

## APPENDIX C | OTHER COMPLIANCE REQUIREMENTS

As required by applicable statutes and executive orders, this section summarizes analyses of equity considerations and other regulatory concerns associated with the Final Rule. This section assesses potential impacts, with respect to the following issues:

- **Energy Impacts:** examines the impacts of the Final Rule on energy use, supply, and distribution as mandated under Executive Order 13211 (66 FR 28355, May 22, 2001);
- **Paperwork reduction:** examines the requirements of the Final Rule for paperwork collections as required by the PRA;
- **Unfunded mandates:** examines the implications of the Final Rule with respect to unfunded mandates as required by the Unfunded Mandates Reform Act (UMRA);
- **Environmental justice:** considers potential issues for minority and low-income populations as required under E.O. 12898;
- **Children's health protection:** examines the potential impact of the Final Rule on the health of children in order to comply with E.O. 13045;
- **Tribal governments:** extends the discussion of federal unfunded mandates to include impacts on Native American tribal governments and their communities as mandated under E.O. 13175, "Consultation and Coordination With Indian Tribal Governments" (May 14, 1998);
- **Federalism:** considers potential issues related to state sovereignty as required under E.O. 13132; and
- **Cumulative Impacts:** considers the cumulative impacts of regulations, specifically costs, as required under E.O. 12866 and E.O. 13563.

### **C.1 EFFECTS ON THE NATION'S ENERGY SUPPLY (EXECUTIVE ORDER 13211) ACTIONS CONCERNING REGULATIONS THAT SIGNIFICANTLY AFFECT ENERGY SUPPLY, DISTRIBUTION, OR USE.**

Under E.O. 13211 (66 FR 28355, May 22, 2001), agencies are required to prepare and submit to OMB a Statement of Energy Effects for significant energy actions. This should include a detailed statement of any adverse effects on energy supply, distribution, or use (including a shortfall in supply, price increases, and increased use of foreign supplies) expected to result from the action and a discussion of reasonable alternatives and their effects.

The Office of Management and Budget provides guidance for implementing this Executive Order, outlining outcomes that may constitute “a significant adverse effect” when compared with the regulatory action under consideration:

- Reductions in crude oil supply in excess of 10,000 barrels per day (bbls);
- Reductions in fuel production in excess of 4,000 barrels per day;
- Reductions in coal production in excess of five million tons per year;
- Reductions in natural gas production in excess of 25 million Mcf per year;
- Reductions in electricity production in excess of one billion kilowatts-hours per year or in excess of 500 megawatts of installed capacity;
- Increases in energy use required by the regulatory action that exceed the thresholds above;
- Increases in the cost of energy production in excess of one percent;
- Increases in the cost of energy distribution in excess of one percent; or
- Other similarly adverse outcomes.

Or if the regulation:

- Adversely affects in a material way the productivity, competition, or prices in the energy sector;
- Adversely affects in a material way productivity, competition or prices within a region;
- Creates a serious inconsistency or otherwise interferes with an action taken or planned by another agency regarding energy; or
- Raises novel legal or policy issues adversely affecting the supply, distribution or use of energy arising out of legal mandates, the President’s priorities, or the principles set forth in Executive Orders 12866 and 13211.<sup>1</sup>

The MMPA Rule governing G&G activities in the GOM, as described in Chapter 1 of this analysis, would require additional mitigation measures protecting marine mammals as part of seismic surveys for oil and gas exploration and development. Specifically, for deep penetration seismic airgun surveys, the MMPA rule prescribes use of 24-hour Passive Acoustic Monitoring (PAM) in waters deeper than 100 meters. In addition, the MMPA rule requires a variety of expanded PSO mitigation requirements for deep penetration, shallow penetration, and non-airgun HRG surveys.

As detailed in Chapter 4, the annualized direct compliance costs range from \$23 million to \$76 million over the rule’s five-year timeframe (assuming a seven percent discount rate).<sup>2</sup> Total present value costs over the five-year timeframe range from \$101 million to

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<sup>1</sup> OMB. 2001. Memorandum For Heads of Executive Department Agencies, and Independent Regulatory Agencies, Guidance For Implementing E.O. 13211, M-01-27. <http://www.whitehouse.gov/omb/memoranda/m01-27.html>

<sup>2</sup> All monetized cost estimates are presented in 2018 US dollars.

\$335 million (assuming a seven percent discount rate). The expected increase in the direct cost of G&G surveys under the Final Rule, however, is unlikely to materially reduce the level of oil and gas development in the Gulf of Mexico, given that the costs of G&G activities are relatively minor compared to expenditures on drilling, engineering, installation of platforms, and production operations. For instance, Quest Offshore (2014) estimates that G&G activities would account for only three percent of total spending on oil and gas activities in the Eastern Gulf over a 19 year timeframe if the current moratorium were lifted.<sup>3,4</sup> Consequently, a 7 percent increase in G&G costs, as estimated under the Final Rule for some surveys, would represent only a 0.2 percent increase in oil and gas development costs overall.<sup>5</sup> Personal communication with IAGC and API confirmed that the direct compliance costs of the regulatory requirements are unlikely to result in materially reduced oil and gas activities in the Gulf of Mexico.<sup>6</sup>

While the increases in G&G survey costs under the Final Rule are unlikely to materially affect the level of oil and gas development activity in the GOM, the seasonal and year-round area closures have the potential to generate reductions in leasing, exploration, and subsequent development activity. While the timeframe of this rule covers just five years (2020-2024), any reductions in seismic data gathering during that five-year period could result in delayed development of oil and gas resources beyond that five-year timeframe. That is, limiting where G&G surveys can occur over the next five years can have implications on oil and gas development activity in the following years.

The likelihood of the seasonal restrictions and area closures affecting G&G survey levels and, ultimately, oil and gas production is dependent on the factors outlined below. Each of these factors is subject to substantial uncertainty. It would therefore be speculative to draw definitive conclusions regarding the economic impacts of seasonal restrictions and area closures.

- **Oil and gas market conditions:** Demand for G&G data is driven by demand for oil and gas. As described in Chapter 2, recent years have seen a reduction in demand due to relatively low oil prices. Because the oil market tends to be somewhat cyclical, the forecast for future G&G activity reflects the assumption that production of GOM oil and gas will rise in the future with increases in the price of oil, though the timing for this is highly uncertain. In other words, production of oil and gas from the GOM over the narrow timeframe of this analysis is not known with reasonable precision to quantify potential impacts.

<sup>3</sup> Quest Offshore. (2014). "The Economic Benefits of Increasing U.S. Access to Offshore Oil and Natural Gas Resources in the Eastern Gulf of Mexico." Prepared for the American Petroleum Institute (API) and the National Ocean Industries Association (NOIA).

<sup>4</sup> Quest Offshore project spending for each of the following activity types: Seismic (G&G), SURF, Platforms, Installation, Drilling, Engineering, and Operating Expenditures.

<sup>5</sup> For instance, Exhibit 4-2 shows that the baseline high-end total cost for a WAZ survey is \$181,000,000, and Exhibit 4-13 shows that the incremental compliance cost for a WAZ survey under the Final Rule is up to \$12,200,000. This represents a 6.7 percent increase in total survey costs. All other survey types under the Final Rule see lower percent cost increases.

<sup>6</sup> Personal communication between IEC, IAGC, and API. December 15, 2016.

- **Relative importance of the area closures to oil and gas production:** The economic implications of seasonal restrictions and area closures depend most directly on the level of activity that would overlap these areas, within the context of broader GOM G&G activity, absent the rule. The forecast of G&G activity levels is not spatially precise within GOM Planning Areas. However, as an indicator of the relative importance of these GOM areas to oil and gas production in the past, the discussion Section 4.3 of this analysis provides recent historical information on the relative levels of exploration, development and production.
- **The state of existing G&G data covering the areas:** Importantly, the seasonal restrictions and area closures do not directly restrict other offshore oil and gas exploration and development activities, only seismic surveys. Seismic data do exist for the area closures; however, we understand that some of the data are dated and therefore new surveys are required to facilitate efficient exploration and development decisions in these areas. Information specifying the vintage of current seismic data for the closure areas is not available. Therefore, whether existing data are sufficient, or whether exploration, development and ultimate oil and gas production would be delayed in these areas due to restrictions on G&G activities over the next five years is uncertain.

In summary, quantifying the impacts of precluding G&G surveys in the Final Rule closure areas over the timeframe of the rule would be speculative in light of the layered uncertainties described above. In particular, demand for new survey data for affected areas in the Eastern Planning Area, while likely to increase over the timeframe of this analysis, is uncertain. In recent history, these areas have not been the target of the oil and gas industry, in particular, due to the moratorium established under the Gulf of Mexico Energy Security Act of 2006 (GOMESA). Oil and gas development has occurred primarily in the Central and Western Planning Areas of the GOM. As these areas become developed, however, the industry is likely to expand into the Eastern Planning Area given the estimated UTRR. Additionally, BOEM's 2019 to 2024 Draft Proposed Program includes lease sales in the GOMESA Moratorium areas in 2023 and 2024. If these lease sales are included in the Proposed Final Program, then Eastern GOM is likely to attract increased interest from the oil and gas industry.

While the timeframe of this rule is five years, if the Eastern Planning Closure Area were available for leasing while seismic activity is prohibited, companies may be hesitant to risk capital investments. Absent the ability to gather updated seismic data over the five-year time of the rule, future production of currently undiscovered hydrocarbon resources may be delayed even beyond the timeframe of the rule and could represent a social welfare loss. Quantification of potential welfare losses is difficult due to the uncertainties surrounding the quantity of undiscovered resources in the year-round closure areas, future oil and gas prices, and the likelihood of future lease sales within the GOMESA Moratorium areas.

Overall, however, within the five-year timeframe of the analysis, the Final Rule is not expected to constitute a significant adverse effect on energy supply, distribution or use according to the thresholds described above, given the overlapping moratorium covering

the Eastern Planning Area for half the rule timeframe and that the direct compliance costs represent a small fraction (on the order of less than one percent) of the total costs of exploration and development in the GOM.

## **C.2 PAPERWORK REDUCTION ACT**

The Paperwork Reduction Act (PRA) and its implementing regulations require OMB clearance for any planned information collections. The PRA of 1995 requires that agencies obtain OMB approval before requesting most types of information from the public. “Information collections” include forms, interviews, record-keeping requirements, and a wide variety of other instances. In the PRA the term “persons” includes more than individual people: corporations, universities, state and local agencies, associations, etc., as well as individuals.

This submission requests clearance to impose new recordkeeping and reporting requirements contained in the Final Rule. These requirements are associated with existing requirements that have previously been cleared under 0648-0151 (Applications and Reporting Requirements for the Incidental Take of Marine Mammals by Specified Activities (other than Commercial Fishing operations) under the Marine Mammal Protection Act), approved in March 2014. The new information collection adds recordkeeping and reporting requirements pursuant to the collection of information by PSOs for particular survey types (non-airgun HRG surveys), as well as collection and reporting of PAM information. These additional requirements are required by statute to assist in minimization of unintentional take of marine mammals incidental to G&G activities in GOM waters.

### **C.2.1 INFORMATION REQUESTED**

This section describes the incremental information collection requirements applicable to entities that will be affected by the Final Rule.

### **C.2.2 IDENTIFYING THE RESPONDENT UNIVERSE**

The regulated universe includes companies conducting acoustic G&G surveys in the Gulf of Mexico during the time period for the analysis. As presented elsewhere, this analysis forecasts that 103 to 151 G&G surveys will take place annually on average over the next five years that would be subject to potential paperwork requirements. Appendix B details characteristics of these entities in more detail.

### **C.2.3 ESTIMATING THE HOUR AND COST BURDEN OF THE COLLECTION**

In this section, we estimate the total average annual respondent and government agency hour and cost burden for all information collection requirements covered in this PRA for the first five years after the implementation of the rule. The PRA presents the cost burden for both the respondent universe and implementing government agencies on an annual basis. Exhibits C-1 through C-4 provide estimates of the respondents’ burden and Agency review hour and cost burden associated with these information collection and recordkeeping requirements.

The Final Rule includes three elements that will require incremental information collection burden:

- PSOs will need to be present for non-airgun HRG surveys (which would not be required under the baseline). These PSOs will need to develop and submit reports to BOEM;
- PSOs will need to be present for seismic airgun surveys occurring in water depths less than 200 meters (which would not be required under the pre-settlement agreement baseline). These PSOs will need to develop and submit reports to BOEM.
- PAM will be required to be used at all times for deep penetration airgun surveys in water depths greater than 100 meters, which represents an increase in use when compared with baseline requirements. PAM operators are required for these efforts. The Final Rule will require reports of marine mammal detections associated with this incremental usage of PAM.

The Final Rule will also generate some cost savings due to reduced administrative effort required to obtain incidental take authorization. As discussed in Chapter 4, absent the rule, G&G surveys in the GOM would be required to apply for an Incidental Harassment Authorization (IHA). On the other hand, a Letter of Authorization (LOA) is required for harassment that is planned as part of future actions for up to five years (e.g., for a rulemaking). Under the Final Rule, NMFS will issue a LOA covering G&G surveys in the GOM that comply with the rule requirements, precluding the need for IHAs for each survey. In this way, the rule will reduce the administrative effort required of industry and regulatory agencies to acquire the necessary authorization for incidental take of marine mammals over the five-year timeframe of the rule. The potential for this reduced administrative effort to result in cost savings would offset some of the additional information collection burden associated with the Final Rule. Absent information on the relative administrative effort for IHAs in the GOM versus an LOA for this rule, we do not quantify these cost savings but note that this contributes to an overall conservative estimate of the direct costs of the Final Rule.

#### Industry Costs

For purposes of this analysis, we assume the following costs will be borne by the G&G industry:

- PSO rates are assumed to range from \$212-\$531 per day (or \$18 to \$44 per hour assuming a 12-hour day).
- A day rate for a PAM operator is assumed to range from \$319-\$637 per hour (or \$27 to \$53 per hour assuming a 12-hour day).

#### Government Costs

- We assume that incremental government agency review will require 1/2 hour of GS-13 level time.<sup>7</sup>

<sup>7</sup> Government wage rate is a Basic, Step 5, GS-13 rate multiplied by 1.526 to reflect fringe benefits and overhead. Accessed at <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/>

- We assume that government agency review of additional PSO reports will require one hour of GS-13 level time per report.<sup>8</sup>
- We assume that government agency review of additional PAM reporting will require 0.5 hours of GS-13 level time per report.<sup>9</sup>
- We assume that PAM/PSO reports will be prepared.
- This may overstate actual review time for individual reports but provides an approximate estimate of the increased level of government time required.

Using these assumptions, the PRA estimates the average annual industry burden for all surveys will be \$1.6 million to \$16.4 million. Total government burden will be \$5,600 to \$13,000 (undiscounted dollars). Total additional information collection costs are estimated to be approximately be \$1.6 million to \$16.4 million annually (undiscounted dollars), or \$1.4 million to \$14.7 million when discounted at a 3 percent rate, or \$1.5 million to \$16.5 million when discounted at a 7 percent rate.

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[pdf/2019/GS\\_h.pdf](#) on May 12, 2020.

<sup>8</sup> Government wage rate is a Basic, Step 5, GS-13 rate multiplied by 1.526 to reflect fringe benefits and overhead. Accessed at [https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2019/GS\\_h.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2019/GS_h.pdf) on May 12, 2020.

<sup>9</sup> Government wage rate is a Basic, Step 5, GS-13 rate multiplied by 1.526 to reflect fringe benefits and overhead. Accessed at [https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2019/GS\\_h.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2019/GS_h.pdf) on May 12, 2020.

**EXHIBIT C-1. EXPECTED INCREMENTAL INDUSTRY DATA COLLECTION BURDEN, AVERAGE ANNUAL HOURS, 2021-2025**

SURVEY TYPE	WATER DEPTH	NUMBER OF SURVEYS (AVERAGE ANNUAL) <sup>1</sup>		INCREMENTAL NUMBER OF PSOS/PAM OPERATORS PER VESSEL <sup>2</sup>		NUMBER OF VESSELS PER SURVEY		DURATION ON WATER (DAYS) <sup>3</sup>	INCREMENTAL PAM/PSO INFORMATION COLLECTION HOURS (AVERAGE ANNUAL) <sup>4</sup>	
		LOW	HIGH	PSO	PAM	LOW	HIGH		LOW	HIGH
Non-airgun HRG	Shallow	14	21	0.0	0.0	1	1	18	-	-
	Deep	27	37	1.0	0.0	1	1	18	5,824	8,033
2D	Shallow	0	0	3.0	2.5	1	1	176	-	-
	Deep	0	2	0.0	2.5	1	1	176	-	9,574
2D-OBN	Shallow	0	0	3.0	2.5	1	3	141	-	-
	Deep	0	0	0.0	2.5	1	3	141	-	2,606
3D	Shallow	0	1	3.0	2.5	1	1	137	-	9,757
	Deep	1	2	0.0	2.5	1	1	137	3,631	9,806
3D-OBN	Shallow	0	1	3.0	2.5	1	3	141	-	30,132
	Deep	1	2	0.0	2.5	1	3	141	3,737	30,285
WAZ	Shallow	0	0	3.0	2.5	2	5	178	-	22,895
	Deep	3	6	0.0	2.5	2	5	178	35,622	173,996
Airgun HRG	Shallow	1	1	3.0	0.0	1	1	10	250	384
	Deep	1	2	0.0	0.0	1	1	10	-	-
VSP	Shallow	10	17	3.0	2.5	1	1	7	4,785	7,786
	Deep	31	47	0.0	2.5	1	1	7	6,597	9,848
SWD	Shallow	0	0	3.0	2.5	1	1	7	-	-
	Deep	6	11	0.0	2.5	1	1	7	1,192	2,273
<b>Annual Incremental PRA Burden (Industry)</b>		<b>95</b>	<b>151</b>	<b>n/a</b>	<b>n/a</b>	<b>n/a</b>	<b>n/a</b>	<b>n/a</b>	<b>61,638</b>	<b>317,375</b>

<sup>1</sup> Refer to Section 4.2.2 and Exhibit 4-15 for additional details about the forecasts for the number of surveys that are anticipated.

<sup>2</sup> Assumes that 74 percent of airgun surveys had two PAM operators on board in the baseline. Under the Final Rule, deep penetration airgun surveys need 4 PAM operators on board. Thus on average, each deep penetration airgun survey requires an additional 2.5 PAM operators ( $2.5 = 4 - 2 \times 0.74$ ). Airgun surveys in shallow waters require 3 PSOs in addition to these PAM operators.

<sup>3</sup> Refer to Section 4.2 and Exhibit 4-2 for additional details about the average duration on water.



<sup>4</sup> Assumes 12 hours per day of data collection and reporting per PSO/PAM Operator.

**EXHIBIT C-2. EXPECTED INCREMENTAL INDUSTRY DATA COLLECTION BURDEN RELATED TO PSO REQUIREMENTS, AVERAGE ANNUAL HOURS AND COSTS, 2021-2025 (2019\$)**

SURVEY TYPE	WATER DEPTH	HOURS (AVERAGE ANNUAL) <sup>1</sup>		PSO WAGE/HOUR <sup>2</sup>		PRA COSTS (AVERAGE ANNUAL) <sup>3</sup>	
		LOW	HIGH	LOW	HIGH	LOW	HIGH
Non-airgun HRG	Shallow	-	-	\$18	\$44	\$0	\$0
	Deep	5,824	8,033	\$18	\$44	\$103,000	\$355,000
2D	Shallow	-	-	\$18	\$44	\$0	\$0
	Deep	-	-	\$18	\$44	\$0	\$0
2D-OBN	Shallow	-	-	\$18	\$44	\$0	\$0
	Deep	-	-	\$18	\$44	\$0	\$0
3D	Shallow	-	5,303	\$18	\$44	\$0	\$235,000
	Deep	-	-	\$18	\$44	\$0	\$0
3D-OBN	Shallow	-	16,376	\$18	\$44	\$0	\$725,000
	Deep	-	-	\$18	\$44	\$0	\$0
WAZ	Shallow	-	12,443	\$18	\$44	\$0	\$551,000
	Deep	-	-	\$18	\$44	\$0	\$0
Airgun HRG	Shallow	250	384	\$18	\$44	\$4,420	\$17,000
	Deep	-	-	\$18	\$44	\$0	\$0
VSP	Shallow	2,601	4,231	\$18	\$44	\$46,000	\$187,000
	Deep	-	-	\$18	\$44	\$0	\$0
SWD	Shallow	-	-	\$18	\$44	\$0	\$0
	Deep	-	-	\$18	\$44	\$0	\$0
<b>Total Annual PRA Burden (Industry)</b>		<b>8,675</b>	<b>46,770</b>	<b>n/a</b>	<b>n/a</b>	<b>\$154,000</b>	<b>\$2,070,000</b>

<sup>1</sup> See previous exhibit for calculations of these hours.

<sup>2</sup> Hourly wage rates are calculated from daily wage rates of \$212 to \$531 per day for PSOs.

<sup>3</sup> These costs are also reported as components of compliance costs estimates provided in the main body of the report.

**EXHIBIT C-3. EXPECTED INCREMENTAL INDUSTRY DATA COLLECTION BURDEN RELATED TO PAM REQUIREMENTS, AVERAGE ANNUAL HOURS AND COSTS, 2021-2025 (2019\$)**

SURVEY TYPE	WATER DEPTH	HOURS (AVERAGE ANNUAL) <sup>1</sup>		PAM OPERATOR WAGE/HOUR <sup>2</sup>		PRA COSTS (AVERAGE ANNUAL) <sup>3</sup>	
		LOW	HIGH	LOW	HIGH	LOW	HIGH
Non-airgun HRG	Shallow	-	-	\$27	\$53	\$0	\$0
	Deep	-	-	\$27	\$53	\$0	\$0
2D	Shallow	-	-	\$27	\$53	\$0	\$0
	Deep	-	9,574	\$27	\$53	\$0	\$508,000
2D-OBN	Shallow	-	-	\$27	\$53	\$0	\$0
	Deep	-	2,606	\$27	\$53	\$0	\$138,000
3D	Shallow	-	4,454	\$27	\$53	\$0	\$236,000
	Deep	3,631	9,806	\$27	\$53	\$96,400	\$521,000
3D-OBN	Shallow	-	13,756	\$27	\$53	\$0	\$730,000
	Deep	3,737	30,285	\$27	\$53	\$99,200	\$1,610,000
WAZ	Shallow	-	10,452	\$27	\$53	\$0	\$555,000
	Deep	35,622	173,996	\$27	\$53	\$946,000	\$9,240,000
Airgun HRG	Shallow	-	-	\$27	\$53	\$0	\$0
	Deep	-	-	\$27	\$53	\$0	\$0
VSP	Shallow	2,185	3,554	\$27	\$53	\$58,000	\$189,000
	Deep	6,597	9,848	\$27	\$53	\$175,000	\$523,000
SWD	Shallow	-	-	\$27	\$53	\$0	\$0
	Deep	1,192	2,273	\$27	\$53	\$31,600	\$121,000
<b>Total Annual PRA Burden (Industry)</b>		<b>52,964</b>	<b>270,605</b>	<b>n/a</b>	<b>n/a</b>	<b>\$1,410,000</b>	<b>\$14,400,000</b>

<sup>1</sup> See previous exhibit for calculations of these hours.

<sup>2</sup> Hourly wage rates are calculated from daily wage rates of \$319 to \$637 per day for PAM operators.

<sup>3</sup> These costs are also reported as components of compliance costs estimates provided in the main body of the report.

**EXHIBIT C-4. EXPECTED INCREMENTAL GOVERNMENT DATA COLLECTION BURDEN, AVERAGE ANNUAL HOURS AND COSTS, 2021-2025 (2019\$)**

SURVEY TYPE	WATER DEPTH	NUMBER OF SURVEYS (AVERAGE ANNUAL) <sup>1</sup>		NUMBER OF REPORTS PER SURVEY <sup>2</sup>	GOVERNMENT REVIEW (HOURS PER REPORT) <sup>3</sup>	TOTAL INCREMENTAL GOVERNMENT REVIEW HOURS (AVERAGE ANNUAL)		GOVERNMENT COST PER HOUR (GS RATE) <sup>4</sup>	TOTAL INCREMENTAL GOVERNMENT PRICES (AVERAGE ANNUAL)	
		LOW	HIGH			LOW	HIGH		LOW	HIGH
Non-airgun HRG	Shallow	14	21	1	0	0	0	\$63.54	\$0	\$0
	Deep	27	37	1	1	27	37	\$63.54	\$1,720	\$2,370
2D	Shallow	0	0	12	1.5	0	0	\$63.54	\$0	\$0
	Deep	0	2	12	0.5	0	11	\$63.54	\$0	\$671
2D-OBN	Shallow	0	0	9	1.5	0	0	\$63.54	\$0	\$0
	Deep	0	0	9	0.5	0	1	\$63.54	\$0	\$61
3D	Shallow	0	1	9	1.5	0	15	\$63.54	\$0	\$936
	Deep	1	2	9	0.5	4	11	\$63.54	\$254	\$687
3D-OBN	Shallow	0	1	9	1.5	0	15	\$63.54	\$0	\$963
	Deep	1	2	9	0.5	4	11	\$63.54	\$262	\$707
WAZ	Shallow	0	0	12	1.5	0	7	\$63.54	\$0	\$439
	Deep	3	6	12	0.5	20	38	\$63.54	\$1,250	\$2,440
Airgun HRG	Shallow	1	1	1	1	0	1	\$63.54	\$29	\$45
	Deep	1	2	1	0	0	0	\$63.54	\$0	\$0
VSP	Shallow	10	17	1	1.5	15	25	\$63.54	\$984	\$1,600
	Deep	31	47	1	0.5	16	23	\$63.54	\$990	\$1,480
SWD	Shallow	0	0	1	1.5	0	0	\$63.54	\$0	\$0

	Deep	6	11	1	0.5	3	5	\$63.54	\$179	\$341
<b>Total Annual PRA Burden (Govt)</b>		<b>95</b>	<b>151</b>	<b>n/a</b>	<b>n/a</b>	<b>89</b>	<b>200</b>	<b>n/a</b>	<b>\$5,660</b>	<b>\$12,700</b>

<sup>1</sup> Refer to Section 4.2.2 and Exhibit 4-15 for additional details about the forecasts for the number of surveys that are anticipated.

<sup>2</sup> Assumes that a bi-weekly report will be prepared by PSOs. This column reflects the number of these reports that would be prepared given each survey duration.

<sup>3</sup> Assumes that government agency review will be required for all survey reports. Assumes 0.5 incremental hours for review of new PAM records, and 1.0 hours for review of PSO reports.

<sup>4</sup> Government wage rate is a Basic, Step 5, GS-13 rate multiplied by 1.526 to reflect fringe benefits and overhead. Accessed [https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2019/GS\\_h.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2019/GS_h.pdf) on May 12, 2020.

#### EXHIBIT C-5. TOTAL EXPECTED PAPERWORK BURDEN (INDUSTRY AND GOVERNMENT) (2019\$)

SURVEY TYPE	WATER DEPTH	AVERAGE ANNUAL HOURS		AVERAGE ANNUAL PRA COSTS		EXPECTED PRA COSTS, ANNUALIZED (3 PERCENT)		EXPECTED PRA COSTS, ANNUALIZED (7 PERCENT)	
		LOW	HIGH	LOW	HIGH	LOW	HIGH	LOW	HIGH
Non-airgun HRG	Shallow	0	0	\$0	\$0	\$0	\$0	\$0	\$0
	Deep	5,851	8,071	\$105,000	\$358,000	\$90,500	\$316,000	\$101,000	\$353,000
2D	Shallow	0	0	\$0	\$0	\$0	\$0	\$0	\$0
	Deep	0	9,584	\$0	\$509,000	\$0	\$455,000	\$0	\$508,000
2D-OBN	Shallow	0	0	\$0	\$0	\$0	\$0	\$0	\$0
	Deep	0	2,607	\$0	\$138,000	\$0	\$124,000	\$0	\$138,000
3D	Shallow	0	9,771	\$0	\$472,000	\$0	\$427,000	\$0	\$477,000
	Deep	3,635	9,817	\$96,600	\$521,000	\$90,800	\$475,000	\$101,000	\$531,000
3D-OBN	Shallow	0	30,147	\$0	\$1,460,000	\$0	\$1,320,000	\$0	\$1,470,000
	Deep	3,742	30,296	\$99,500	\$1,610,000	\$93,500	\$1,470,000	\$104,000	\$1,640,000
WAZ	Shallow	0	22,902	\$0	\$1,110,000	\$0	\$987,000	\$0	\$1,100,000
	Deep	35,642	174,034	\$947,000	\$9,240,000	\$854,000	\$8,350,000	\$954,000	\$9,330,000
Airgun HRG	Shallow	250	384	\$4,450	\$17,000	\$3,970	\$15,300	\$4,430	\$17,100
	Deep	0	0	\$0	\$0	\$0	\$0	\$0	\$0
VSP	Shallow	4,801	7,811	\$105,000	\$378,000	\$65,700	\$227,000	\$73,400	\$253,000
	Deep	6,613	9,871	\$176,000	\$524,000	\$156,000	\$471,000	\$175,000	\$526,000

# IEc

SWD	Shallow	0	0	\$0	\$0	\$0	\$0	\$0	\$0
	Deep	1,195	2,278	\$31,800	\$121,000	\$28,300	\$108,000	\$31,600	\$121,000
<b>Total Annual PRA Burden (Govt + Industry)</b>		<b>61,727</b>	<b>317,575</b>	<b>\$1,570,000</b>	<b>\$16,400,000</b>	<b>\$1,380,000</b>	<b>\$14,700,000</b>	<b>\$1,540,000</b>	<b>\$16,500,000</b>

## Burden Statement

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by OMB under control number (0648-0151). The public reporting burden for this Final Rule is estimated to include PSO time and PAM operator time collecting data, as well as an average of *approximately four hours per survey* for other information collection tasks, including reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number. All currently approved NOAA collections of information may be viewed at:

[http://www.cio.noaa.gov/services\\_programs/prasubs.html](http://www.cio.noaa.gov/services_programs/prasubs.html)

## C.3 UNFUNDED MANDATES REFORM ACT

Signed into law on March 22, 1995, **Unfunded** Mandates Reform Act (UMRA) (2 USC 1501 et seq.) places certain requirements on federal agencies that issue significant regulations that generate unfunded mandates. These include the preparation of a statement supporting the need to issue the regulation, and a description of prior consultation with representatives of affected state, local, and tribal governments. Requirements in the UMRA apply only to those federal regulations containing a “significant unfunded mandate.” The UMRA defines a significant unfunded mandate as a federal rule that either:

- Results in estimated costs to state, local, and tribal governments, in aggregate, of \$100 million or more in any one year; or
- Results in estimated annual costs to the private sector of \$100 million or more in any one year.

Federal rules are exempt from the UMRA requirements if:

- The rule implements requirements specifically set forth in law; or
- Compliance with the rule is voluntary for state and local governmental entities.

Based on these criteria set forth by the UMRA, we do not expect the Final Rule to generate a significant unfunded mandate. The rule does not have a significant or unique effect on State, local or Tribal governments, or the private sector. As such, a statement containing the information required by UMRA (2 U.S.C. §§ 1531et seq.) is not required.

## C.4 ENVIRONMENTAL JUSTICE ANALYSIS

Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” (February 11, 1994), requires federal agencies to identify disproportionately large and adverse human health or environmental effects of their programs, policies, and activities on

minority and low-income populations.<sup>10,11</sup> Among other actions, agencies are directed to improve research and data collection regarding health and environmental effects in minority and low-income communities. BOEM provides this analysis in the FEIS.

### **C.5 PROPERTY TAKINGS (EXECUTIVE ORDER 12630)**

Executive Order 12630 states that governmental officials should be sensitive to and anticipate, and account for obligations imposed by the Just Compensation Clause of the Fifth Amendment in planning and carrying out government actions. Actions which result in a physical invasion or occupancy of private property may constitute a taking of property, even if that invasion is temporary. Because the area to be affected by this Final Rule is Federal waters, no property takings is anticipated.

### **C.6 CHILDREN'S HEALTH PROTECTION**

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (April 21, 1997), directs federal agencies and departments to evaluate the health effects of health-related or risk-related regulations on children.<sup>12</sup> For economically significant rules concerning an environmental health or safety risk that may disproportionately affect children, Executive Order 13045 also requires an explanation as to why the planned regulation is preferable to other potentially effective and feasible alternatives.<sup>13</sup> The Final Rule is not subject to E.O. 13045 because it does not involve decisions on environmental health or safety risks that may disproportionately affect children.

### **C.7 TRIBAL GOVERNMENT ANALYSIS**

Executive Order 13175: Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 9, 2000), requires NMFS to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." Because this rule will be implemented in Federal waters, NMFS believes that it does not have tribal implications and therefore is not further evaluated.

### **C.8 FEDERALISM ANALYSIS**

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires NMFS to develop a process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." Policies that have federalism implications are

<sup>10</sup> As stated in Executive Order 12898, a minority is an individual who is a member of one of the following population groups: American Indian or Alaskan Native; Asian or Pacific Islander; Black, not of Hispanic origin; or Hispanic.

<sup>11</sup> As stated in Executive Order 12898, low-income populations are identified using the annual statistical poverty thresholds from the Census Bureau's Current Population Reports on Income and Poverty.

<sup>12</sup> In addition, two separate directives issued by EPA, "Policy on Evaluating Health Risks to Children" (October 1995) and "National Agenda to Protect Children's Health from Environmental Threats" (October 1996), call for consideration of children's health within risk assessments and other components of regulatory analyses.

<sup>13</sup> As defined in Executive Order 13045, an economically significant rule is any rulemaking that has an annual effect on the economy of \$100 million or more, or would adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities.

defined in the Executive Order to include regulations that have “substantial direct effects on the States [in terms of compliance costs], on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.” In addition, policies have federalism implications if they preempt State law. In terms of compliance costs, the Federal government must provide the necessary funds to pay the direct costs incurred by State and local governments in complying with the regulation if the rule:

1. Results in direct expenditures to state and local governments in aggregate of \$25 million in any one year; or
2. Results in expenditures greater to state and local governments greater than one percent of their annual revenues in any one year

We do not anticipate that this rule will result in significantly greater compliance costs for the States above the thresholds listed above. We also do not expect this rule to impact the relationship between the Federal government and the States or on the distribution of power and responsibilities among the various levels of government, as specified in the Order. Thus, Executive Order 13132 does not apply to this rule.

## **C.9 CUMULATIVE IMPACTS ANALYSIS**

Executive Order 12866, entitled “Regulatory Planning and Review” (October 4, 1993), and Executive Order 13563, entitled “Improving Regulation and Regulatory Review” (January 21, 2011), require NMFS to “tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations.” For a more detailed assessment of the cumulative impacts of alternative rule elements considered in the development of the Final Rule, please refer to the EIS.