>> ANNOUNCER: THE BUREAU OF LAND MANAGEMENT PRESENTS LIVE FROM THE NATIONAL TRAINING CENTER IN PHOENIX, ARIZONA AND THE M STREET OFFICE IN WASHINGTON, D.C. M STREET LIVE, A BROADCAST SERIES FOCUSING ON SPECIFIC BLM TOPICS OF INTEREST. TODAY'S TOPIC: UNDERSTANDING REASONABLE ACCOMMODATIONS. AND NOW THE HOST OF YOUR PROGRAM, LEON THOMAS.

>> GOOD MORNING AND WELCOME TO THE FIRST IN WHAT WILL BE A SERIES OF DISCUSSION FORUMS CALLED "M STREET LIVE."
EACH FORUM WILL FOCUS ON A SPECIFIC TOPIC OF INTEREST AS IT RELATES TO THE BLM. ALL BLM STAFF WILL HAVE DIRECT ACCESS TO THE LEADERSHIP IN THE WASHINGTON OFFICE AND CAN ASK QUESTIONS OR REQUEST CLARIFICATIONS ON PROGRAMS, POLICIES AND INITIATIVES THROUGH VARIOUS TYPES OF INTERACTIVITY PROVIDED DURING EACH FORUM. TODAY'S FORUM WILL PROMOTE AWARENESS AND UNDERSTANDING OF BLM'S DISABILITY PROGRAM AND REASONABLE ACCOMMODATIONS AND ADDRESS QUESTIONS ASSOCIATED WITH THOSE AREAS AND POLICIES. YOU, THE VIEWER, WILL PLAY AN IMPORTANT ROLE BECAUSE THE DISCUSSION WILL CENTER AROUND QUESTIONS YOU HAVE SUBMITTED PRIOR TO AND DURING THE FORUM OR WHAT YOU CALL IN LIVE WITH TO ASK ONE OF US DIRECTLY. WE'LL HEAR FROM OUR PANELISTS FIRST, AND THEN YOU WILL HAVE PLENTY OF TIME TO INTERACT WITH THEM. JUST USE THE PHONE AND FAX NUMBERS AND E-MAIL AND TEXT ADDRESSES YOU SEE ON YOUR SCREEN. IF YOU THINK OF A QUESTION DURING THE PRESENTATION, FEEL FREE TO CALL OR SEND IT IN SO WE CAN GET TO IT AS SOON AS POSSIBLE, AND THANKS TO EVERYONE WHO HAS ALREADY SENT IN. WE'LL TRY TO GET TO THEM ALL, BUT IF YOU CAN'T, SOMEONE WILL GET BACK TO YOU AFTER THE BROADCAST, SO PLEASE INCLUDE YOUR NAME AND OFFICE ALONG WITH YOUR QUESTIONS. NOW, LET ME INTRODUCE THE PANELISTS IN WASHINGTON, D.C. AND WE'LL GET THIS FORUM STARTED. JOINING US FROM OUR M STREET LIVE OFFICE IS GRACE ROSS AND SHARON RIBAS. GRACE IS BLM'S EEO OFFICER. GOOD MORNING -- OR I GUESS I SHOULD SAY GOOD AFTERNOON BACK THERE. HOW ARE YOU, GRACE?

>> GRACE: I'M FINE, LEON. HOW ARE YOU?
AND, YES, IT IS AFTERNOON BACK HERE.

>> LEON: DOING WELL. JOINING GRACE IS SHARON RIBAS, BLM'S DISABILITY PROGRAM MANAGER. THANK YOU SO MUCH FOR TAKING THE TIME TO JOIN US, SHARON.

>> SHARON: THANK YOU, LEON.

>> GRACE: LISTEN, WE'RE GOING TO TALK TO YOU TODAY ABOUT THE DISABILITY PROGRAM AND THE PROCEDURES FOR REQUESTING REASONABLE ACCOMMODATION IN THE BLM. EVERYTHING REFERENCED TODAY ON THE SHOW IS BY FEDERAL LAWS AND REGULATIONS. ON OUR REFERENCES:
THE REHABILITATION ACT OF 1973, AMERICANS WITH DISABILITIES ACT, 1990;
1992 REHABILITATION ACT, AMENDED;
THE ADA AMENDMENTS ACT OF 2008; GINA, 2008;
EXECUTIVE ORDER 13164;
THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) DIRECTIVES; AND DOI AND BLM DIRECTIVES.

>> SHARON: WE'LL GO THROUGH SOME OF THESE REFERENCES. WE WON'T GO THROUGH EVERY ONE BUT I DID WANT TO START WITH THE FIRST ONE WHICH IS THE REHABILITATION ACT OF 1973. THAT PROHIBITS DISCRIMINATION ON THE BASIS OF DISABILITY FOR FEDERAL EMPLOYEES, FEDERAL CONTRACTORS, PROGRAMS THAT ARE CONDUCTED BY FEDERAL AGENCIES, OR THOSE WHO RECEIVE FINANCIAL ASSISTANCE BY THE FEDERAL GOVERNMENT. THE ADA OF 1990, THE AMERICANS WITH DISABILITIES ACT IS SIMILAR TO THE CIVIL RIGHTS ACT OF 1964 IN THAT IT PROTECTS INDIVIDUALS WITH DISABILITIES AGAINST DISCRIMINATION. THE ADA IS

FOR THE PRIVATE SECTOR, AND THE REHABILITATION ACT WAS CONSTRUCTED FOR THE FEDERAL SECTOR, BUT UNDER THE EYES OF THE LAW AND ON THE BASIS OF COURTS' DECISIONS AND IN THE EYES OF THE JUDGES, THEY CONSIDER THESE ACTS AS ONE AND THE SAME. NOW, IN 2008, THE ADA WAS AMENDED. WHAT THAT DID WAS THAT GAVE SOME BROADER PROTECTIONS AND LOWERED THE BAR FOR INDIVIDUALS, AND I'LL EXPLAIN A LITTLE BIT ABOUT THAT. LET'S LOOK AT THE SLIDE HERE THAT TALKS ABOUT MAJOR LIFE ACTIVITIES. WE'RE GOING TO SEE A FEW OF THESE LISTED. MAJOR LIFE ACTIVITIES WAS EXPANDED TO INCLUDE SOME THINGS THAT -- FOR INSTANCE, READING, BENDING, COMMUNICATING, ALONG WITH BODY SYSTEMS AND FUNCTIONS SUCH AS THE RESPIRATORY SYSTEM, THE IMMUNE SYSTEM ET CETERA. SO THAT WAS ONE OF THE CHANGES THAT WAS MADE WITH THIS AMENDMENT.

>> GRACE: THANKS, SHARON. KIM, LET'S GO BACK TO THE REFERENCE SLIDE HERE AT THIS POINT. I WANT TO TALK A LITTLE BIT ABOUT GINA, THE GENETICS INFORMATION NONDISCRIMINATION ACT OF 2008. GINA PROHIBITS IMPROPER USE OF GENETIC INFORMATION IN HEALTH INSURANCE AND EMPLOYMENT. THE ACT PROHIBITS HEALTH PLANS AND HEALTH INSURERS FROM DENYING COVERAGE TO A HEALTHY INDIVIDUAL OR CHARGING THAT PERSON HIGHER PREMIUMS BASED SOLELY ON GENETIC PREDISPOSITION TO DEVELOP A DISEASE IN THE FUTURE. THE LEGISLATION ALSO BARS EMPLOYERS FROM USING AN INDIVIDUAL'S GENETIC INFORMATION IN EMPLOYMENT DECISIONS SUCH AS HIRING, PROMOTING, PLACEMENT. IT BASICALLY SAYS YOU CANNOT DO THAT BASED SOLELY ON A PERSON'S GENETIC INFORMATION. NOW, IF WE LOOK AT EXECUTIVE ORDER 13164, WHICH REQUIRES ALL FEDERAL AGENCIES TO ESTABLISH WRITTEN PROCEDURES FACILITATING PROVISIONS OF REASONABLE ACCOMMODATION. SO, SHARON?

>> SHARON: YES, I WANT TO MENTION THE EEOC. THAT WAS THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION THAT WAS ESTABLISHED IN 1965 AS AN INDEPENDENT FEDERAL AGENCY. IT ENFORCES THE LAWS AGAINST DISCRIMINATION ON THE BASIS OF DISABILITY. NOW, ITS MANDATE FALLS UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, ALSO UNDER THE ADEA, WHICH IS THE AGE DISCRIMINATION IN EMPLOYMENT ACT, AND OF COURSE, THE REHABILITATION ACT OF 1973 AND THE ADA OF 1990 AND THE ADAA -- THE ADAAA. IT'S REGULATION ADDRESS THE IMPLEMENTATION OF THE EQUAL EMPLOYMENT PROVISIONS OF THE ADA FOUND IN TITLE XXIX, CFR, PART 1630. ADDITIONALLY, BLM AND DOI -- THE DEPARTMENT -- HAS ESTABLISHED POLICIES AND PROCEDURES FOR REASONABLE ACCOMMODATIONS FOR QUALIFIED INDIVIDUALS WITH DISABILITIES.

>> GRACE: SHARON, LET'S START WITH THE BASICS. I HAVE A FEELING THAT A LOT OF THIS INFORMATION AND SOME OF THE THINGS THAT WE'VE TALKED ABOUT ALREADY IS A LITTLE BIT OVERWHELMING. SO WHY DON'T WE START OFF WITH YOU DEFINING FOR OUR AUDIENCE WHAT IS AN INDIVIDUAL WITH A DISABILITY?

>> SHARON: YES, REGARDING DISABILITY, THE LAW PROTECTS FROM DISCRIMINATION -- AND WE ARE SPEAKING OF DISCRIMINATION NOW AND NOT REASONABLE ACCOMMODATIONS. THE LAW PROTECTS FROM DISCRIMINATION A PERSON WITH A PHYSICAL OR MENTAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE MAJOR LIFE ACTIVITIES OR FUNCTIONS, HAS A RECORD OF SUCH IMPAIRMENT, OR IS REGARDED AS HAVING SUCH IMPAIRMENT. AND THIS IS THE PIECE -- THE "REGARDED AS" THAT DOES NOT FALL UNDER THE REASONABLE ACCOMMODATIONS PIECE. REGARDING THE ADA AMENDMENT, I MENTIONED THAT IT WAS AMENDED IN 2008 AND EXPANDED THE DEFINITION OF MAJOR LIFE ACTIVITIES, AND IT DID THAT BECAUSE THE COURTS WERE TOO RESTRICTIVE IN THEIR DECISIONS. THEY BASICALLY ELIMINATED RIGHTS THAT INDIVIDUALS WITH DISABILITIES HAD. IT ALSO SAID THAT IMPAIRMENTS THAT ARE EPISODIC OR OCCASIONAL, BUT IF THEY HAVE SYMPTOMS THAT FLARE UP, THAT PERSON THEN BECOMES -- THOSE ARE DISABLING IMPAIRMENTS, THEN. THESE, TOO, ARE CONSIDERED DISABILITIES. IN OTHER

WORDS, PEOPLE DON'T HAVE TO KEEP PROVING THAT THEY HAVE A DISABILITY WHEN THEIR SYMPTOMS FLARE UP. ONCE AGAIN, THIS IS A CASE WHERE CONGRESS LOWERED THE STANDARDS THAT THEY FELT THAT THE COURTS HAD MADE EXCEEDINGLY HIGH. LET'S SHOW THE SLIDE ABOUT SOME OF THE EXCLUSIONS, HOWEVER, BECAUSE NOT ALL IMPAIRMENTS ARE CONSIDERED DISABILITIES UNDER THE LAW.

>> GRACE: WHEN YOU SAY "SUBSTANTIALLY LIMITS" WHAT DOES THAT ACTUALLY MEAN, SHARON?
AND CAN YOU EXPLAIN THE TERM "REGARDED AS" AND WHY THAT'S IMPORTANT TO EVERYONE?

>> SHARON: SURE. SUBSTANTIALLY LIMITS. NOW THIS IS A PHRASE -- AN EXAMPLE WHERE THE COURTS WERE HOLDING TOO HIGH A STANDARD IN THE PAST, AND IT HAD A NEGATIVE IMPACT ON COURT DECISIONS AND ON REGULATIONS. BUT THE ADA AMENDMENT ACT OF 2008 MADE CLEAR THAT THESE HIGH STANDARDS -- THESE EXCESSIVELY HIGH STANDARDS SHOULD NOT BE APPLIED TO CURRENT LAW. FOR EXAMPLE, BACK IN 1999, THE SUPREME COURT ISSUES A RULING THAT IN ESSENCE SAYS IF YOU HAD A CONDITION AND YOU TOOK MEDICATION FOR IT AND THAT EVENTUALLY -- EXCUSE ME, THAT ACTUALLY CONTROLLED THE EFFECTS OF THE CONDITION YOU HAD THAT YOU WERE NO LONGER CONSIDERED A PERSON WITH A DISABILITY. AND, OF COURSE, THAT IS NOT THE CASE. AND THEN AGAIN BACK IN 2002 THE SUPREME COURT RULED THAT PEOPLE HAD TO BE SEVERELY RESTRICTED IN MAJOR LIFE ACTIVITIES IN ORDER TO BE COVERED BY THE ADA. AND, AGAIN, "SEVERELY" IS TOO HIGH A BAR. CONGRESS SAID IT MUCH BE SUBSTANTIALLY AND NOT SEVERELY. NOW, THE REGARDED-AS PIECE, THAT PROTECTS INDIVIDUALS AGAINST DISCRIMINATION BASED ON THE MISPERCEPTIONS THAT OTHERS HAVE ABOUT PEOPLE, AND ABOUT WHAT THEY CAN AND CANNOT DO. FOR INSTANCE, AN INDIVIDUAL IS REGARDED AS DISABLED WHEN THE PERSON HAS AN IMPAIRMENT, IS NOT SUBSTANTIALLY LIMITING BUT THE PERSON IS TREATED BY THE EMPLOYER AS THOUGH THEY HAVE A SUBSTANTIAL LIMITATION; OR, SECOND, THE PERSON DOES HAVE AN IMPAIRMENT, BUT IT DOES NOT SUBSTANTIALLY LIMIT THEM EXCEPT IN THE VIEW OF OTHERS, IN PEOPLE'S MINDS AND IN THEIR ATTITUDES; AND THIRDLY, THE PERSON HAS NO IMPAIRMENT AT ALL BUT THE EMPLOYER TREATS THEM AS THOUGH THEY DO. THESE ARE THE THREE ASPECTS OF THE "REGARDED AS."
AND AN EXAMPLE OF THIS, FOR INSTANCE, WOULD BE A SUPERVISOR WHO SEES -- THEY HAVE AN EMPLOYEE WHO AMBULATES WITH A CANE. AND THE EMPLOYER IS CONCERNED ABOUT THIS AND THEY SAY I THINK IN ORDER FOR THE PERSON TO BE COMPLETELY MOBILE WE NEED TO GET THIS PERSON A WHEELCHAIR OR A SCOOTER. THAT SUPERVISOR IS ACTUALLY PROVIDING ACCOMMODATION THAT THE PERSON DID NOT ASK FOR AND DOES NOT NEED. THIS IS AN EXAMPLE OF THE SUPERVISOR REGARDING A PERSON AS HAVING ACCOMMODATION AND GRANTING IT WITHOUT BEING FULLY EVEN REQUESTING IT OR PERHAPS EVEN NEEDING IT. THE KEY HERE IS THAT REGARD-AS ONLY FOCUSES ON THE ATTITUDES OF OTHERS WHO WORK AND INTERACT WITH THE PERSON. THE OUTCOME OF THIS IS THAT THE PERSON COULD BE DENIED THEIR EMPLOYMENT RIGHTS AND BENEFITS THROUGH THE REGARDED-AS ISSUE OR TO THE OPPOSITE THEY COULD BE GIVEN PREFERENTIAL TREATMENT OR EXEMPTED FROM THINGS OTHERS HAVE TO DO BECAUSE OF THAT MISPERCEPTION. BUT MANAGEMENT IS ALWAYS SAFE AND CORRECT WHEN THEY BASE THEIR ACTIONS AND THEIR DECISIONS ON THE PERSON'S PERFORMANCE -- AND THIS IS KEY -- AND NOT TREATING THAT PERSON OR AGENCIES CAN BE HELD LIABLE FOR THIS.