

§ 62.3

36 CFR Ch. I (7–1–04 Edition)

United States, including terrestrial communities, landforms, geological features and processes, habitats of native plant and animal species, or fossil evidence of the development of life.

Natural region is a distinct physiographic province having similar geologic history, structures, and landforms. The basic physiographic characteristics of a natural region influence its vegetation, climate, soils, and animal life. Examples include the Atlantic Coastal Plain, Great Basin, and Brooks Range natural regions.

Owner means the individual(s), corporation(s), or partnership(s) holding fee simple title to property, or the head of the public agency or subordinate employee of the public agency to whom such authority was delegated and who is responsible for administering publicly owned land. Owner does not include individuals, partnerships, corporations, or public agencies holding easements or less than fee interests (including leaseholds) of any form. A Native American tribe that is the beneficial fee simple owner of lands, with the United States as trustee, will be considered as owner of private property for the purposes of this part. Similarly, individual member(s) of a Native American tribe who are beneficial owner(s) of property, allottee(s) held in trust by the United States, will be considered as owner(s) of private property for the purposes of this part.

Potential national natural landmark means an area that, based on recommendation or initial comparison with other areas in the same natural region, seems to merit further study of its merits for possible national natural landmark designation.

Prejudicial procedural error is one that reasonably may be considered to have affected the outcome of the designation process.

Representative refers to any public or private individual, agency, or organization that is performing actions related to the identification, evaluation, designation or monitoring of national natural landmarks on behalf of or in cooperation with the National Park Service (NPS), either under a contractual agreement or as a volunteer.

Scientist refers to an individual whose combination of academic training and

professional field experience in the natural region qualifies him/her to identify and comparatively evaluate natural areas at the regional or national level.

§ 62.3 Effects of designation.

(a) Designation of an area by the Secretary as a national natural landmark is not a land withdrawal, does not change the ownership of an area, and does not dictate activity. However, Federal agencies consider the unique properties of designated national natural landmarks and of areas that meet the criteria for national significance in their planning and impact analysis (see § 62.6(f)), and there may be State or local planning or land use implications. Designation as a national natural landmark does not require or mandate under Federal law any further State or local planning, zoning or other land-use action or decision. Owners who agree to have their lands designated as a national natural landmark do not give up under Federal law any legal rights and privileges of ownership or use of the area. The Department does not gain any property interests in these lands.

(b) Benefits of national natural landmark designation include the positive recognition and appreciation of nationally significant resources and the ability of public agencies and private individuals and organizations to make more informed development and planning decisions early in regional planning processes. In addition, some private owners of commercially operated national natural landmarks that are open to public visitation may choose to recognize and emphasize the national significance of the areas by providing descriptive information to the public. Under section 170(h) of the United States Internal Revenue Code, some owners of national natural landmarks may be eligible to claim a charitable contribution deduction on their Federal income tax for qualified interests in their natural landmark property donated for a qualified conservation purpose to a qualified conservation organization.

(c) The Secretary will provide an annual report to the Congress on damaged or threatened designated national

natural landmarks (see §62.6(b)). The Secretary will also report to the Advisory Council on Historic Preservation any designated national natural landmarks that may be irreparably lost or destroyed by surface mining activity (see §62.6(e)).

§ 62.4 Natural landmark designation and recognition process.

(a) *Identification.* Potential national natural landmarks are identified in the following manner.

(1) *Natural region studies.* The NPS conducts inventories of the characteristic biological and geological features in each natural region to provide a scientific basis for identifying potential national natural landmarks. The NPS is responsible for the completion of these studies, which are generally done by qualified scientists under contract. A study provides a classification and description of biological and geological features in that natural region and an annotated list of areas that illustrate those features. During a study, the NPS or any representative of the NPS may enter onto land only after receiving written permission from the owner(s) of that land, except when the land is publicly owned and otherwise open to the public.

(2) *Other entities.* (i) Any public or private entity may suggest an area for study and possible national natural landmark designation. The entities include:

(A) Federal agency programs that conduct inventories in order to identify areas of special interest, for example, essential wildlife habitat, research natural areas, and areas of critical environmental concern; and

(B) State natural area programs that systematically and comprehensively classify, identify, locate and assess the protective status of the biological and geological features located in a State.

(ii) If an individual, agency or organization that suggests an area for national natural landmark consideration is not the owner of the area, written permission of the owner(s) is required to enter onto the PNNL to gather information, except when the land is publicly owned and otherwise open to the public.

(3) After receiving the suggestions from a natural region study and suggestions from other sources, the NPS determines which PNNL merit further study for possible national natural landmark designation. This determination is based on comparison with existing national natural landmarks in the natural region, the national natural landmark criteria (see §62.5) and other information.

(b) *First Notification.* (1) Before a potential national natural landmark is evaluated by scientists as described in paragraph (c) of this section, the NPS notifies the owner(s) in writing, except as specified in paragraph (b)(2) of this section.

(i) This notice advises the owner(s) that the PNNL is being considered for study for possible national natural landmark designation and provides information on the National Natural Landmarks Program, including an explanation of the effects of national natural landmark designation as described in §62.3.

(ii) The notice also provides the owner with available information on the area and its tentatively identified significance, solicits the owner's comments on the area, including any information on current or anticipated land use or activities that may affect the area's natural values, integrity, or other matters of concern, and informs the owner of the source of the suggestion for consideration.

(iii) The notice also requests owner permission to enter the property, unless the area is otherwise open to the public, so the NPS or its representative can conduct an on-site evaluation of the PNNL as described under paragraph (c) of this section, and advises the owner of the procedures the NPS will follow in considering the PNNL for possible designation.

(2) Before a potential national natural landmark having 50 or more owners is evaluated by scientists as described in paragraph (c) of this section, the NPS provides general notice to property owners. This general notice is published in one or more local newspapers of general circulation in the area in which the potential national natural landmark is located. The notice provides the same information