

## **BLM 8100 Manuals Series Transcript**

Hello, I'm Gary Stumpf. Welcome to another module in the "Fundamentals for Managing the Cultural Heritage Program" training course. In this session, we will discuss the BLM 8100 Manuals series that contains policies and procedures for managing cultural resources.

The objectives of this session are for you to be able to use the manuals more effectively by understanding their format and structure. You will also learn where guidance on key policies and procedures is found and be able to find that guidance more easily.

Let's start our discussion of the manuals by putting them into context. How do they relate to laws, regulations and other authorities?

BLM manuals sit within a hierarchy of authorities. At the top of the hierarchy are laws.

Regulations interpret and implement the laws in ways that should reflect the intent of Congress.

Executive Orders are issued by Presidents. Their purpose is not to make new law but to clarify or further laws put forth by Congress or the Constitution.

Provided that they are based either on a President's constitutional powers or on laws passed by Congress, Executive Orders have the force of law, Federal courts will enforce them just as if they had been enacted by Congress, as long as they don't conflict with federal laws.

Secretarial Orders are issued by the cabinet officers responsible for the various departments within the Executive Branch. In our case, the Secretary of the Interior issues Secretarial Orders to provide direction to DOI employees.

Next in the hierarchy is Departmental policy. This is guidance drafted by staff and signed by authorized officers of the Department. It provides more detailed direction, including policies and procedures that are often moved into the Department of the Interior Manuals.

An example of Departmental policy is the Secretary's Standards and Guidelines for Archeology and Historic Preservation. Keep in mind that although such policies are issued by the Department of the Interior, they can come to apply more broadly by being codified in the form of federal regulations whose authority extends to other Departments, as well.

For example, the National Park Service administers the National Register of Historic Places. Standards for determining eligibility for the National Register codified as 36 CFR 60, apply to the U.S. Forest Service as well as to BLM, even though the U.S. Forest Service is within the Department of Agriculture.

Agencies within the Department of the Interior, like BLM, further define how the laws, regulations and policies at higher levels apply to their own agencies' missions and responsibilities. The BLM manuals serve this function. They provide policies and procedures that are consistent with higher authorities and that guide BLM employees in carrying out the responsibilities of the agency.

Some manuals are supplemented by handbooks that provide more specific procedural guidance to assist managers and staff in carrying out their roles and responsibilities. An example is the 8120-1 Handbook containing procedures for conducting tribal consultation that supplement the more general guidance in the 8120 Manual section. Some states have also developed state-specific guidance in the form of handbooks or manual supplements.

Various programs within BLM have their own manuals, just as the cultural heritage program has its 8100 Manual series. But remember that all the guidance pertaining to cultural resources is not confined to the 8100 Manual series. Other programs also have cultural resource guidance in their manuals. For example, the 1601 land use planning manual and supplemental handbook contain guidance pertaining to cultural resources that you should follow when you are working on land use plans.

New policies and procedures are often first issued in the form of Instruction Memoranda. Such memoranda have expiration dates, usually two years after they are issued. The policies and procedures they contain are supposed to be incorporated into manuals if BLM wants to make this guidance part of the permanent directives system.

If you aren't accustomed to reading manuals, they can be daunting at first sight. But if you understand a few things about their format – the way their content is arranged, and the way their paragraphs and pages are numbered, it will be easier to navigate through them. In fact, you may discover that what at first seems to be a cumbersome structure can actually be helpful for referencing and finding specific pieces of guidance.

The 8100 series consists of eight manual sections and a handbook. The first thing to understand about these manual sections is that they follow a logical sequence:

8100 discusses the legal and regulatory foundations for managing cultural resources.

8110 describes how BLM identifies and evaluates cultural resources.

8120 provides a framework for consulting with Indian tribes as part of that identification and evaluation process.

H-8120-1 augments 8120 by providing more detailed guidance on consulting with tribes. This is the only handbook in the 8100 Manual series, so the 8120 Manual Section is unique in this regard.

8130 covers how we plan for the management of cultural resources.

8140 discusses how BLM protects cultural resources from natural and human threats.

8150 contains procedures for issuing permits to authorize scientific uses of cultural resources.

8160 describes how BLM manages collections recovered from and associated with, public lands.

8170 covers interpreting cultural resources for the public.

If we begin by looking at the transmittal sheet for the 8100 Manual Section, we see the date it was issued in the upper right corner. This date is important because the cultural resource manual sections have several previous versions that are outdated, so you want to make sure you have the most current version.

The current version is the fourth generation of the 8100 series manuals. They are dated December 3, 2004 and they were prepared in response to BLM's national cultural resources Programmatic Agreement signed in 1997.

The Programmatic Agreement, in fact, required BLM to revise its manuals to be consistent with the provisions of the PA. Previous generations of the manuals that are not dated December 2004 are no longer in effect, so if you have earlier versions in your offices, make sure you do not cite them as current guidance.

All of the 8100-series manuals follow the same format. If you become familiar with this format, you will have a much easier time finding the kind of guidance you are looking for. They all have a table of contents, and they all have the items you see here numbered .01 through .07: Purpose, Objectives, Authority, Responsibility, References, Policy, and Files and Records Maintenance.

Some of the manual sections, such as this one, have one or two additional headings, in this case .08 and .09 that you see here. Following these major headings are sections numbered .1, .2, .3 and so on that are specific to each manual and that are derived from, or tier from, the Purpose, Objectives, Authority, Policy and other major headings.

The point-zero numbers in manuals are always considered informational. The whole-number series, .1, .2, .3 etc., are considered procedural. The point-zero items provide information that establishes a framework for the procedures described in the whole-number items. All manuals in the BLM directives system are like this.

The manuals are not intended to give you an answer to every question. But they do try to give you a process for reaching a good, defensible answer that will withstand legal scrutiny. If you're uncertain how to handle a situation even after consulting the manuals, please don't hesitate to ask your Deputy Preservation Officer for help – that's what they are there for. They will be glad to explore options with you to help resolve the issue.

You will notice that this particular manual section contains a glossary of terms and a series of appendices. Some of the other manual sections contain appendices, some do not.

Where are the page numbers on manuals, and how do you read them?

Here is a page numbered .09. Obviously these are not ordinary page numbers like 1, 2, and 3. That is because all sections, or paragraphs, in manuals are numbered, and the page numbers in manuals consist of the number of the first paragraph on that page.

You can see that the first item on this page is .09 Program Relationships. If the first paragraph on this page happened to be the one numbered “.09A1b” the page number would be .09A1b.

This may seem like an unnecessarily complicated way to assign page numbers, but it allows you to turn quickly to a specific section that is being cited.

If we were talking on the phone and I suggested you turn to paragraph .23D, you would flip through until you found page .23C knowing that the second paragraph on that page would be the one you wanted.

Let’s walk through each manual section and focus on some of the highlights -- the policies and procedures that correspond to the most frequently asked questions in your day-to-day jobs with BLM. When I was a cultural heritage program lead and was asked by one of our field office specialists about policies or procedures, I would usually turn to these places in the manuals to find answers to those questions.

The purpose of the 8100 manual section is to provide basic information and general guidance for managing cultural resources. It establishes a framework for meeting the legal and regulatory requirements that underlie BLM’s cultural heritage program.

.08 covers responsibility for non-federal cultural resources and it cross references manual section 8140 where this issue is also discussed.

.1 makes it clear that BLM’s national cultural resources Programmatic Agreement legally replaces the 36 CFR 800 regulations as the way BLM complies with Section 106 of the National Historic Preservation Act. The 8100 manual series is incorporated by reference into the national cultural resources Programmatic Agreement, and these manuals contain BLM’s procedures for complying with Section 106.

.23 discusses personnel who can do cultural resource work, and the conditions under which they can do that work. These personnel include para-archaeologists, which are referred to in the manual as Technical Assistants.

.24 discusses the role contractors can play in inventorying and evaluating cultural resources. It covers contractors hired directly by BLM and contractors hired by land use

applicants, which we call third-party consultants. This section also covers the use of volunteers, so if you are looking for the authority to use Site Steward programs, for example, you can find it there.

The Glossary contains definitions for most of the terms we use in our profession, like “cultural property,” “historic context,” and “significance.” This manual section is the only one in the 8100 series that contains a glossary. The other manual sections in the 8100 series rely on this glossary.

Appendices 1-12 contain complete texts of all the historic preservation laws and Executive Orders that relate to cultural resource management. This is a very handy reference section because all the relevant authorities are brought together in one place for you.

Appendix 13 is BLM’s 1997 national cultural resources Programmatic Agreement for National Historic Preservation Act compliance.

O.K., we’ve now covered the 8100 Manual Section which forms an overall framework for more specific guidance found in the subsidiary manual sections that we will turn to now.

The 8110 manual section provides direction for identifying and evaluating cultural resources, and determining how they should be used.

.21 defines in detail the different kinds of inventory we do – Class I, II and III.

.22D defines what places of traditional cultural importance are (these are often called traditional cultural places or TCPs). It distinguishes them from other places of importance that are not rooted in the traditions of a group, and it makes it clear that places of traditional cultural importance are identified by consulting with the groups that value them, not by doing archaeological field survey.

.23 describes conditions under which survey is not required. These exemptions from inventory have been around for many years, but a new condition was added in 2004 referring to undertakings or environmental settings that are exempted from survey in individual BLM/State Historic Preservation Office Protocols.

.3 discusses how we determine National Register eligibility consistent with the national cultural resources Programmatic Agreement.

.4 discusses how cultural properties are allocated to use categories in Resource Management Plans, making it clear that we can do this only in RMPs. We cannot allocate sites to use categories in Activity Plans or Project Plans. This section also discusses how the use categories relate to National Register eligibility.

Appendix 2: Contains standards for recording sites using GPS.

Manual section 8120 covers BLM's responsibilities for consulting with American Indians and Alaska Natives regarding cultural, historical and religious concerns. This manual section focuses primarily on tribal consultation under authorities pertaining to cultural resources instead of trying to cover consultation under all laws for all programs. It serves as a basis for the more detailed discussions of consultation in the companion H-8120-1 Handbook.

.03 identifies the authorities under which BLM is required to consult.

.04 identifies who is responsible for consultation, and it includes the role of tribal liaisons at the Washington Office, State Office and Field Office levels.

.06 provides basic policy on when and how we consult.

.08 contains policy on BLM's government-to-government relationship with federally recognized tribes. It also describes BLM's legal relationship to Native groups and communities that are not federally recognized, and its relationship to Tribal Historic Preservation Officers for purposes of Section 106 compliance.

Like the 8120 Manual Section, the 8120 Handbook focuses primarily on cultural resource laws, executive orders and regulations instead of trying to cover all aspects of BLM-tribal relations under the full range of legal authorities.

It starts out by defining what consultation is in Chapter 1, then Chapters 2 and 3 go through each law and Executive Order to provide the specifics of consultation requirements and procedures under each.

Chapter 2.C deals with the Native American Graves Protection and Repatriation Act. Section 3, page II-9, contains the reburial policy, revised in 2004 by a single sentence at the top of page II-10. The revision makes it clear that NAGPRA items can be reburied on public lands as long as they have not been removed from the immediate vicinity of their original location following an inadvertent discovery.

Chapter 4 makes it clear that cultural resources on BLM lands are not Indian trust assets.

Section E of Chapter 4 discusses the circumstances under which we can, and cannot, keep sensitive information confidential – these are the exemptions from FOIA disclosure provided by the National Historic Preservation Act and the Archaeological Resources Protection Act.

Chapter 5 goes on to discuss how we should consult Indian tribes, the difference between notification and consultation, the fact that we cannot delegate our consultation responsibilities to any other party such as contractors, and some general guidelines on how much consultation is enough.

Appendix 1 contains BLM's policy on paying American Indians and Alaska Natives for consultation. This policy has been in place for quite a while, but it now includes examples of situations in which payment would be appropriate.

Four training modules on tribal consultation for resource specialists are now available on NTC's Knowledge Resource Center website, and you may be interested in taking them. These modules are based on the guidance in the 8120 Manual and H-8120-1 Handbook.

Manual section 8130 provides guidance on making long-term management decisions for cultural resources in land use plans. It also provides instructions on preparing project-specific plans for cultural resources.

.12 identifies the kind of cultural resource data needed for land use planning.

.13 discusses developing management objectives that relate to use categories.

.15 provides a consolidated process for consulting Indian tribes on land use plans under a number of authorities simultaneously including FLPMA, NEPA, AIRFA, NAGPRA and EO 13007.

.2 identifies the minimum goals that should be in all RMPs, the use category allocations that support those goals, and management actions that support those use allocations.

.4 discusses Cultural Resource Project Plans, the required content of those plans, the consultation with Indian tribes and State Historic Preservation Officers that might be needed for those plans, and how plans should be implemented and evaluated.

Manual section 8140 provides guidance for (a) protecting cultural resources from natural and human-caused deterioration, (b) making decisions about data recovery when cultural resources cannot be protected in place, (c) protecting cultural resources from the adverse effects of land use decisions, and (d) controlling unauthorized uses of cultural resources.

.06D contains policy on BLM's responsibility for cultural resources on non-federal lands. This supplements the policy in 8100.08.

.06H makes it clear BLM should not be doing data recovery in-house. This policy can be useful if your office is considering an in-house data recovery project. It is a response to many years of seeing in-house attempts to carry out data recovery result in rushed analyses, poor reports or none at all, and problems with curation of the materials collected. Doing data recovery in-house is not a good idea, and this policy supports that understanding.

.06I makes it clear that artifacts should not be stored in BLM offices.

.08C explains limitations on using cultural resource contractors to assist us in meeting our Section 106 compliance responsibilities.

.1 discusses the various measures we can take to protect cultural resources – physical measures such as fencing, stabilization and erosion control, and administrative measures such as closure to public access, withdrawal from mineral entry, ACEC designation, easements, and so forth.

.2 outlines BLM procedures for determining effect and treatment as part of Section 106 compliance consistent with the national cultural resources Programmatic Agreement. You may recall that manual section 8110.3 covers the way BLM determines the National Register eligibility of cultural properties. Manual section 8140.2 covers the next step in the compliance process – determining effect and treatment of eligible properties.

.4 contains BLM policy on treasure trove, stating that we do not under any circumstances give permits to treasure hunters or enter into contracts with them to recover treasure.

.5 provides a consolidated process for consulting Indian tribes on land use actions under a number of authorities simultaneously, including NHPA, NAGPRA, ARPA, AIRFA and NEPA. I mentioned earlier that Manual section 8130 outlines a consolidated tribal consultation process for land use plans. Manual Section 8140 does the same for land use actions.

What are the ways in which BLM can authorize cultural resource work on public lands?  
Contracts, agreements and permits.

Manual Section 8150 contains procedures for authorizing the use of cultural resources on public land, for administering cultural resource use permits, and for maintaining collections and records resulting from the permitted work.

.11A and .11B discuss the people to whom we can, and cannot, issue permits. For example, we cannot issue a permit to a federal employee who is contracting with a BLM land use applicant.

These paragraphs also point out that we shouldn't duplicate different kinds of authorizations. If BLM contracts with someone for cultural resource work, we don't also issue a Cultural Resource Use Permit for that work. The people who are going to do the work must still meet the qualifications standards, and this has to be documented, but a contract is an authorization in itself and there is no need to duplicate it with a separate permit.

.11D explains the different activities for which we issue permits – survey & recordation, limited testing and/or collection, and excavation and/or removal.

.12 covers the application review process and the required qualifications for applicants.

.12E covers Fieldwork Authorizations, and the difference between general permits and project-specific permits.

.13 discusses requirements for notifying and consulting with tribes, including conditions under which notification would not be required.

.3 covers modifying, suspending and revoking permits, and procedures for disputes and appeals.

.4 covers responsibilities for managing and tracking collections.

A separate training module on Cultural Resource Use Permits, based on the guidance in manual section 8150, is available on NTC's Knowledge Resource Center website.

The 8160 manual section will cover management of museum collections. It is still in preparation but is expected to cover:

- (a) Identifying and defining museum collections
- (b) Roles and responsibilities for managing collections, both within the BLM and by repositories
- (c) Permittee requirements when making collections, including arranging for curation
- (d) Qualifications of repositories for curating collections, such as:
  - Requirements for documenting collections, including accessioning, cataloging, inventories and loans to provide for study
  - Requirements for preserving collections, including environmental and security controls to stabilize and secure them, and
  - Standards for access and use of collections, including conditions for traditional use and consumptive use
- (e) This manual section will also cover planning documents for managing collections, including scope of collections statements, collections management plans, and curation agreements.

The 8170 manual section provides some brief, general direction for public outreach and interpretation of cultural resources, including heritage tourism and heritage education.

.11A identifies Adventures in the Past as BLM's "umbrella" program for promoting public education and awareness.

.11C describes BLM's Heritage Education program, primarily Project Archaeology and History Mysteries.

.11E points out that cultural properties valuable for public interpretation and education should be considered for allocation to the public use category during the land use planning process so that their public benefits can be realized.

.12 describes informational, sociocultural, economic, recreational and educational benefits that cultural properties can have.

This brings us to the end of our module on the 8100 Manual series. In this module we discussed how manuals fit into the hierarchy of laws, regulations, Executive Orders and other authorities, the sequence in which the manuals are organized, and the format in which content is arranged and paginated.

We also walked through each manual section to give you a general orientation to the manual series, highlighting some key policies and procedures. Becoming more familiar with the manuals and handbook will help you to provide your managers with appropriate advice and guidance for managing cultural resources.

Thank you for attending. For more information about the 8100 Manual Series and how to use the various Manual Sections, please contact your Deputy Preservation Officer.

Links:

[8100 Manual Series](#)

[IM No.2007-002 BLM Reburial Policy](#)