

### § 10.13

timely request for a hearing as provided in these regulations, the decision resulting from the hearing or any applicable administrative appeal from it constitutes the final administrative decision.

(m) *How you pay the penalty.* (1) If you are assessed a civil penalty, you have 45 calendar days from the date of issuance of the final administrative decision to make full payment of the penalty assessed to the Secretary, unless you have filed a timely request for appeal with a court of competent jurisdiction.

(2) If you fail to pay the penalty, the Secretary may request the Attorney General of the United States to collect the penalty by instituting a civil action in the U.S. District Court for the district in which your museum is located. In these actions, the validity and amount of the penalty is not subject to review by the court.

(3) Assessing a penalty under this section is not a waiver by the Secretary of the right to pursue other available legal or administrative remedies.

[68 FR 16360, Apr. 3, 2003, as amended at 70 FR 57179, Sept. 30, 2005]

#### § 10.13 Future applicability.

(a) General. This section sets forth the applicability of the Act to museums and Federal agencies after expiration of the statutory deadlines for completion of summaries and inventories.

(b) New holdings or collections.

(1) Any museum or Federal agency that, after completion of the summaries and inventories as required by §§ 10.8 and 10.9, receives a new holding or collection or locates a previously unreported current holding or collection that may include human remains, funerary objects, sacred objects or objects of cultural patrimony, must:

(i) Within 6 months of receiving a new holding or collection or locating a previously unreported current holding or collection, or within 6 months of the effective date of this rule, whichever is later, provide a summary of the holding or collection as required by § 10.8 to any Indian tribe or Native Hawaiian organization that is, or is likely to be, affiliated with the collection; and

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(ii) Within 2 years of receiving a new holding or collection or locating a previously unreported current holding or collection, or within 2 years of the effective date of this rule, whichever is later, prepare, in consultation with any affiliated Indian tribe or Native Hawaiian organization, an inventory as required by § 10.9 of these regulations. Any museum that has made a good faith effort to complete its inventory, but which will be unable to complete the process by this deadline, may request an extension of the time requirements under § 10.9(f).

(2) Additional pieces or fragments of previously repatriated human remains, funerary objects, sacred objects and objects of cultural patrimony may be returned to the appropriate Indian tribe or Native Hawaiian organization without publication of a notice in the FEDERAL REGISTER, as otherwise required under §§ 10.8(f) and 10.9(e), if they do not change the number or cultural affiliation of the cultural items listed in the previous notice.

(3) A museum or Federal agency that receives a new holding or collection for which a summary or inventory was previously prepared, as required by §§ 10.8 or 10.9, may rely upon the previously prepared documents. The receiving museum or Federal agency must provide a copy of the previously prepared summary or inventory to all affiliated Indian tribes or Native Hawaiian organizations, along with notification that the receiving museum or Federal agency has assumed possession and control of the holding or collection.

(c) New Indian tribes.

(1) Any museum or Federal agency that has possession or control of human remains, funerary objects, sacred objects, or objects of cultural patrimony that are, or are likely to be, culturally affiliated with a newly Federally recognized Native American tribe, must:

(i) Within 6 months of the publication in the FEDERAL REGISTER of the Native American group's placement on the list of Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs, or within 6 months of the effective date of this rule, whichever is

later, provide a summary of the collection as required by § 10.8 to that Indian tribe; and

(ii) Within 2 years of the publication in the FEDERAL REGISTER of the Native American group's placement on the list of Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs, or within 2 years of the effective date of this rule, whichever is later, prepare, in consultation with the newly recognized culturally affiliated Indian tribe an inventory as required by § 10.9. Any museum that has made a good faith effort to complete its inventory, but which will be unable to complete the process by this deadline, may request an extension of the time requirements under § 10.9(f).

(2) The list of Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs is published in the FEDERAL REGISTER as required by provisions of the Federally Recognized Indian Tribe List Act of 1994 [Pub. L. 103-454, 108 Stat. 4791].

(d) New Federal funds. Any museum that has possession or control of human remains, funerary objects, sacred objects, or objects of cultural patrimony and receives Federal funds for the first time after expiration of the statutory deadlines for completion of summaries and inventories must:

(1) Within 3 years of the date of receipt of Federal funds, or within 3 years of the effective date of this rule, whichever is later, provide a summary of the collection as required by § 10.8 to any Indian tribe or Native Hawaiian organization that is, or is likely to be, culturally affiliated with the collections; and

(2) Within 5 years of the date of receipt of Federal funds, or within 5 years of the effective date of this rule, whichever is later, prepare, in consultation with any affiliated Indian tribe or Native Hawaiian organization, an inventory as required by § 10.9.

(e) Amendment of previous decision.

(1) Any museum or Federal agency that has previously published a notice in the FEDERAL REGISTER regarding the intent to repatriate unassociated funerary objects, sacred objects, and objects of cultural patrimony under

§ 10.8(f), or the completion of an inventory of Native American human remains and associated funerary objects as required by § 10.9(e), must publish an amendment to that notice if, based on subsequent information, the museum or Federal agency revises its decision in a way that changes the number or cultural affiliation of the cultural items listed.

(2) Repatriation may not occur until at least 30 days after publication of the amended notice in the FEDERAL REGISTER.

(f) All actions taken as required by this section must also comply with all other relevant sections of 43 CFR 10.

[72 FR 13189, Mar. 21, 2007]

### Subpart D—General

#### § 10.14 Lineal descent and cultural affiliation.

(a) *General.* This section identifies procedures for determining lineal descent and cultural affiliation between present-day individuals and Indian tribes or Native Hawaiian organizations and human remains, funerary objects, sacred objects, or objects of cultural patrimony in museum or Federal agency collections or excavated intentionally or discovered inadvertently from Federal lands. They may also be used by Indian tribes and Native Hawaiian organizations with respect to tribal lands.

(b) *Criteria for determining lineal descent.* A lineal descendant is an individual tracing his or her ancestry directly and without interruption by means of the traditional kinship system of the appropriate Indian tribe or Native Hawaiian organization or by the common law system of descent to a known Native American individual whose remains, funerary objects, or sacred objects are being requested under these regulations. This standard requires that the earlier person be identified as an individual whose descendants can be traced.

(c) *Criteria for determining cultural affiliation.* Cultural affiliation means a relationship of shared group identity that may be reasonably traced historically or prehistorically between a present-day Indian tribe or Native Hawaiian organization and an identifiable