

and other such notice as may be appropriate, of a 30 day period for other applicants to apply for access. The original application and any additional applications received during the 30 day period will be reviewed in accordance with §36.5.

(3) The Secretary and the Secretary of Transportation shall jointly prepare an environmental and economic analysis solely for the purpose of determining the most desirable route for the right-of-way and terms and conditions which may be required for the issuance of that right-of-way. This analysis shall be completed within one year and the draft thereof within nine months of the receipt of the application and shall be prepared in lieu of an EIS which would otherwise be required under section 102(2)(C) of NEPA. This analysis shall be deemed to satisfy all requirements of that Act and shall not be subject to judicial review. This analysis shall be prepared in accordance with the procedural requirements of §36.6.

(4) The Secretaries, in preparing this analysis, shall consider the following:

(i) Alternate routes including the consideration of economically feasible and prudent alternate routes across the preserve which would result in fewer, or less severe, adverse impacts upon the preserve.

(ii) The environmental, social and economic impacts of the right-of-way including impacts upon wildlife, fish, and their habitat, and rural and traditional lifestyles including subsistence activities and measures which should be instituted to avoid or minimize negative impacts and enhance positive impacts.

(5) Within 60 days of the completion of the environmental and economic analysis, the Secretaries shall jointly agree upon a route for issuance of the right-of-way across the preserve. Such right-of-way shall be issued in accordance with the provisions of §36.9.

(b) *Yukon-Charley Rivers National Preserve.* (1) Any application filed by Doyon, Limited, for a right-of-way to provide access in a southerly direction across the Yukon River from its land-holdings in the watersheds of the Kandik and Nation Rivers shall be processed in accordance with this part.

(2) No right-of-way shall be granted which would cross the Charley River or which would involve any lands within the watershed of the Charley River.

(3) An application shall be approved by the appropriate Federal agency if it is determined that there exists no economically feasible or otherwise reasonably available alternate route.

(c) *Oil and Gas Pipelines—Arctic Slope Regional Corporation.* (1) Upon the filing by Arctic Slope Regional Corporation for an oil and gas TUS across lands identified in section 1431(j) of ANILCA, the appropriate Federal agency shall review the filing, determine the alignment and location of facilities across/on Federal lands, and issue such authorizations as are necessary with respect to the establishment of the TUS.

(2) No environmental document pursuant to NEPA shall be required.

(3) Investigations as to the proper final alignment of the pipeline and location of related facilities are at the discretion of the Federal agency and the costs associated with such investigations are not recoverable under §36.6.

(d) *Forty Mile Component of National Wild and Scenic Rivers System.* The classification of segments of the Forty Mile Components as Wild Rivers shall not preclude access across those river segments where the appropriate Federal agency determines such access is necessary to permit commercial development of asbestos deposits in the North Fork drainage.

[51 FR 31629, Sept. 4, 1986; 51 FR 36011, Oct. 8, 1986]

PART 37—CAVE MANAGEMENT

Subpart A—Cave Management—General

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AUTHORITY: 16 U.S.C. 4301-4309; 43 U.S.C. 1740.

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SOURCE: 58 FR 51554, Oct. 1, 1993, unless otherwise noted.

Subpart A—Cave Management— General

§ 37.1 Purpose.

The purpose of this part is to provide the basis for identifying and managing significant caves on Federal lands administered by the Secretary of the Interior.

§ 37.2 Policy.

It is the policy of the Secretary that Federal lands be managed in a manner which, to the extent practical, protects and maintains significant caves and cave resources. The type and degree of protection will be determined through the agency resource management planning process with full public participation.

§ 37.3 Authority.

Section 4 of the Federal Cave Resources Protection Act of 1988 (102 Stat. 4546; 16 U.S.C. 4301) authorizes the Secretary to issue regulations providing for the identification of significant caves. Section 5 authorizes the Secretary to withhold information concerning the location of significant caves under certain circumstances.

§ 37.4 Definitions.

(a) *Authorized officer* means the agency employee delegated the authority to perform the duties described in this part.

(b) *Cave* means any naturally occurring void, cavity, recess, or system of interconnected passages beneath the surface of the earth or within a cliff or ledge, including any cave resource therein, and which is large enough to permit a person to enter, whether the entrance is excavated or naturally formed. Such term shall include any natural pit, sinkhole, or other feature that is an extension of a cave entrance or which is an integral part of the cave.

(c) *Cave resources* means any materials or substances occurring in caves on Federal lands, including, but not limited to, biotic, cultural, mineralogic, paleontologic, geologic, and hydrologic resources.

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(d) *Federal lands*, as defined in the Federal Cave Resources Protection Act, means lands the fee title to which is owned by the United States and administered by the Secretary of the Interior.

(e) *Secretary* means the Secretary of the Interior.

(f) *Significant cave* means a cave located on Federal lands that has been determined to meet the criteria in § 37.11(c).

§ 37.5 Collection of information.

(a) The collections of information contained in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance numbers 1004-0165 (cave nominations) and 1004-0166 (confidential information). The information provided for the cave nominations will be used to determine which caves will be listed as “significant” and the information in the requests to obtain confidential cave information will be used to decide whether to grant access to this information. Response to the call for cave nominations is voluntary. No action may be taken against a person for refusing to supply the information requested. Response to the information requirements for obtaining confidential cave information is required to obtain a benefit in accordance with Section 5 of the Federal Cave Resources Protection Act of 1988 (102 Stat. 4546; 16 U.S.C. 4301).

(b) The public reporting burden is estimated to average 3 hours per response for the cave nomination and one-half hour per response for the confidential cave information request. The estimated response time for both of the information burdens includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Bureau of Land Management Clearance Officer, WO-873, Mail

Stop 401 LS, 1849 C Street NW., Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project 1004-0165/6, Washington, D.C. 20503.

Subpart B—Cave Designation

§ 37.11 Nomination, evaluation, and designation of significant caves.

(a) *Nominations for initial and subsequent listings.* The authorized officer will give governmental agencies and the public, including those who utilize caves for scientific, educational, and recreational purposes, the opportunity to nominate potential significant caves. The authorized officer will give public notice, including a notice published in the FEDERAL REGISTER, calling for nominations for the initial listing, including procedures for preparing and submitting the nominations. Nominations for subsequent listings will be accepted from governmental agencies and the public by the agency that manages the land where the cave is located as new cave discoveries are made or as new information becomes available. Nominations not approved for designation during the listing process may be resubmitted if better documentation or new information becomes available.

(b) *Evaluation for initial and subsequent listings.* The evaluation of the nominations for significant caves will be carried out in consultation with individuals and organizations interested in the management and use of cave resources, within the limits imposed by the confidentiality provisions of § 37.12 of this part. Nominations will be evaluated using the criteria in § 37.11(c).

(c) *Criteria for significant caves.* A significant cave on Federal lands shall possess one or more of the following features, characteristics, or values.

(1) *Biota.* The cave provides seasonal or yearlong habitat for organisms or animals, or contains species or subspecies of flora or fauna that are native to caves, or are sensitive to disturbance, or are found on State or Federal sensitive, threatened, or endangered species lists.

(2) *Cultural.* The cave contains historic properties or archaeological resources (as described in 36 CFR 60.4 and

43 CFR 7.3) or other features that are included in or eligible for inclusion in the National Register of Historic Places because of their research importance for history or prehistory, historical associations, or other historical or traditional significance.

(3) *Geologic/Mineralogic/Paleontologic.* The cave possesses one or more of the following features:

(i) Geologic or mineralogic features that are fragile, or that exhibit interesting formation processes, or that are otherwise useful for study.

(ii) Deposits of sediments or features useful for evaluating past events.

(iii) Paleontologic resources with potential to contribute useful educational and scientific information.

(4) *Hydrologic.* The cave is a part of a hydrologic system or contains water that is important to humans, biota, or development of cave resources.

(5) *Recreational.* The cave provides or could provide recreational opportunities or scenic values.

(6) *Educational or Scientific.* The cave offers opportunities for educational or scientific use; or, the cave is virtually in a pristine state, lacking evidence of contemporary human disturbance or impact; or, the length, volume, total depth, pit depth, height, or similar measurements are notable.

(d) *National Park Service policy.* The policy of the National Park Service, pursuant to its Organic Act of 1916 (16 U.S.C. 1, *et seq.*) and Management Policies (Chapter 4:20, Dec. 1988), is that all caves are afforded protection and will be managed in compliance with approved resource management plans. Accordingly, all caves on National Park Service-administered lands are deemed to fall within the definition of "significant cave."

(e) *Special management areas.* Within special management areas that are designated wholly or in part due to cave resources found therein, all caves within the so-designated special management area shall be determined to be significant.

(f) *Designation and documentation.* If the authorized officer determines that a cave nominated and evaluated under paragraphs (a) and (b) of this section meets one or more of the criteria in paragraph (c), the authorized officer

§ 37.12

will designate the cave as significant. The authorized officer will designate all caves identified in paragraphs (d) and (e) of this section to be significant. The authorized officer will notify the nominating party of the results of the evaluation and designation. Each agency Field Office will retain appropriate documentation for all significant caves located within its administrative boundaries. At a minimum, documentation shall include a statement of finding signed and dated by the authorized officer, and the information used to make the determination. This documentation will be retained as a permanent record in accordance with the confidentiality provision in § 37.12 of this part.

(g) *Decision final.* Decisions to designate or not designate a cave as significant are made at the sole discretion of the authorized officer and are not subject to further administrative review or appeal under 43 CFR part 4.

(h) If a cave is determined to be significant, its entire extent, including passages not mapped or discovered at the time of the determination, is deemed significant. This includes caves that extend from lands managed by any Federal agency into lands managed by one or more other bureaus or agencies of the Department of the Interior, as well as caves initially believed to be separate for which interconnecting passages are discovered after significance is determined.

§ 37.12 Confidentiality of cave location information.

(a) *Information disclosure.* No Department of the Interior employee shall disclose information that could be used to determine the location of any significant cave or cave under consideration for determination, unless the authorized officer determines that disclosure will further the purposes of the Act and will not create a substantial risk to cave resources of harm, theft, or destruction.

(b) *Requesting confidential information.* Notwithstanding paragraph (a) of this section, the authorized officer may make confidential cave information available to a Federal or State governmental agency, bona fide educational or research institute, or individual or

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organization assisting the land managing agency with cave management activities. To request confidential cave information, such entities shall make a written request to the authorized officer that includes the following:

(1) Name, address, and telephone number of the individual responsible for the security of the information received.

(2) A legal description of the area for which the information is sought.

(3) A statement of the purpose for which the information is sought, and

(4) Written assurances that the requesting party will maintain the confidentiality of the information and protect the cave and its resources.

(c) *Decision final.* Decisions to permit or deny access to confidential cave information are made at the sole discretion of the authorized officer and are not subject to further administrative review or appeal under 5 U.S.C. 552 or 43 CFR parts 2 or 4.

PART 38—PAY OF U.S. PARK POLICE—INTERIM GEOGRAPHIC ADJUSTMENTS

Sec.

38.1 Definitions.

38.2 Computation of hourly, daily, weekly, and biweekly adjusted rates of pay.

38.3 Administration of adjusted rates of pay.

AUTHORITY: 104 Stat. 1462.

SOURCE: 56 FR 33719, July 23, 1991, unless otherwise noted.

§ 38.1 Definitions.

In this subpart: *Adjusted annual rate of pay* means an employee's scheduled annual rate of pay multiplied by 1.08 and rounded to the nearest whole dollar, counting 50 cents and over as a whole dollar.

Employee means a U.S. Park Police officer whose official duty station is located in an interim geographic adjustment area.

Interim geographic adjustment area means any of the following Consolidated Metropolitan Statistical Areas (CMSAs) as defined by the Office of Management and Budget (OMB).

(1) New York-Northern New Jersey-Long Island, NY-NJ-CT; and