

Supporting Statement for Paperwork Reduction Act Submissions
“Archeology Permits and Reports - 43 CFR Parts 3 & 7”
OMB Control Number 1024-0037
DI - Form 1926

Terms of Clearance: None

A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

Section 4 of the Archaeological Resources Protection Act (ARPA) of 1979 (16 U.S.C. 470cc) and section 3 of the Antiquities Act (AA) of 1906 (16 U.S.C. 432) authorize any individual or institution to apply to Federal land managing agencies to scientifically excavate or remove archeological resources from public or Indian lands. Permits for Archeological Investigations ordinarily are requested either for conducting scientific research; in conjunction with statutorily required environmental clearance activities prior to commencing a Federal undertaking; or issuing a Federal license or permit for third party activities such as energy development on public or Indian lands.

ARPA and AA require that Federal land managers issue permits to qualified applicants and place terms and conditions on the permits, including reporting requirements, as set forth in the implementing regulation for the two statutes (43 CFR Part 7 for ARPA; 43 CFR Part 3 for the AA) to ensure that the resources are scientifically excavated or removed and deposited, along with associated records, in a suitable repository for preservation. If the permit is for work on Indian lands, ARPA requires that the Federal land manager place terms and conditions on the permit as requested by the Indian landowner and the Indian tribe having jurisdiction over the lands. If the permit may have an effect on a resource on public lands that has Indian tribal religious or cultural importance, ARPA requires that the Federal land manager notify the pertinent Indian tribe for the purpose of developing terms and conditions to be placed on the permit.

Section 13 of ARPA (16 U.S.C. 470ll) requires that the Secretary of the Interior report to the Congress on archeological activities conducted pursuant to the Act. To fulfill this requirement, the Secretary must collect information about permitted activities from the various land managing agencies and the Department's land managing bureaus.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

The information collected through DI Form 1926, “Application for Permit for Archeological Investigations”, solicits:

Statement of Work: A description of the purpose, nature, and extent of the work proposed, including research design, methods, curation, collection strategy, and reporting plan);

Statement of Applicant’s Capabilities: Evidence of the ability to carry out the proposed scope of work, including detailed information about logistical support and laboratory facilities, with information about location(s) and description of facilities and equipment; organizational structure and staffing; and equipment and staff to be involved in the proposed work;

Statement of Applicant’s Past Performance: Organizational history in completing the kind of work proposed, including similar past projects; government contracts; Federal permits previously held, currently in force with effective dates, and currently pending or planned; reports and/or publications resulting from similar work; and any other pertinent organizational experience;

Curriculum vitae for Principal Investigator(s) and Project Director(s): A curriculum vitae or similar resume or summary of education, training, and experience in the kind of work proposed and in the role proposed;

Other Authorization: Written consent by state or tribal authorities to undertake the activity on state or tribal lands that are managed by the Federal agency, if required by the state or tribe;

Curation Authorization: written certification, signed by a properly authorized official of the proposed curatorial facility, attesting to the facility's capability and willingness to accept any material remains and associated records generated under the Permit, and capacity and willingness to assume permanent curatorial responsibility for such materials on behalf of the federal government pursuant to regulations for the curation of federally-owned and administered archeological collections (36 CFR 79);

Detailed Schedule of All Project Activities, including completion of reports;

Additional information: Land managers may also require applicants to participate in consultations with tribal authorities.

The information collected in the DI Form 1926, "Application for Permit for Archeological Investigations", is used by the Federal land manager to ensure that:

- a) The applicant is appropriately qualified;
- b) The proposed work is for the purpose of furthering archeological knowledge in the public interest;
- c) The proposed work is not inconsistent with any management plan or established policy, objectives or requirements applicable to the management of the public lands concerned;
- d) Where the work proposed is on Indian lands, written consent has been obtained from the Indian landowner and the Indian tribe having jurisdiction over such lands;
- e) Where the work proposed is on public lands, it is determined whether it may have an effect on resources of Indian tribal religious or cultural importance;
- f) The museum or other institution proposed as the repository is appropriately qualified to preserve the excavated or recovered resources and the associated records;
- g) Where the work proposed is on public lands, the applicant has certified that within 90 days after submitting the report to the Federal land manager, the resources and associated records will be delivered to the approved repository; and
- h) Where the work proposed is on Indian lands and the Indian owner declines custody of the resources removed, the applicant has certified that within 90 days after submitting the report to the Federal land manager, the resources and associated records will be delivered to the approved repository.

Each permittee must complete a report at the end of the project. The report must be consistent with information in field notes, photographs, and other materials (see the Secretary of the Interior's Standards for Archeological Documentation and 36 CFR 79 for additional guidance) and include:

- Description of the study area;
- Relevant historical documentation/background research;
- Research design;
- Field studies as actually implemented, including any deviation from the research design and the reason for the changes;

- Field observations, including the number of new sites that are discovered and identified sites that are revisited;
- Analyses and results, illustrated as appropriate with tables, charts, photographs, and graphs;
- Evaluation of the investigation in terms of the goals and objectives of the investigation;
- Recommendations for updating interpretive and management materials;
- Recommendations for on-going or proposed treatment activities, such as structural documentation, stabilization, etc.;
- Name and location of facility curating material remains and associated records; and
- Accession numbers.

The information collected in the report required by the permit is reviewed by the Federal land manager to ensure that the archeological work was conducted in accordance with the permit's terms and conditions. The information collected in the report required by the permit is used by the Federal land manager for cultural resource management purposes (that is, it is incorporated into existing Federal and State archeological inventories and historic preservation plans for the lands concerned). The results are reported to the Secretary of the Interior for inclusion in reports to Congress on archeological activities that were conducted on public or Indian lands. Reports, or the information in them, generally are available to the public through agency interpretation and programs or through the reports themselves.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

Information requested in Permit for Archeological Investigation application forms and in reports is unique to the applicant and no other source is available. No centralized national administration of the permitting process exists, and no single office determines whether or how electronic submission will be implemented. This is because the authority to issue permits is delegated to the respective land managing bureaus. Many of these Federal agencies do not have their permit files automated because of the need to maintain very tight control over permits due to the sensitive location information that permits may contain and the high risk of illicit looting of archeological properties. In addition, the relatively low number of permits issued by most agencies in any given year for archeological investigations makes the development of a high security, highly controlled electronic system less cost effective than a paper system.

The Application for Permit for Archeological Investigations is available electronically, for example, on the National Park Service (NPS) website at www.nps.gov/archeology/npsGuide/permits/docs/04PermitAppFinal.pdf.

Applications may be submitted via e-mail. The use of electronic data bases by some Federal agencies facilitates the renewal of Permits for Archeological Investigations.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

Permit applications and the resulting reports are project-specific. No duplication occurs. Since circumstances vary with each request for conducting archeological work on public or Indian lands, each application for Permit for Archeological Investigations is unique. Since the results of archeological survey or excavation are permit-specific, each report is unique. No other source is available for the information in each unique application.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-

I), describe any methods used to minimize burden.

To minimize the burden of completing the application for Permit for Archeological Investigations, the application requests only the minimum information necessary to assess the qualifications of the investigator and merits of the project. The application form is available electronically and may be submitted electronically.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

An application for a Permit for Archeological Investigations is completed prior to the commencement of an archeological project taking place on Federal land; a permit is required in order to conduct the investigations. It is not possible to collect the data in the application less frequently due to the nature of the statutory requirements under ARPA. Permit renewals, however, are facilitated by retrieval and use of the electronically stored original permit applications.

Failure to collect information from applicants that are requesting permission to conduct scientific research on archeological resources located on public or Indian lands would result in the prohibition of such research. If individuals and institutions conduct research without a valid Permit for Archeological Investigations, they are in violation of ARPA sections 6, 7, and 8 (16 U.S.C. 470ee, ff, gg), AA section 1 (16 U.S.C. 431) and other statutes concerning Federal property. Furthermore, they are subject to criminal and civil penalties as well as forfeiture of personal property and of the resources removed.

Failure to collect information from applicants that are requesting permission to conduct archeological clearances in conjunction with federally-licensed or permitted third party activities (e.g., drill pads, mining, or pipeline right-of-ways), and subsequent failure to issue permits, would result in the prohibition of the third party activities. If a Federal land manager authorizes a third party activity without considering the effects of that activity on the cultural environment, the Federal land manager would be in violation of the amended National Environmental Policy Act of 1969 (42 U.S.C. 4321-4327) and section 106 of the amended National Historic Preservation Act of 1966 (16 U.S.C. 470 *et seq.*). If the authorized activity might destroy or damage important archeological or historic resources pursuant to the Archeological and Historic Preservation Act of 1974 (16 U.S.C. 469a), the Secretary of the Interior is required to recover, or direct the Federal land manager to recover the important information about these resources. Ordinarily, the third party activity is temporarily delayed or halted, if it already has begun, until the archeological work is completed. If the Federal land manager authorizes archeological investigations without reviewing an application and issuing a Permit for Archeological Investigations, the Federal land manager will be in violation of ARPA and the Antiquities Act, as well.

Failure to collect information in a report prevents the Federal land manager from reviewing the adequacy of the work conducted. Failure to collect information in a report prevents the Federal land manager and the State Historic Preservation Officer from incorporating information about the resources into existing archeological inventories and historic preservation plans for the lands concerned. It also means that, when the Federal land manager needs information about the resources for program planning and management purposes, the manager must conduct duplicative archeological survey and excavation work. Finally, failure to collect information in a report prevents the Secretary of the Interior from fulfilling his statutory requirement to report to Congress on permitted archeological activities conducted on public or Indian lands.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- * **requiring respondents to report information to the agency more often than quarterly;**
- * **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- * **requiring respondents to submit more than an original and two copies of any document;**
- * **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;**
- * **in connection with a statistical survey, that is not designed to produce valid and reliable results that can be**

- generalized to the universe of study;**
- * requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- * that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- * requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

There are no circumstances that would cause this information to be collected in ways inconsistent with OMB guidelines. The information collection is consistent with the guidelines in 5 CFR Part 1320.6.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported. Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years - even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

The NPS published a 60-Day Notice in the Federal Register to solicit public comments on August 1, 2007 (Volume 72, FR 42108). No public comments were received in response to the publication of this notice.

On January 17, 2008, six non-Federal archeologists were contacted by telephone to receive feedback about the availability of the application form, clarity of instructions, time required to submit an application, and reporting format. Their names and contact information are:

Mr. Christopher Bergman
Principle Archeologist
URS Corporation
36 E. 7th Street, Suite 2300
Cincinnati, Ohio 45202
513/419-3444

Ms. N'omi Greber
Cleveland Museum of Natural History
1 Wade Oval Drive
Cleveland, Ohio 44106-1767
216/231-4600

Mr. David Klinge
ASC Group Inc.
7123 Pearl Road
Suite 107
Middleburg Heights, Ohio 44130
440/845-7590

Mr. Douglas MacDonald
Assistant Professor of Anthropology
Department of Anthropology
University of Montana

Missoula, Montana 59812
406/243-5814

Mr. William Moore
Principle Investigator
Brazos Valley Research Associates
813 Beck Street
Bryan, Texas 77803
979/823-1148

Mr. Andrew Sewell
Principle Investigator
Hardline Design Co.
4608 Indianola Avenue
Columbus, Ohio 43214
614/784-8733

The comments received from this group are: (1) It is great that they can submit the application electronically; (2) The guidance provided by the NPS on its website was very helpful; (3) There was no problem with accessibility to the website; and (4) The amount of time to complete the application process is very accurate.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

No payments or gifts are provided to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

No confidential information is solicited.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

No sensitive questions are asked.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- * **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- * **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.**
- * **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this**

cost should be included in Item 13.

According to the most recent statistics available at this time, land managing agencies report to the Secretary that they receive and process Permit for Archeological Investigations applications from about 1600 respondents annually. Applications are completed whenever a researcher or third party contractor wishes to conduct archeological work on public or Indian lands. As a condition to each permit, the permittee must submit one copy of the report at the conclusion of the archeological work.

There are two responses per applicant. One response consists of completion of one application form, preparation of a cover letter, and attachment of project directors' resumes and a research design, and submission of the application package. This is estimated to require 2.5 hours to complete. The second response consists of submission of an Archeological Investigation Report. This report is usually completed for other purposes e.g. NHPA Section 106 compliance report to the organization contracting the work, and a copy is submitted to the Federal agency. The preparation of a packet containing the report to be mailed requires an estimated 30 minutes to complete. All of the archeologists interviewed indicated that they performed all of the tasks involved in applying for a Permit for Archeological Investigations and submitting reports.

The result is a total annual burden of 4800 hours for completing applications and reports (1600 permittees x 3 hours).

The Principle Investigator, in accordance with the Secretary of the Interior's Guideline for Archeological Documentation, is an archeologist who customarily has attained a Master's Degree or higher. The mean hourly wage for an archeologist is \$25.43; with benefits, the hourly wage is \$33.06 (Data from the Bureau of Labor Statistics website, Occupational Code 19-3091 Anthropologists and Archeologists; www.bls.gov/oes/current/oes193091.htm; web site accessed January 17, 2008.) Therefore, the total dollar value of the burden hours is 158,688 (1600 x 3 hours = 4800 burden hours x \$33.06 = 158,688).

13. Provide an estimate for the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

- * **The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**
- * **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collections services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
- * **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.**

There are no non-hour costs.

14. Provide estimates of annualized costs to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as

equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies may also aggregate cost estimates from Items 12, 13, and 14 in a single table.

The total annual cost to the Federal agencies issuing Permits for Archeological Investigations is estimated to be \$363,860, which includes only hourly costs. This estimate is based on information provided by Federal archeologists who administer Permits for Archeological Investigations (see breakdown of calculations below). This information was solicited from four National Park Service and Fish and Wildlife Service employees between January 14 and January 17, 2008. All employees were at least a GS-12, and had been Federal employees for at least 4 years. Based on these data, the hourly wage of a GS-12, Step 4 was chosen to represent the average Federal employee who administered Permits for Archeological Investigations. The hourly wage of a GS-12/4 is \$30.42 (Data from Office of Personnel and Management Salary Table 2008-GS; http://opm.gov/oca/08tables/pdf/g_s_h.pdf; accessed January 17, 2008). With benefits the average wage is \$39.55.

The average annual time for administration of Permits for Archeological Investigations is based on data from four Federal employees who customarily review and administer permits. The activities of the Federal Permit administration customarily consist of:

Providing information about the application process - 48 minutes

This includes communicating about permit status, and coordinating between local and regional managers.

Application Review. -138 minutes

Applications are received from two types of entities: scholarly (37 percent), and commercial (63 percent). Applications for scholarly research are more time-consuming to review than applications for research to comply with NHPA Section 106, taking an average 135 minutes for initial review. Applications from commercial businesses take an average of 120 minutes to review. An average of the total time required for review of initial submissions of scholarly and commercial permit applications combined is 125 minutes. $(120 \text{ minutes} \times 63\% \text{ commercial applications}) + (135 \text{ minutes} \times 37\% \text{ scholarly applications}) = 75+50 = 125 \text{ minutes}$.

An estimated 25 percent of the initial applications must be revised, re-submitted, and reviewed again. The second review of a commercial application takes an average of 30 minutes; review of a revised scholarly application takes an average of 90 minutes. The average time required for a second review of both scholarly and commercial applications combined is 13 minutes. $(30 \text{ minutes} \times 63\% \text{ commercial applications}) + (90 \text{ minutes} \times 37\% \text{ scholarly applications}) = 19+33 = 52 \text{ minutes} \times 25\% \text{ occurrence} = 13 \text{ minutes}$.

The average time for all review activities associated with applications for Permits for Archeological investigations is 125 minutes (first review) + 13 minutes (second review) = 138 minutes.

Permit Preparation – 54 minutes.

After the permit application is reviewed for completeness and feasibility and the project is approved, a permit form is completed and signed by the land manager or regional director. All Federal staff who were interviewed indicated that they personally prepared the permit for signing, logged the permit application and permit form, and mailed copies to the local land manager (in the case of the NPS) and the applicant.

Report Review – 98 minutes

The report is reviewed for completion and filed. Interviewed Federal employees indicated that, as with the permit application, reports from scholarly projects take longer to review. Reports pertaining to compliance are usually prepared for a contracting agency or company, and the Federal land manager is provided with a copy. Review for reports for compliance purposes is an average of 38 minutes. The initial review of a scholarly report is an average of 150 minutes. The overall average for initial review of the report is 79 minutes. $(38 \text{ minutes} \times 63\% \text{ commercial applicants}) + (150 \text{ minutes} \times 37\% \text{ scholarly applicants}) = 24+55 = 79 \text{ minutes}$.

None of the Federal interviewees reported that additional reviews were needed from compliance projects. Revisions to scholarly reports are required an average 33 percent of the time and require an average of 60 minutes for second review. Second review of scholarly reports added 7 minutes to the overall time for reviewing reports. $(60 \text{ minutes} \times 37\% \text{ scholarly applicants} \times 33\% \text{ of the time}) = 7 \text{ minutes}$.

All interviewees reported that they logged and filed the reports themselves, and sent acknowledgements of the receipt of the report, and that this took an average 19 minutes.

Review, logging, and filing of reports took an average 105 minutes. (79+7+19 minutes).

The total average time for Federal employees to provide assistance to applicants, review applications, prepare permits, review reports, and log and file associated paperwork for scholarly and commercial applications combined is 5 hours and 45 minutes (48+138+54+105).

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.

We are reporting 3,200 responses totaling 4,800 burden hours for this information collection. This increase of 1,100 responses and 3,050 burden hours is an adjustment in our estimates based on our experience over the past 3 years.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

Information is collected as ARPA or AA permit applications are completed, and as reports are submitted at the conclusion of the permitted work. Most applications are received for work in the spring and summer because that is the time of year when most archeological work is conducted. At the close of each fiscal year, land managing agencies provide the Secretary of the Interior with summary statistics on the number of applications received and the number of permits issued, denied, and appealed. As required by ARPA, the Secretary includes this information in the Secretary's Report to Congress on the Federal Archeology Program.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

The expiration date will be displayed on the form.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

There are no exceptions to the certification statement.