

## NAGPRA: Future Applicability Rule (43 CFR 10.13)

New NAGPRA regulations on Future Applicability (43 CFR 10.13) were issued on March 21, and became effective on April 20, 2007. 43 CFR 10.13 establishes deadlines for Federal agencies and museums to complete required summaries, inventories, and notices for situations occurring after the statutory deadlines defined in the Act. There are four types of situations anticipated where a Federal agency or museum may fall under the jurisdiction of the Act after the statutory deadlines:

- 10.13(b) The museum or Federal agency receives new collections, or locates previously unreported collections;
- 10.13(c) A previously unrecognized Indian group becomes a Federally recognized Indian tribe;
- 10.13(d) An institution receives Federal funds for the first time; and
- 10.13(e) A museum or Federal agency revises a decision previously published in the Federal Register.

For **New collections, 10.13(b)**, or **Newly Recognized Indian tribes, 10.13(c)**, Federal agencies and museums must:

- within 6 months, prepare a summary of the collections and provide to tribes that are, or likely to be, affiliated in accordance with 43CFR10.8, and
- within 2 years, prepare an inventory in consultation with Indian tribes, in accordance with 43CFR10.9.

*Note:* Situations identified in 10.13(b) and (c) are likely to have the most impact on the BLM. 10.13(b) will apply as the bureau continues to locate those legacy collections from BLM-administered lands previously unknown to the agency. In addition, certain materials acquired through law enforcement activities may fall under this scenario as a new collection, such as material seized by the agency that did not originate from Federal land. Please note, however, that the inadvertent discovery section will continue to apply to materials looted from Federal lands after 1990.

For 10.13(c), the complete list of Federally Recognized Tribes is published annually in the Federal Register, and was most recently published on 3/22/07. The Department's recognition decisions may be found at [http://www.doi.gov/bia/federal\\_acknowledgment\\_decisions.html](http://www.doi.gov/bia/federal_acknowledgment_decisions.html). For implementation purposes, the clock starts from the date the Department publishes the list of Federally Recognized Tribes.

For **Institutions Receiving Federal Funds for the first time, 10.13(d)**, the institution must:

- within 3 years of receiving Federal funds, prepare summaries in accordance with 43CFR10.8, and
- within 5 years, prepare inventories in consultation with Indian tribes, in accordance with 43CFR10.9.

*Note:* This situation is not really relevant to Federal agencies. However, there may be some legacy collections from Federal lands that are currently unknown to agencies in institutions not receiving Federal funds. Should these institutions receive Federal funds, and thus subject to NAGPRA, those collections will become known, and agencies will need to partner with the museums to complete the NAGPRA process.

For situations when **a museum or Federal agency revises a previously published decision, 10.13(e)**, and this revised decision changes the number of items or cultural affiliation determination, then they must publish an amended notice in the Federal Register. If the revised decision does not change the number of cultural items or cultural affiliation determination, then the museum or Federal agency may repatriate without a notice in the Federal Register.

*Note:* This situation is useful in reducing the workload when agencies identify additional materials, such as bone fragments associated with remains previously repatriated, and allows repatriation without a Federal Register notice as long as the number of cultural items or cultural affiliation remains the same.