HEARINGS DIVISION

PURPOSE, SCOPE, AND DEFINITIONS

- 4.100 Purpose and scope.
- 4.101 Definitions.

FILING, SERVICE, AND FORMATTING OF DOCUMENTS

- 4.102 Filing, service, and issuance.
- 4.103 Document formatting.

PREHEARING PROCEDURES

- 4.104 Prehearing conferences.
- 4.105 Prehearing motions.
- 4.106 Extension of time.
- 4.107 Consolidation and severance.
- 4.108 Intervention and amicus curiae.
- 4.109 Notice of appearance; substitution of attorneys; and attorney withdrawal.