

**APPENDIX A: MANDATES AND STANDARDS FOR MUSEUM PROPERTY
COLLECTIONS MANAGEMENT**

A. DEFINITION OF MUSEUM PROPERTY

1. Departmental Definition

- a. Museum property is personal property acquired according to some rational scheme and preserved, studied, or interpreted for public benefit. Museum property includes objects selected to represent archeology, art, ethnography, history, documents, botany, zoology, paleontology, geology, and environmental samples. Elements, fragments, and components of structures are considered museum objects if they are no longer a part of the original structure.(410 DM 114-60.100n)
- b. Museum property is defined by the bureau and/or unit Scope of Collection Statement.
- c. Museum property may be distinguished from other kinds of property if it is maintained for public benefit (e.g., reference and exhibit) and meets one or more of the following characteristics. These characteristics are not considered exclusive.
 - (1) Identified by the bureau or unit mission.
 - (2) Works commissioned by the bureau.
 - (3) Generated by research, resources, management or exploration.
 - (4) From Federal or Indian Land.
 - (5) Likely to increase in value.
 - (6) Associated with a significant event, resource, or person.
 - (7) Significant due to age (e.g., over 50 years).
 - (8) Rare (e.g., one of a kind).

NOTE: You may have museum property even though you have no museums.

2. Location of Museum Property

Museum property may be located in visitor centers or museum exhibits, in cabinets and on shelves in storage areas, in administrative offices, and on loan to other institutions for storage or exhibit purposes.

3. Types of Materials Not Considered Museum Property

Materials that are determined not to be museum property must be managed as standard personal property, as records, or in a systematic manner established by the bureau. Decisions on whether materials identical in appearance are museum property or other property depend on ultimate function, long-term preservation goals, and bureau mission. These materials must be managed consistently within each bureau, and each bureau must provide bureauwide policy.

While the following materials may share some characteristics of museum property, they are excluded from the definition of museum property:

- a. Official records as defined by the National Archives and Records Administration (NARA) in 44 USC 3301 as follows: "Records include all books, papers, maps, and photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operation or other activities of the Government or because of the informational values of the data in them. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included."

- b. Books (e.g., library reference textbooks, journals, and magazines) unless collected for their physical attributes or associations rather than their intellectual content.
- c. Commercially mass produced posters, reprints, oil or acrylic paintings. (However, one set of a series of posters or reprints may be desirable.)
- d. Working collections which are specimens and samples that are consumed in analysis or that can be readily replaced; reference or working collections used for ongoing research that have not been processed or prepared to museum quality standards for long-term preservation and care, and are discarded upon completion of the project; and samples and specimens that do not appreciate in value, and are not rare or of public interest, and are discarded when no longer needed for current projects or business.
- e. Teaching and outreach and/or interpretive collections that are expendable.
- f. Mounts (i.e., birds and mammals) generated in the work of a bureau that have no scientific or historic value.
- g. Photographs generated in the work of a bureau for short-term analysis, administrative reports, public information or education. These materials are official records.
- h. Items necessary to display a collection such as exhibit cases, dioramas, special lighting, graphics, etc.

B. DEPARTMENTAL POLICIES AND STANDARDS FOR PRESERVATION, PROTECTION, AND DOCUMENTATION OF MUSEUM PROPERTY

For information on the basic standards for preservation, protection, and documentation of Department of the Interior museum property and guidance for meeting those standards, see "Policies and Standards for Managing Museum Collections", Departmental Manual, Part 411, Chapters 1-3 issued March 19,

1997. Departmental standards are incorporated in this appendix to facilitate access by curatorial staff.

Insert 411 DM here.

C. MANDATES FOR MUSEUM PROPERTY MANAGEMENT

The laws and regulations that provide the basic legal mandate for the Department of the Interior to undertake museum property management are as follows:

Act for the Preservation of American Antiquities of June 8, 1906 (16 USC 431-433)

Authorizes the President to declare national monuments to protect sites and objects; authorizes Federal departments to grant permits for survey and excavation and to enforce protection of archeological sites and objects under their jurisdiction; and requires that materials excavated be permanently preserved in public museums.

43 CFR Part 3 "Preservation of American Antiquities"
(implementing regulations for the Antiquities Act)

Section 3.16 authorizes Federal land managers to seize materials recovered illegally from archeological resources located on lands owned or controlled by the United States, and dispose of the materials by depositing them in the proper national depository or otherwise. Section 3.17 requires that every collection recovered under the Antiquities Act be preserved in the public museum designated in the Antiquities Act permit, and be accessible to the public. The Secretary of the Smithsonian Institution must approve of the transfer of an Antiquities Act collection, which may only be transferred to another public museum, and be accessible to the public. If the repository ceases to exist, the Antiquities Act collection shall revert to the national collections and be placed in the proper national depository.

Reservoir Salvage Act of 1960, as amended (16 USC 469-469C)
(See Archeological and Historic Preservation Act 1974 listed below.)

Provides for the recovery and preservation of "historical and archeological data (including relics and specimens)" that

might be lost or destroyed as a result of the construction of dams and reservoirs.

Archeological and Historic Preservation Act of 1974 (16 USC 469-469C) (See Reservoir Salvage Act of 1960 listed above)

Extends the application of the Reservoir Salvage Act of 1960 to recover and preserve "historical and archeological data (including relics and specimens)" that might be lost or destroyed as a result of any Federal construction project or Federally-licensed activity or program.

National Historic Preservation Act of 1966, as amended (16 USC 470-470t, Sec. 110)

Directs the Secretary of the Interior to promulgate regulations that ensure that significant prehistoric and historic artifacts, and associated records, subject to Section 110 of this Act, the Reservoir Salvage Act (as amended) and the Archeological Resources Protection Act are deposited in an institution with adequate long-term curatorial capabilities.

Archaeological Resources Protection Act of 1979 (16 USC 470aa-mm)

This act and its implementing regulation (43 CFR Part 7) define archeological resources to mean any material remains of human life or activities that are at least 100 years of age, and which are capable of providing scientific or humanistic understandings of past human behavior, cultural adaptation and related topics through the application of scientific or scholarly techniques. The act provides for the protection of archeological resources located on public and Indian lands by:

- (1) requiring that a permit be obtained prior to conducting archeological studies
- (2) requiring that information on the nature and location of resources remain confidential if its release may harm the resources
- (3) establishing civil and criminal penalties for the excavation, removal or damage of resources without a permit

Materials lawfully acquired prior to the passage of the act are not subject to the penalties. For resources located on public lands, the act requires that materials excavated and associated records be preserved in a suitable repository. The act also gives the Secretary of the Interior the discretionary authority to issue regulations for the ultimate disposition of resources recovered under the Act as well as resources recovered under the Reservoir Salvage Act (as amended) and the Antiquities Act.

Native American Graves Protection and Repatriation Act of 1990 (25 USC 3001-13) and NAGPRA Regulations 1996 (43 CFR 10)

Establishes a process by which ownership or control of Native American human remains, funerary objects, sacred objects and objects of cultural patrimony that are excavated or discovered on Federal lands or tribal lands after passage of the Act may be claimed by lineal descendants or culturally affiliated Native American groups; establishes criminal penalties for trafficking in remains or objects obtained in violation of the Act; establishes civil penalties for any museum that fails to comply with the requirements of the Act to be assessed by the Secretary of the Interior under regulations promulgated by the Secretary; provides that Federal agencies and museums that receive Federal funding shall inventory Native American human remains and associated funerary objects in their possession or control and identify their cultural and geographical affiliations within 5 years, and prepare summaries of information about Native American unassociated funerary objects, sacred objects, or objects of cultural patrimony. This is to provide for repatriation of such items when lineal descendants or Native American groups request it.

43 CFR Part 7, "Protection of Archeological Resources"

Establishes uniform definitions, standards, and procedures to be followed by all Federal land managers to protect archeological resources located on public lands and Indian lands of the United States; sets forth a permitting process for the excavation or the removal of archeological resources from public lands and Indian lands; and addresses the ownership and the disposition of resources excavated or removed from public lands and Indian lands.

36 CFR Part 79, "Curation of Federally-Owned and Administered Archeological Collections"

The regulation:

- (1) sets forth the responsibilities of Federal agencies to manage and preserve collections
- (2) identifies methods for Federal agencies to use to secure curatorial services
- (3) identifies methods for Federal agencies to fund curatorial services
- (4) sets forth terms and conditions for Federal agencies to include in contracts, memoranda, agreements and other written instruments with repositories for curatorial services
- (5) establishes standards for Federal agencies to use to determine when a repository has the capability to provide long-term curatorial services
- (6) sets forth guidelines for using collections
- (7) sets forth procedures and guidelines for conducting periodic inspections and inventories of collections

36 CFR Part 1228, "Disposition of Federal Records"

Sets policies and establishes standards, procedures, and techniques for the disposition of all Federal records in accordance with 44 USC Chapters 21, 29, 31, and 33.

Preservation, Arrangement, Duplication, Exhibition of Records
(44 USC 2109)

Authorizes the Archivist of the United States to provide for the preservation, arrangement, repair and rehabilitation, duplication and reproduction, description, and exhibition of records or other documentary material transferred to the National Archives and Record Administration (NARA).

Disposal of Records (44 USC 3301 et seq.)

Defines official records that are made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and directs that such records be transferred to the National Archives and Records Administration in accordance with an established schedule.

41 CFR 101 Federal Property Management Regulations (FPMR)

Prescribes regulations, policies, procedures, and delegations of authority pertaining to the management of property.

Interior Property Management Regulations (IPMR) (410 Departmental Manual 114-60)

This part prescribes policies, procedures and responsibilities governing the receipt, accountability, record keeping, management and survey of personal property in the Department of Interior. The provisions of this Part apply to all personal property acquired by all bureaus and offices of the Department of the Interior, and ensure the safeguarding of Government property against waste, fraud, and abuse.

D. ADDITIONAL LAWS, REGULATIONS, AND CONVENTIONS PERTINENT TO MUSEUM PROPERTY

Lacey Act of 1900 (18 USC 43-44)

This act makes the violation of any state, federal or foreign wildlife law a federal offense, and places stipulations on the importing and labeling of wildlife (e.g., birds and mammals) and their parts. It poses complex problems in relation to wildlife materials acquired, deaccessioned, or sold in museum shops. Enforcement of the Act requires proof of intentional violation, but ignorance of the relevant state, federal or foreign statutes is not excusable. The Black Bass Act of 1930 (16 USC 851) added fish to the list of wildlife under the Lacey Act.

Migratory Bird Treaty Act of 1918 (16 USC 703-711)

Enacted to protect birds flying between the United States and Canada, this Act was later expanded to include Mexico and Japan. It covers all wild, native birds not legally hunted by state law. Some non-native species may be covered by state law and, therefore, the Lacey Act.

This Act makes it illegal to kill, capture, collect, possess, buy, sell, ship, import or export listed species including their parts, nests and eggs. Museums and non-commercial

institutions may obtain permits for legal possession, collection and transportation of objects but permits impose extensive record-keeping requirements. Only museums and other specified institutions can purchase any protected bird or part thereof, and the seller must possess a federal permit for a legal sale.

Bald Eagle Protection Act of 1940 (16 USC 668d)

Amended in 1962 to include golden eagles, this act prohibits taking, buying, selling, trading, possession, importation or exportation of eagles or their parts, nests, eggs or products made of them. It does, however, authorize permits for taking, possessing and transporting eagles and their parts for scientific, exhibition and Indian religious purposes. Possession and transportation of eagles held since before the act require no permits, but museums need permits for any materials acquired subsequently.

Marine Mammal Protection Act of 1972 (16 USC 1361-1407)

This act places a moratorium on the killing of marine mammals by United States citizens and restricts the possession, sale, purchase, importation or transportation of the animals and their products and parts. Permits are available for exhibiting marine mammals and their parts and for holding them in storage. However, native peoples can use such parts for the manufacture and sale of handcrafts without permit.

Museums do not need permits for pre-Act materials or to purchase legitimate handcrafts. However, they should consider obtaining permits for all other marine mammal materials.

Endangered Species Act of 1973, as amended (16 USC 1531-1543)

This act makes it illegal to harass, harm or kill listed species and to use, buy or sell the species or parts thereof in the course of an interstate commercial activity. Intra-state transactions are allowed if pre-Act ownership can be proven.

Although the Act does not apply to fossils and objects greater than 100 years old, age should be meticulously verified. Bureaus must have a permit to purchase more recent

objects that contain parts of endangered or threatened species.

Donations of endangered or threatened specimens are allowed if there is proof of pre-Act ownership and if the objects have not been offered for sale since the date of this Act. Loans or donations between educational institutions are allowed. In such instances permits are not required, even if the objects cross state lines.

American Indian Religious Freedom Act of 1978 (42 USC 1996)

This act reaffirms the constitutional right of "freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to access to sites, use, and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites."

1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property (implemented in the United States by P.L. 97-446 in 1983, [19 USC 2601])

As one of the signatories to the Convention, the United States agrees to work with other nations to prevent the import of, and trade in, archeological and ethnographic materials (when requested) and in stolen cultural collections. In addition to the United States, Canada, (1978) Korea, (1983) and Australia (1990) are signatories. The convention, which is enforced by the United States Customs Service, includes language which exempts objects imported for temporary exhibits.

The convention provides protection for archeological and ethnological materials when the home nation requests that other signatories not import these materials. Under this provision archeological materials must be "of cultural significance, at least 250 years old and normally discovered as a result of scientific excavation, clandestine or accidental digging, or exploration on land or under water." Ethnographic materials must be "the product of a tribal or nonindustrial society and important to the cultural heritage of a people because of its distinctive characteristics, comparative rarity, or its contribution to the knowledge of

the origins, development or history of that people."

The convention also provides protection for stolen property, including cultural and natural history collections, which have been taken from a museum or public institution (including churches, monuments and archeological sites) in a signatory country. To be covered the materials must have been previously inventoried as part of the institution's collection, however.

The nuances of the implementation of the convention are bound to raise questions. Information on this convention may be obtained from:

United States Information Agency
301 4th Street, S.W., Room 247
Washington, D.C. 20547
(202)619-4700

1983 Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

This worldwide effort to protect endangered species of plants and animals by regulating imports and exports was first ratified in 1977 and had been joined by 50 nations by 1980. It allows for certificates of exemption for the import or export of items acquired before CITES, and for non-commercial exchange between institutions.

The convention deals with three appendices that protect materials of varying degrees of scarcity:

Appendix I lists species that are in danger of extinction and there is no commercial trade in them. Any international transport of these materials requires permits from both the exporting and importing nations.

Appendix II lists species that require strict regulation to prevent the danger of extinction and/or look like Appendix I species. Permits for international transport are issued by the exporting nation, and are allowed for any purpose not detrimental to the species.

Appendix III lists species that are protected only within their native countries. They require permits for export

even if they are plentiful elsewhere.

Direct questions relevant to CITES, the Endangered Species Act and other laws and regulations to the designated bureau official. The U.S. Fish and Wildlife Service, Office of Management Authority acts as a clearinghouse for information on CITES and other wildlife laws, including procedures and applications for obtaining permits to have endangered or threatened wildlife and plants in a museum property collection for scientific or educational purposes. Address inquiries to:

U.S. Department of the Interior
Fish and Wildlife Service
Office of Management Authority
P.O. Box 3507
Arlington, VA 22203-3507
703/358-2104

Federal Property and Administrative Services Act of 1949, as amended (40 USC 483 (b))

Each agency shall

- (1) maintain adequate inventory controls and accountability systems for the property under its control,
- (2) continuously survey property under its control to determine which is excess property, and promptly report such property to the Administrator,
- (3) perform the care and handling of such excess property, and
- (4) transfer or dispose of such property as promptly as possible in accordance with authority delegated and regulations prescribed by the administrator.

Federal Records Act of 1950, as amended. "Records Management by Federal Agencies" (44 USC 3101 et seq.)

The head of each Federal agency shall make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency and designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency's activities.

Freedom of Information Act (5 USC 552)

"Federal Records; General" (36 CFR 1220)

Information Resources Management (380 Departmental Manual)

Laws (including specific enabling legislation) and regulations that are specific to individual bureaus.

E. MANDATE AND POLICY FOR DEPARTMENTAL INTEGRATED PEST MANAGEMENT PROGRAM

1. Law and Regulations

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) of 1947, as amended, and the Federal Code of Regulations (40 CFR) govern pesticide registration, pesticide usage, the training and certification of pesticide applicators, and the criminal and civil penalties associated with the misuse of pesticides. FIFRA also delegates the enforcement of the provision of the law to the states. Bureaus should become familiar with the applicable state laws governing pesticide usage.

2. Presidential Memorandum

Refer to Figure A.1 for a copy of the memorandum from the President, August 2, 1979, that directs Federal agencies to establish an Integrated Pest Management Program (IPM).

3. Departmental Policy

The Department of the Interior pesticide policy as outlined in 517 DM 1 is as follows:

"To use pesticides only after full consideration of alternatives - based on competent analysis of environmental effects, safety, specificity, effectiveness, and costs. The full range of alternatives including chemical, biological, and physical methods, and no action will be considered. When it is determined that a pesticide must be used in order to meet important management goals, the least hazardous material that will meet such goals will be chosen."

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Appendix A

Memorandum for the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Defense the Secretary of Health and Welfare, the Secretary of Housing and Urban Development, the Secretary of the Interior, the Secretary of Labor, the Secretary of Transportation, the Administrator of the Environmental Protection Agency, the Administrator of the General Services Administration and the Chairman of the Council on Environmental Quality

In my Environmental Message of August 2, 1979, I recognized that integrated pest management (IPM) has both economic and environmental benefits and should be encouraged in both research and operational programs of federal agencies. Therefore, I am directing that each of your agencies:

- ! Modify as soon as possible your existing pest management, research, control, education, and assistance programs to support and adopt IPM strategies wherever practicable within the limits of existing resources.
- ! Review your pest management research, control, education, and assistance programs to assess the potential for increased use of integrated pest management.
- ! Report actions taken to implement IPM strategies and the results of this review and assessment to the IPM coordinating committee within six months.

I am establishing an interagency IPM Coordinating Committee to assure implementation of this directive and to oversee the development and implementation of integrated pest management practices. The Committee shall be chaired by the Chairman of the Council on Environmental Quality. Your agency should appoint one representative to serve on this Committee who is an Assistant Secretary, Assistant Administrator, or the equivalent. The Committee is to report to me by June 30, 1980 on progress made by federal agencies in the advancement of IPM and on any institutional barriers thereto. The Committee may request any Executive Agency to furnish information, advice, and service as may be useful for the fulfillment of the Committee's functions. Each of your agencies should cooperate with and furnish support to the Committee as needed to carry out its functions.

Please give these assignments your immediate attention.

JIMMY CARTER

August 2, 1979

Figure A.1. Presidential Memorandum Establishing IPM Program