**Supporting Statement A for**

**Paperwork Reduction Act Submission**

**Native American Graves Protection and Repatriation Regulations**

**43 CFR 10**

**OMB Control Number 1024-0144**

**Terms of Clearance: NONE**

**1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.**

The Native American Graves Protection and Repatriation Act of 1990 (NAGPRA or the Act; 25 U.S.C. 3001-3013) requires all public and private museums receiving Federal funds to compile summaries, inventories, and notices regarding Native American cultural items in their possession or control. That information is to be provided to lineal descendants, likely interested Indian tribes and Native Hawaiian organizations, and the National NAGPRA Program (acting on behalf of the Secretary of the Interior, housed in the National Park Service (NPS)).

The Act requires the collection of information regarding Native American human remains and cultural items for the purposes of protection on Federal or Tribal lands and repatriation by museums. Information must be collected from members of the public, Indian Tribes, Native Hawaiian organizations (NHOs), and museums.

The Department of the Interior proposes to revise the current regulations to clarify and improve the systematic process for the disposition and repatriation of Native American human remains, funerary objects, sacred objects, or objects of cultural patrimony. The proposed rule would eliminate ambiguities, correct inaccuracies, simplify excessively burdensome and complicated requirements, clarify timelines, and remove offensive terminology in the existing regulations that have inhibited the respectful repatriation of most Native American human remains. This rule would simplify and improve the regulatory process for repatriation and thereby advance the goals of racial justice, equity, and inclusion.

The Act requires information collection from

* any person who knows or has reason to know of the discovery of human remains or cultural items on Federal or Tribal lands;
* Indian Tribes and Native Hawaiian organizations (NHOs) for discoveries, excavations, or dispositions on Tribal lands; and
* museums about Native American human remains or cultural items in holdings or collections.

The proposed rule contains existing information collection in 43 CFR part 10 that were previously reviewed and approved by Office of Management and Budget and assigned OMB Control Number 1024-0144 (expires 4/30/2025). This request is for the new requirements proposed in Subparts B, C, and D that will require revision of the currently approved collection.

Legal Authority

* 25 U.S.C. 3001-3013 - Native American Graves Protection and Repatriation Act
* 43 CRF part 10 – Native American Graves Protection and Repatriation ActRegulations

**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. Be specific. If this collection is a form or a questionnaire, every question needs to be justified.**

The proposed regulations contains existing and new information collection requirements. OMB previously reviewed and approved information collection related to 43 CFR part 10 and assigned the following OMB control number 1024-0144 (expires 4/30/2025). In developing the new information collection requirements in the proposed regulations, the Department relied on comments from the following entities:

* Lineal descendants
* Indian tribes
* Native Hawaiian organizations
* Federal agencies
* National museum and scientific organizations,
* Indian tribal historic preservation organizations,
* The Native American Graves Protection and Repatriation Review Committee, and
* Interested members of the public

The information in the is collection is generally used by the following entities in accordance with their roles and responsibilities.

|  |  |
| --- | --- |
| **Used by** | **Used to** |
| Lineal descendants, Indian Tribes, and Native Hawaiian organizations | * determine whether to engage in active consultation with a museum or Federal agency; * identify the cultural or geographical affiliation and type of cultural items in a holding or collection; * request and receive repatriation of human remains or cultural items; * protect Native American human remains or cultural items discovered on Federal or Tribal lands; and * ensure proper disposition of Native American human remains or cultural items removed from Tribal lands. |
| Federal agencies and the Department of Hawaiian Homelands | * protect Native American human remains or cultural items discovered on Federal lands; * ensure proper disposition of Native American human remains or cultural items removed from Federal lands in the United States or Tribal lands in Hawai’i; and * identify holdings or collections for which it is responsible. |
| The Review Committee | * monitor the inventory and identification process conducted; * ensure a fair, objective consideration and assessment of all available relevant information and evidence; * consult with Indian Tribes and Native Hawaiian organizations; * consult with the Secretary of the Interior; * report to Congress; * better understand the state of repatriations and the ongoing or upcoming effort needed to complete repatriations; and * inform their responsibilities for conflict resolution and allow them to know when an issue has been resolved |
| The Secretary (or the Assistant Secretary) | * determine whether a museum has complied with the requirements of NAGPRA; * carry out the Secretary’s responsibility for the civil enforcement of the Act against museums that fail to comply; * determine museum eligibility for grants under the Act; and * report statistics on actual repatriations. |
| The general public | * better understand the state of repatriations and the ongoing or upcoming effort needed to complete repatriations. |

The information collected under 43 CFR Part 10 are as follows:

**Table 2.1. Proposed New Information Collection Requirements in Subpart B**

|  |  |
| --- | --- |
| **Information Collection Requirement** | **Proposed Rule** |
| ***In use but previously not approved*** | |
| Report a discovery on Federal or Tribal lands | §10.5(a)-(b) |
| Respond to a discovery | §10.5(c)(1) and §10.5(e) |
| Consent to an excavation | §10.6(a) |
| Submit a claim for disposition | §10.7(d)(3) |
| ***New information collections*** | |
| Delegate or accept responsibility on Tribal land | §10.5(c)(2)-(3); §10.6(a)(2)-(3) and §10.7(c)(2)-(3) |
| Send or complete a disposition statement | §10.7(b) and §10.7(c) |

**Table 2.2. Currently approved Information collections in Subpart C**

|  |  |
| --- | --- |
| **Information Collection Requirement** | **Proposed Rule** |
| New Summary/ Inventory (private and state or local museums) | §10.9(a) and §10.10(d) |
| Updated Summary/ Inventory Data (private and state or local museums) | §10.9(a) and §10.10(d) |
| Notices for publication in the *Federal Register* (private and state or local museums) | §10.9(f) and §10.10(e) |
| Initiate Consultation and Request Information (private and state or local museums) (previously Notify Tribes) | §10.10(b)-(c) |
| Response to requests for information (state or local museums) | Removed |

**Table 2.3. Proposed New Information Collection Requirements in Subpart C**

|  |  |
| --- | --- |
| **Information Collection Requirement** | **Proposed Rule** |
| ***In use but previously not approved*** | |
| Conduct consultation | §10.9(c) and §10.10(c) |
| Submit a request for repatriation | §10.9(d) and §10.10(f) |
| Document physical transfer | §10.9(g)(2) and §10.10(h)(2) |
| File an allegation of failure to comply | §10.11(a) |
| Respond to a civil penalty action | §10.11(e), (h), (i), and (k) |
| ***New information collections*** | |
| Submit statements describing holdings or collection | §10.8(c)-(d) |
| Make a record of consultation | §10.9(c)(3) and §10.10(c)(3) |
| Respond to a request for repatriation | §10.9(e) and §10.10(g) |
| Send a repatriation statement | §10.9(g) and §10.10(h) |
| Evaluate competing requests and resolve stays of repatriation | §10.9(h)-(i) and §10.10(i)-(j) |
| Transfer or reinter human remains and associated funerary objects | §10.10(k) |

**Table 2.4. Proposed New Information Collection Requirements in Subpart D**

|  |  |
| --- | --- |
| **Information Collection Requirement** | **Proposed Rule** |
| Request assistance of the Review Committee | §10.12(c) |

**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 and specifically how this collection meets GPEA requirements.**

The NAGPRA Program will continue to provide templates for all information collections. We anticipate that 99% of the submission will use electronic technology (e.g., e-mail) and the remaining 1% will be mailed or hand-delivered to the appropriate offices. Previously collected information is available and easily accessible in an electronic format on a publicly available website (https://www.nps.gov/subjects/nagpra/databases.htm).

**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.**

The information submitted to National NAGPRA Program is used for no other purpose than to comply with the requirements of NAGPRA. There is no duplication of effort because NPS is the only Federal agency mandated to collect this information on behalf of the Secretary.

**5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.**

The impact of this information collection is limited to “museums.” From 1990 to date, approximately 10% of the total number of responding museums could be characterized as small entities. The impact required to provide information in an inventory or summary is considered to be a part of their normal duties of collections management.

However, the time needed to prepare a notice is in addition to their normal duties. In an effort to reduce respondent burden, the NAGPRA Program provides templates, and technical assistance with drafting and completing the notice requirements. The NAGPRA Program also provides grants, when funds are appropriated, to any museum or Indian Tribe, including small entities.

**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.**

Without this information, many lineal descendants, Indian Tribes, and Native Hawaiian organizations would not be able to determine their interest in human remains or cultural items. The Review Committee would not be able to advise the Secretary or resolve disputes. The Secretary would not be able to determine if a museum has failed to comply with the Act or if a museum is eligible to receive a grant under the Act. If the information collected is not available, museums might be vulnerable to lawsuits alleging bad faith or a violation of due process in the repatriation of human remains or cultural items. If the information collected is not available, Indian Tribes, NHOs, Federal agencies, and DHHL may not be able to protect human remains or cultural items on Federal or Tribal 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;**

**\* 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.**

Under the proposed regulations, no later than 10 business days after receiving a written request to consult, a museum must respond in writing with a proposed timeline for consultation (§10.9(c) and §10.10(c)). This timeline ensures a timely response from a museum to a requesting consulting party but only requires a museum to provide limited information regarding a proposed timeline and method for consultation.

Under the existing regulations and the proposed regulations, museums must retain records permanently to document the content and recipients of all repatriations. This record-keeping requirement is consistent with the normal duties of collections management.

Under the proposed regulations, Indian Tribes and NHOs must retain records permanently to document discoveries, excavations, or dispositions on Tribal lands. This record-keeping requirement is consistent with the normal duties of land management.

Under the existing regulations and the proposed regulations, museums must protect information of a particularly sensitive nature to the extent consistent with applicable law. There is no pledge of confidentiality in this requirement beyond that in applicable law.

Under the proposed regulations, there is no requirement for respondents to submit proprietary trade secrets or other confidential information.

**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 in response to the PRA statement associated with the collection over the past three years, 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 three 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.**

We have prepared proposed regulations (1024-AE19) to solicit the necessary information to clarify and improve upon the systematic process for the disposition and repatriation of Native American human remains, funerary objects, sacred objects, or objects of cultural patrimony. The proposed changes would provide a step-by-step roadmap for museums and Federal agencies to comply with requirements within specific timelines to facilitate the required disposition and repatriation. A copy of the proposed rule is attached. The proposed rule will solicit public comment for a period of 90 days on the existing and new information collection requirements described in this supporting statement.

We received one comment on our previously approved information collection, dated April 11, 2022.

Comment #1: The comment questioned the estimated number of responses and believed the estimated burden hours were grossly underestimated.

NPS Response: In response, we have provided more detail in Question 12 on how we estimated the number of responses.

Comment #2: The comment also noted that there is a difference in the time required to prepare a summary versus an inventory as well as a notice of inventory completion versus a notice of intent to repatriate.

NPS Response: We have adjusted our estimate from the previously approved information collection accordingly by separating out each of these types of information collections. In addition, we have renamed some of the information collections for more clarity.

Comment #3: Regarding the estimated burden hours, the comment suggested we use information from grants awarded annually to museums for these activities to develop our estimate. The comment provided an additional, detailed analysis, dated June 27, 2022, which estimated the annual burden for museums and Federal agencies under the proposed regulations at nearly $20 million. Other non-governmental organizations have provided estimates for the annual burden to museums and Federal agencies under the proposed regulations ranging from $118 million to $250 million per year.

NPS Response: We have provided additional detail in Question 12 on how we estimated the annual hour burden. In general, these other estimates are based on costs for previous compliance and do not consider the increased efficiencies in the proposed regulations. The Department states in the proposed regulations a primary purpose of the revisions is to describe the processes in accessible language with clear timelines and terms, reduce ambiguity, and improve efficiency in meeting the requirements. With these revisions, we expect the proposed regulations to reduce the costs for museums, Federal agencies, Indian Tribes, and NHOs over time.

It should be noted that the SSA estimates the costs of the information collections subject to the Paperwork Reduction Act. A separate cost-benefit analysis is included for the proposed regulations and can be found in the report entitled “Benefit-Cost and Regulatory Flexibility Threshold Analyses: Native American Graves Protection and Repatriation Act Regulations” in ROCIS.

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

We do not provide payments or gifts to respondents.

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

The information collection is not conducted in a manner that includes a pledge of confidentiality; therefore, we do not make any assurances of confidentiality.

**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.**

At the request of a lineal descendant, Indian Tribe, or NHO, a museum may take such steps to ensure that information of a particularly sensitive nature is not made available to the general public to the extent consistent with applicable law (proposed rule §10.9(g)(2) and §10.10(h)(2)). This information is not collected or stored by the NPS, NAGPRA Program.

**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.**

**\* 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.**

We have identified 26 information collections in the proposed regulations. We estimate the frequency of response for each of the information collections is once per year. We have averaged the estimated time per response, however, the actual time required may vary based upon the difference in size and complexity of the response. In total, we estimate that we will receive, annually, **2,212 responses** totaling **35,878 annual burden hours**. We estimate the annual dollar value is **$2,304,483** (rounded). Table 12.1 provides the combined annual burden by Subpart. Tables 12.2-12.4 (below) provide the estimated annual burden for each information collection.

**Table 12.1 Combined Estimated burden of this collection**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Proposed Regulations Subpart** | **Number of Information Collections** | **Average**  **Number of Annual Responses** | **Estimated**  **Annual Burden Hours** | **$ Value of Annual Burden Hours** |
| Subpart B - Protection on Federal or Tribal Lands | 6 | 48 | 112 | $6,846 |
| Subpart C – Repatriation by Museums | 19 | 2,161 | 35,697 | $2,293,203 |
| Subpart D – Review Committee | 1 | 3 | 69 | $4,434 |
| **Total** | **26** | **2,212** | **35,878** | **$2,304,483** |

To estimate the annual hour burden including benefits, we used the Bureau of Labor Statistics (BLS) News Release [USDL-22-1176](https://www.bls.gov/news.release/ecec.nr0.htm), March 2022 Employer Costs for Employee Compensation— released June 16, 2022.

Our estimate makes the following assumptions based upon the types of respondents:

*Any person*

* Civil workers. Table 2 lists the hourly rate for full-time workers as **$40.90**, including benefits.

*Any Affected Party*

* State and Local Government Workers. Table 3 lists the hourly rate for Professional and related Workers as **$64.26**, including benefits

*Lineal descendants*

* Private Industry Workers: Table 6 lists the hourly rate for all workers as **$38.61**, including benefits.

*Indian Tribes or Native Hawaiian organizations*

* State and Local Government Workers. Table 3 lists the hourly rate for Professional and related Workers as **$64.26**, including benefits

*Museums*

* State and Local Government Workers. Table 3 lists the hourly rate for Professional and related Workers as **$64.26**, including benefits

**Subpart B - Protection on Federal or Tribal Lands.**

We estimate that there will be approximately 48 annual responses totaling 112 annual burden hours. These estimates rely on an average of 11 notices submitted by Federal agencies since 2019 (similar data is not available for Tribal lands). The information collections below are limited to recordkeeping and disclosures to third parties which generally involve producing, submitting, or retaining a written document. Although the number of Indian Tribes or NHOs that submit claims for disposition is unknown, the estimates in Table 12.2 below are based on available data.

**Table 12.2** **Estimated cost based on the hour burden of the collection for Subpart B**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Requirement** | **Requirement** | **Average**  **Number of Annual Responses** | **Average Completion Time per Response**  **(Hours)** | **Estimated**  **Annual Burden Hours** | **Hourly Rate** | **$ Value of Annual Burden Hours** |
| **IN USE BUT PREVIOUSLY NOT APPROVED** | | | | | | |
| Report a discovery on Federal or Tribal lands | Third-Party Disclosure | 15 | 1 | 15 | $40.90 | $614 |
| Respond to a discovery | Recordkeeping | 4 | 5 | 20 | $64.26 | $1,285 |
| Consent to an excavation | Recordkeeping | 1 | 5 | 5 | $64.26 | $321 |
| Submit a claim for disposition | Third-Party Disclosure | 11 | 5 | 55 | $64.26 | $3,534 |
| **NEW COLLECTIONS** | | | | | | |
| Delegate or accept responsibility on Tribal land | Recordkeeping | 13 | 1 | 13 | $64.26 | $835 |
| Send or complete a disposition statement | Third-Party Disclosure or Record keeping | 4 | 1 | 4 | $64.26 | $257 |
| **Subtotal** | | **48** |  | **112** |  | **$6,846** |

**Subpart C - Repatriation by Museums.**

We estimate that there will be approximately 2,161 annual responses totaling 35,697 annual burden hours. The estimates are based on available data on the repatriation of human remains or cultural items by museums (n=1,388). This includes an addition of 6 new information collections in the proposed regulations. The estimates are based on the average number submissions received in 2021.

**Table 12.3** **Estimated costs based on the hour burden of the collection for Subpart C**

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Requirement** | **Requirement** | **Average**  **Number of Annual Responses** | **Average Completion Time per Response**  **(Hours)** | | **Estimated**  **Annual Burden Hours** | | **Hourly Rate** | | **$ Value of Annual Burden Hours** |
| **CURRENTLY APPROVED** | | | | | | | | | |
| Submit New Summary | Submit to Federal government (NPS | 7 | 53 | | 371 | | $64.26 | | 23,841 |
| Submit New Inventory | 5 | 155 | | 775 | | $64.26 | | 49,802 |
| Updated Summary Data | Submit to Federal government (NPS | 49 | 10 | | 490 | | $64.26 | | 31,487 |
| Updated Inventory Data | 137 | 50 | | 6,850 | | $64.26 | | 440,181 |
| Notices of Inventory Completion | Submit to Federal government (NPS | 274 | 10 | | 2,740 | | $64.26 | | 176,072 |
| Notices of Intent to Repatriate | 32 | 5 | | 160 | | $64.26 | | 10,282 |
| Initiate Consultation and Request Information (previously Notify Tribes) | Third Party Disclosure | 137 | 3 | | 411 | | $64.26 | | 26,411 |
| **Subtotal** | | **641** |  | | **11,797** | |  | | **758,076** |
| **Requirement** | **Requirement** | **Average**  **Number of Annual Responses** | **Average Completion Time per Response**  **(Hours)** | **Estimated**  **Annual Burden Hours** | | **Hourly Rate** | | **$ Value of Annual Burden Hours** | |
| **IN USE BUT PREVIOUSLY NOT APPROVED** | | | | | | | | | |
| Conduct consultation | Third Party Disclosure | 174 | 100 | 17,400 | | $64.26 | | $1,118,124 | |
| Submit a request for repatriation (Lineal descendants) | Third Party Disclosure | 5 | 5 | 25 | | $38.61 | | $965 | |
| Submit a request for repatriation (Indian Tribes/NHO) | Third Party Disclosure | 320 | 5 | 1,600 | | $64.26 | | $102,816 | |
| Document physical transfer | Recordkeeping | 251 | 5 | 1,255 | | $64.26 | | $80,646 | |
| File an allegation of failure to comply | Submit to Federal government (NPS) | 2 | 1 | 2 | | $40.90 | | $82 | |
| Respond to a civil penalty action | Submit to Federal government (NPS) | 4 | 18 | 72 | | $64.26 | | $4,628 | |
| **Subtotal** | | **756** |  | **20,354** | |  | | **$1,307,261** | |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Requirement** | **Requirement** | **Average**  **Number of Annual Responses** | **Average Completion Time per Response**  **(Hours)** | **Estimated**  **Annual Burden Hours** | **Hourly Rate** | **$ Value of Annual Burden Hours** |
| **NEW COLLECTIONS** | | | | | | |
| Submit statements describing holdings or collections | Submit to Federal government (NPS) | 70 | 5 | 350 | $64.26 | $22,491 |
| Make a record of consultation | Recordkeeping | 174 | 5 | 870 | $64.26 | $55,906 |
| Respond to a request for repatriation | Third Party Disclosure | 251 | 5 | 1,255 | $64.26 | $80,646 |
| Send a Repatriation statement | Submit to Federal government (NPS) | 251 | 3 | 753 | $64.26 | $48,388 |
| Evaluate competing requests and resolve stays of repatriation | Third Party Disclosure | 12 | 25 | 300 | $64.26 | $19,278 |
| Transfer or reinter human remains and associated funerary objects | Third Party Disclosure | 6 | 3 | 18 | $64.26 | $1,157 |
| **Subtotal** | | **764** |  | **3,546** |  | **$227,866** |

**Subpart D – Review Committee.**

We estimate that there will be approximately 3 annual responses totaling 69 annual burden hours. The estimate is based on the average number requests received in 2021.

**Table 12.4 Estimated Annual Burden of Information Collection in Subpart D**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Requirement** | **Respondent** | **Average**  **Number of Annual Responses** | **Average Completion Time per Response**  **(Hours)** | **Estimated**  **Annual Burden Hours** | **Hourly Rate** | **$ Value of Annual Burden Hours** |
| Request assistance of the Review Committee | Submit to Federal government (NPS) | 3 | 23 | 69 | $64.26 | $4,434 |

**13. Provide an estimate of the total annual non-hour cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected in item 12.)**

**\* 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 (including filing fees paid for form processing). 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 collection 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 cost burdens to respondents.

**14. Provide estimates of annualized cost 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.**

The combined estimated annual cost (see tables 14.1 and 14.2 below) for this collection of information is estimated to be **$343,675 (rounded)**.

Table 14.1 below shows the average weighted hourly rate of $131.70 for the Federal staff associated with this information collection. We used the Office of Personnel Management Salary Table [2022-DCB](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2022/DCB_h.pdf) to determine the hourly rates and multiplied the hourly rate by 1.59 to account for benefits in accordance with News Release [USDL-22-1176](https://www.bls.gov/news.release/ecec.nr0.htm), March 2021 Employer Costs for Employee Compensation— released June 16, 2022, to estimate average hourly wages and to calculate benefits.

**Table 14.1. Federal staff weighted hourly rate**

| **Position** | **GS Level** | **Hourly Rate** | **Hourly Rate**  **incl. benefits**  ***(1.59)*** | **Estimated percent of time spent on collection work** | **Weighted average** |
| --- | --- | --- | --- | --- | --- |
| Clerical | **9/5** | **$33.64** | **$53.49** | **80%** | **$42.79** |
| Skilled/technical knowledge, | **13/5** | **$58.01** | **$92.24** | **95%** | **$87.63** |
| Management/professional | **15/5** | **$80.63** | **$128.20** | **1%** | **$1.28** |
| **Total** | | | | | **$131.70** |

Table 14.2 below shows the estimated salary and operational costs to the Federal Government using the weighted hourly rate above. This is based upon the following assumptions:

Federal staff conducts the following tasks:

* Summaries, inventories, and notices submitted by museums are received by Federal staff of the NAGPRA Program.
* Summaries and inventories are logged, entered into a database, and filed in electronic formats.
* Notices are logged, entered into a database, reviewed for publication, and returned to the submitting museums for approval.
* Statements describing holdings or collections, statements of repatriation, resolutions of competing requests or stays of repatriation, and transfer or reinterment documents are logged, entered into a database, and filed in electronic formats.
* Allegations of failure to comply, civil penalty actions, and requests to the Review Committee are logged, filed in electronic formats, and reviewed to by Federal staff.
* The number of notices expected under the proposed rule is 306 per year and average 3 columns each. The cost of publication in the Federal Register is currently $151/column (as of 2018, see <https://www.gpo.gov/how-to-work-with-us/agency/circular-letters/new-federal-register-publishing-rates>).

**Table 14.2. Estimated annualized cost to the Federal government**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Activity** | **Number of responses** | **Time per response**  **(hours)** | **Annual Hour Burden** | **Hourly Rate** | **Annual Hour Burden Costs** |
| New Summaries and Inventories | 12 | 2 | 24 | $131.70 | $3,161 |
| Updated Summary and Inventory Data | 186 | 1 | 186 | $131.70 | $24,496 |
| Notices | 306 | 3 | 918 | $131.70 | $120,901 |
| Other documents submitted to NPS | 339 | 1 | 339 | $131.70 | $44,646 |
| Civil penalty actions and requests to Review Committee | 9 | 10 | 90 | $131.70 | $11,853 |
| **Salary Costs:** | | | | | **$205,057** |
| **Table 14.3. Estimated annualized cost to the Federal government** | | | | | |
| **Activity** | **Number of Notices** | **Number of Columns per notice** | **Total Number of Columns** | **Cost per column** | **Cost** |
| Federal Register publications | 306 | 3 | 918 | $151 | $138,618 |
| **Total Costs to Federal Government** | | | | | **$343,675** |

**15. Explain the reasons for any program changes or adjustments in hour or cost burden.**

In developing this estimate, we reviewed all aspects of the proposed regulations for information collection requirements. Our previously approved information collection identified nine information collections. The proposed regulations require modifications to those previously approved information collections and removal of two previously approved information collection. We also identified eight additional information collections in the existing regulations that were not previously identified as information collections. Finally, the proposed rule requires nine new information collections. Tables 12.2, 12.3 and 12.4 (above) identify and summarize the updated information collections and respondent burdens for the existing and new collections that constitute program changes.

**Table 15.1. Combined estimated program changes and adjustments for Subparts B - D**

| **Proposed Regulations Subpart** | Annual Number of Responses | | | Annual Burden (hours) | | |
| --- | --- | --- | --- | --- | --- | --- |
| Previously  Approved | Current  Request | Program Change | Previously  Approved | Current  Request | Program Change |
| Subpart B – Protection on Federal or Tribal Lands | 0 | 48 | 48 | 0 | 112 | 112 |
| Subpart C – Repatriation by Museums | 448 | 2,161 | 1,713 | 4,470 | 35,697 | 31,227 |
| Subpart D – Review Committee | 0 | 3 | 3 | 0 | 69 | 69 |
| ***Total*** | **448** | **2,212** | **1,764** | **4,470** | **35,878** | **31,408** |

**Subpart B - Protection on Federal or Tribal Lands.**

The requirements in Subpart B of the proposed rule caused a net increase of 48 responses and 112 burden hours due to new information collections.

**Table 15.2. Program changes and adjustments for Subpart B**

| **Information Collection** | Annual Number of Responses | | | Annual Burden Hours | | |
| --- | --- | --- | --- | --- | --- | --- |
| Previously  Approved | Current  Request | Program Change | Previously  Approved | Current  Request | Program Change |
| Report a discovery on Federal or Tribal lands | 0 | 15 | 15 | 0 | 15 | 15 |
| Respond to a discovery | 0 | 4 | 4 | 0 | 20 | 20 |
| Consent to an excavation | 0 | 1 | 1 | 0 | 5 | 5 |
| Submit a claim for disposition | 0 | 11 | 11 | 0 | 55 | 55 |
| Delegate or accept responsibility on Tribal land | 0 | 13 | 13 | 0 | 13 | 13 |
| Send or complete a disposition statement | 0 | 4 | 4 | 0 | 4 | 4 |
| ***Subtotal*** | 0 | 48 | 48 | 0 | 112 | 112 |

|  |  |  |
| --- | --- | --- |
| **Information Collections** | **Proposed Rule** | **Program Change** |
| Report a discovery on Federal or Tribal lands | §10.5(a)-(b) | *(IN USE BUT PREVIOUSLY NOT APPROVED)*. Based on available data, we estimate 15 discoveries will be reported a year. |
| Respond to a discovery | §10.5(c)(1)  §10.5(e) | *(IN USE BUT PREVIOUSLY NOT APPROVED)*. Based on available data, we estimate 25% (n=4) of the discoveries reported occur on Tribal lands. |
| Consent to an excavation | §10.6(a) | *(IN USE BUT PREVIOUSLY NOT APPROVED)*. We assume most Indian Tribes and NHOs prefer to avoid excavation whenever possible. Based on available data, we estimate 25% (n=1) of the discoveries on Tribal lands result in excavations. |
| Submit a claim for disposition | §10.7(d)(3) | *(IN USE BUT PREVIOUSLY NOT APPROVED)*. Based on available data, we estimate that all of the discoveries reported on Federal lands (n=11) will be claimed by Indian Tribes or NHOs |
| Delegate or accept responsibility on Tribal land | §10.5(c)(2)-(3)  §10.6(a)(2)-(3)  §10.7(c)(2)-(3) | This is a NEW information collection requirement. Based on available data, we estimate 2% of Indian Tribes (n=11) and NHOs (n=2) will delegate or accept responsibility. (The total number of Indian Tribes is 574. The estimated number of NHOs is 120). |
| Send or complete a disposition statement | §10.7(b)  §10.7(c) | This is a NEW information collection requirement. Based on available data, we estimate that all of the discoveries on Tribal lands (n=4) will require a disposition statement |

**Subpart C: Repatriation by Museums**

The requirements in Subpart C of the proposed rule caused a net increase of 1,713 responses and 31,227 burden hours due to new information collections.

**Table 15.3. Program changes and adjustments for Subpart C**

| **Information Collection** | Annual Number of Responses | | | Annual Burden (hours) | | |
| --- | --- | --- | --- | --- | --- | --- |
| Previously  Approved | Current  Request | Program Change | Previously  Approved | Current  Request | Program Change |
| **CURRENTLY APPROVED** | | | | | | |
| Submit New Summary | 2 | 7 | 5 | 200 | 371 | 171 |
| Submit New Inventory | 1 | 5 | 4 | 100 | 775 | 675 |
| Updated Summary Data | 180 | 49 | -131 | 1800 | 490 | -1,310 |
| Updated Inventory Data | 130 | 137 | 7 | 1300 | 6,850 | 5,550 |
| Notices of Inventory Completion | 64 | 274 | 210 | 640 | 2,740 | 2,100 |
| Notices of Intent to Repatriate | 41 | 32 | -9 | 410 | 160 | -250 |
| Initiate Consultation and Request Information | 10 | 137 | 127 | 5 | 411 | 406 |
| Notify Tribes/Request for Information (Private) | 4 | 0 | -4 | 2 | 0 | -2 |
| Respond to Requests for Information | 16 | 0 | -16 | 13 | 0 | -13 |
| ***Subtotal*** | 448 | 641 | 193 | 4,470 | 11,797 | 7,327 |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Information Collection** | Annual Number of Responses | | | Annual Burden (hours) | | |
| Previously  Approved | Current  Request | Program Change | Previously  Approved | Current  Request | Program Change |
| **IN USE BUT PREVIOUSLY NOT APPROVED** | | | | | | |
| Conduct consultation | 0 | 174 | 174 | 0 | 17,400 | 17,400 |
| Submit a request for repatriation (Lineal descendants) | 0 | 5 | 5 | 0 | 25 | 25 |
| Submit a request for repatriation (Indian Tribes/NHO) | 0 | 320 | 320 | 0 | 1,600 | 1,600 |
| Document physical transfer | 0 | 251 | 251 | 0 | 1,255 | 1,255 |
| File an allegation of failure to comply | 0 | 2 | 2 | 0 | 2 | 2 |
| Respond to a civil penalty action | 0 | 4 | 4 | 0 | 72 | 72 |
| ***Subtotal*** | 0 | 756 | 756 | 0 | 20,354 | 20,354 |

| **Information Collection** | Annual Number of Responses | | | Annual Burden (hours) | | |
| --- | --- | --- | --- | --- | --- | --- |
| Previously  Approved | Current  Request | Program Change | Previously  Approved | Current  Request | Program Change |
| **NEW COLLECTIONS** | | | | | | |
| Submit statements describing holdings or collections | 0 | 70 | 70 | 0 | 350 | 350 |
| Make a record of consultation | 0 | 174 | 174 | 0 | 870 | 870 |
| Respond to a request for repatriation | 0 | 251 | 251 | 0 | 1,255 | 1,255 |
| Send a repatriation statement | 0 | 251 | 251 | 0 | 753 | 753 |
| Evaluate competing requests and resolve stays of repatriation | 0 | 12 | 12 | 0 | 300 | 300 |
| Transfer or reinter human remains and associated funerary objects | 0 | 6 | 6 | 0 | 18 | 18 |
| ***Subtotal*** | 0 | 764 | 764 | 0 | 3,546 | 3,546 |

|  |  |  |
| --- | --- | --- |
| **Information Collections** | **Proposed Rule** | **Program Change** |
| Submit New Summary | §10.9(a)  §10.10(d) | This is a CURRENT information collection requirement, as modified, and the number of museums submitting new summaries (n=7) is based on the number of new submissions to date in 2022. This is an increase of 5 from the estimate in our previously approved information collection and reflects recent increased activity by museums. |
| Submit New Inventory | §10.9(a)  §10.10(d) | This is a CURRENT information collection requirement, as modified, and the number of museums submitting new inventories (n=5) is based on the number of new submissions to date in 2022. This is an increase of 4 from the estimate in our previously approved information collection and reflects recent increased activity by museums. |
| Updated Summary Data | §10.9(a)  §10.10(d) | This is a CURRENT information collection requirement, as modified, and the number of museums updating summary data (n=49) is based on the average number of updates we received in 2021 (n=52) and to date in 2022 (n=45). |
| Update Inventory Data | §10.9(a)  §10.10(d | This is a CURRENT information collection requirement, as modified, and the number of museums updating inventory data (n=137) is based on changes in the proposed regulations that will require 414 museums to update inventory data within three years of the final rule. We estimate that 33% of those museums will submit inventory updates each year for three years. |
| Submit Notices of Inventory Completion | §10.10(b)-(c) | This is a CURRENT information collection requirement, as modified, and the number of notices of inventory completion (n=274) is based on the number of museums required to update inventory data identified above. We estimate that each museum required to update inventory data (n=137) will yield an average of two notices of inventory completion each year. |
| Submit Notices of Intent to Repatriate | §10.9(e) and §10.10(g) | This is a CURRENT information collection requirement, as modified, and the number of notice of intent to repatriate (n=32) is based on the average number of submission by museums over the last three years. |
| Initiate Consultation and Request for Information | §10.10(b)-(c) | This is a CURRENT information collection requirement, as modified, and the number of museums initiating consultation and requesting information (n=137) is based on the number of museums required to update inventory data identified above. |
| Notify Tribes/Request for Information | Removed | This is a CURRENT information collection requirement which has been removed. It is consolidated with the information collection above. |
| Respond to Requests for Information | Removed | This is a CURRENT information collection requirement which has been removed. This is based on changes in the proposed regulations that no longer require Indian Tribes or NHOs to submit specific information to museums or Federal agencies. |
| Conduct consultation | §10.9(c)  §10.10(c) | *(IN USE BUT PREVIOUSLY NOT APPROVED)* The number of museums (n=174) conducting consultation is based on the number of new or updated inventories (which require consultation) and the number of notices of intent to repatriate (which require consultation). |
| Submit a request for repatriation (Indian Tribes or NHOs) | §10.9(d)  §10.10(f) | *(IN USE BUT PREVIOUSLY NOT APPROVED)* The number of Indian Tribes or NHOs who will submit a request for repatriation is unknown. Based on our estimates above, we estimate that 80% (n=219) of notices of inventory completion (which precede a request) and 100% (n=32) of notices of intent to repatriate (which follow a request) will equal the number of requests for repatriation (n=251) sent by lineal descendants, Indian Tribes, or NHOs to museums. In addition, requests must also be submitted to Federal agencies. Applying the same formula, we estimate the number of requests (n=74) submitted to Federal agencies. Of the total (n=325), we estimate more than 98% (n=320) will be submitted by Indian Tribes or NHOs. |
| Submit a request for repatriation (lineal descendants) | §10.9(d)  §10.10(f) | *(IN USE BUT PREVIOUSLY NOT APPROVED)* The number of lineal descendants who will submit a request for repatriation is unknown. Of the total number of requests estimated above (n=325), we estimate less than 2% (n=5) will be submitted by lineal descendants. |
| Document physical transfer | §10.9(g)(2)  §10.10(h)(2) | *(IN USE BUT PREVIOUSLY NOT APPROVED)* The number of museums (n=251) documenting physical transfer of a repatriation is 80% of the total number of notices of inventory completion (which precede a request) and 100% of the total number of notices of intent to repatriate (which follow a request). |
| File an allegation of failure to comply | §10.11(a) | *(IN USE BUT PREVIOUSLY NOT APPROVED)* The number of people submitting an allegation of failure to comply (n=2) is based on the average number of allegations received over the last three years (2019-2021) |
| Respond to a civil penalty action | §10.11(e), (h), (i), and (k) | *(IN USE BUT PREVIOUSLY NOT APPROVED)*. The number of museums responding to a civil penalty action (n=4) is based on the average number of civil penalty actions taken in past years |
| Submit statements describing holdings or collections | §10.8(c)-(d) | This is a NEW information collection requirement, and the number of museums required to submit statement describing holdings or collections is unknown. Based on available data, we estimate 5% (n=70) of all museums (n=1,388) that submitted information under these regulations will have additional holdings or collections to report. |
| Make a record of consultation | §10.9(c)(3)  §10.10(c)(3) | This is a NEW information collection requirement, and the number of museums required to make a record of consultation is unknown. Based on our estimates above for new and updated inventories (which require consultation) and notices of intent to repatriate (which require consultation), we estimate that same number of museums (n=174) will be required to make a record of consultation. |
| Respond to a request for repatriation | §10.9(e)  §10.10(g) | This is a NEW information collection requirement, and the number of museums required to respond to requests for repatriation is unknown. Based on our estimates above for requests for repatriation, we estimate that the same number (n=251) will require a response by a museum. |
| Send a Repatriation statement | §10.9(g)  §10.10(h) | This is a NEW information collection requirement, and the number of museums required to submit repatriation statements is unknown. Based on estimates above for requests and responses, we estimate that the same number (n=251) will result in repatriation statements by museums. |
| Evaluate competing requests and resolve stays of repatriation | §10.9(h)-(i)  §10.10(i)-(j) | This is a NEW information collection requirement, and the number of museums required to evaluate competing requests or resolve stays of repatriation is unknown. We estimate a small number (n=12) of repatriations will involve competing requests or stays of repatriation. |
| Transfer or reinter human remains and associated funerary objects | §10.10(k) | This is a NEW information collection requirement, and the number of museums who transfer or reinter human remains and associated funerary objects is unknown. We estimate a small number (n=6) of museums will have collections that meet the criteria for this action and even fewer who will agree to transfer or reinter. |

**Subpart D: Repatriation by Museums**

The requirements in Subpart D of the proposed rule caused a net increase of 3 responses and 69 burden hours due to new information collections.

**Table 15.4.** **Program changes and adjustments for Subpart D**

| **Information Collection** | Annual Number of Responses | | | Annual Burden Hours | | |
| --- | --- | --- | --- | --- | --- | --- |
| Previously  Approved | Current  Request | Program Change | Previously  Approved | Current  Request | Program Change |
| Request assistance of the Review Committee | 0 | 3 | 3 | 0 | 69 | 69 |

|  |  |  |
| --- | --- | --- |
| **Information Collection** | **Proposed Rule** | **Program Change** |
| Request assistance of the Review Committee | §10.12(c) | This is a NEW information collection requirement, and the number of affected parties requesting assistance (n=3) is based on the average number of requests received by the Review Committee in past 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.**

The information from this collection will not be published.

**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.**

There are no intentions to seek approvals to not display the OMB expiration date on the forms and for this collection.

**18. Explain each exception to the certification statement.**

There are no exceptions to the certification statement.