

Supporting Statement A
Protection of Marine Archaeological Resources Notice of Proposed Rulemaking
30 CFR 550, Subpart A
OMB Control Number 1010-NEW

Terms of Clearance: None

General Instructions

A Supporting Statement, including the text of the notice to the public required by 5 CFR 1320.5(a)(i)(iv) and its actual or estimated date of publication in the Federal Register, must accompany each request for approval of a collection of information. The Supporting Statement must be prepared in the format described below, and must contain the information specified in Section A below. If an item is not applicable, provide a brief explanation. When statistical methods are employed, Section B of the Supporting Statement must be completed. The OMB reserves the right to require the submission of additional information with respect to any request for approval.

Specific Instructions

Introduction

Through a notice of proposed rulemaking, the Bureau of Ocean Energy Management (BOEM) is proposing to require lessees and operators to submit an archaeological report with any oil and gas exploration or development plan they submit to BOEM for approval of activities proposed on the Outer Continental Shelf (OCS). An archaeological report is currently required only if the plan covers an area that the BOEM Regional Director has reason to believe may contain an archaeological resource. This proposed rule would increase the likelihood that archaeological resources are located and identified before they are inadvertently damaged by an OCS operator and thereby assure compliance with the National Historic Preservation Act (NHPA). This proposed rule would define the minimum level of survey information necessary to support the conclusions in the archaeological report, the procedure for reporting possible archaeological resources, the procedure for continuing operations when a possible resource is present, and what to do if an unanticipated archaeological resource is discovered during operation.

Justification

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

Introduction

Notice of Proposed Rulemaking

Through the rulemaking process, BOEM is updating the 30 CFR 550 regulations pertaining to the protections of marine archaeological resources. The notice of proposed rulemaking references new and existing information collection requirements for regulations at 30 CFR 550,

Subpart A. The ICs related to this rulemaking concern requirements under 30 CFR part 550, specifically 30 CFR 550.194 and 30 CFR 550.195 regarding archaeological reporting. This proposed rule would define the minimum level of survey information necessary to support the conclusions in the archaeological report, the procedure for reporting possible archaeological resources, the procedure for continuing operations when a possible resource is present, and what to do if an unanticipated archaeological resource is discovered during operation.

Section 106 of the NHPA requires federal agencies to consider the impacts its undertakings will have on historic properties. BOEM has concluded that modifying generally accepted survey practices and codifying the minimally acceptable methods would be the most effective method for compliance to the NHPA. This proposed rule would increase the likelihood that an archaeological resource is located and identified before it is inadvertently damaged by an OCS operator.

OMB Approved Control Number 1010-0114

The existing OMB approved Control Number 1010-0114 covers 30 CFR 550, Subpart A, General, and Subpart K, Oil and Gas Production Requirements, that deal with general regulatory requirements of oil, gas, and sulfur operations on the OCS. If this proposed rule becomes effective and OMB approves the information collection request, BOEM would update the existing OMB Control Number 1010-0114 for the Subpart A by transferring the new the annual burden hours.

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.

Notice of Proposed Rulemaking

BOEM's existing regulations require an archaeological report to be submitted with an Exploration Plan, a Development Operations Coordination Document, a Development and Production Plan, or other authorization issued by BOEM to permit the disturbance of the seafloor when the BOEM Regional Director has a "reason to believe" that an archaeological resource may be present. BOEM interprets such a "reason to believe" determination as requiring the Regional Director to either have evidence that such a resource is present or to utilize a predictive model that indicates the resource is likely to be present in the area.

Prior to 2005, BOEM's regulation stated: "If it is likely that an archaeological resource exists in the lease area, the Regional Director will notify you in writing." That regulation was revised in 2005 to clarify the basis upon which the Regional Director would require an archaeological survey. The regulation was revised to state "If the Regional Director has reason to believe that an archaeological resource may exist in the lease area, the Regional Director will notify you in writing." In explaining the revision, the preamble to the proposed rule (70 FR 14607 March 23, 2005) clarified the basis upon which the Regional Director would invoke the requirement for an archaeological survey on a lease area.

In 2011, BOEM implemented new pre-seabed identification strategy for archaeology surveys in the Gulf of Mexico Region that were applied, when appropriate, to plans in lease areas outside of BOEM's archaeological resource predictive model. These requirements included guidance that prior to conducting any bottom-disturbing activity on the OCS that could damage archaeological resources, operators should perform a survey of the area of the seafloor on which the activities were to take place and prepare an archaeological assessment of where these bottom disturbing activities are likely to occur. High resolution geophysical surveys are routinely utilized in the offshore environment to identify the presence or absence of potential geological and man-made hazards, sensitive biological habitats, and marine archaeological resources. In keeping with professional standards that have evolved since the existing regulations were adopted, the proposed revision to the marine archaeological regulations would define the minimum level of survey information necessary to support the conclusions in the archaeological report. The proposed changes are necessary to fulfill BOEM's "reasonable and good faith identification effort" under the NHPA and to develop appropriate mitigations to avoid damaging historic and archaeological resources under NEPA.

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.

BOEM encourages respondents to submit the information electronically. We estimate that 90 percent or more of the information would be collected electronically.

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 DOI has several Memoranda of Understanding (MOU) that define responsibilities with other agencies with respect to activities in the OCS. These MOU are effective in avoiding duplication of regulations and reporting requirements. The information collected is specific to a lease, a lessee/operator, or a particular request for BOEM approval and is unique to the site.

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

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The regulatory updates will not create additional paperwork burdens to small or other entities operating in OCS areas under BOEM's regulatory authority, although they are expected to increase the time required to process, interpret, and report the results of each survey. The effect of this proposed rule is simply to clarify requirements and update BOEM regulations to reflect current practices consistent with the NHPA. Because lease operators have already been conducting HRG surveys and conducting the archaeological analysis consistent with the

proposed regulatory requirements in this rule since at least 2011, BOEM does not anticipate that these regulatory updates will have a significant economic impact on small or large operators.

The proposed rule does not change the professional skills necessary for preparation of archaeological reports, however these reports must be completed by individuals who meet the Secretary of the Interior's Professional Qualification Standards, as required by regulations implementing the NHPA. The only material regulatory compliance cost is expected for surveys conducted in less than or equal to 100 meters of water depth which will require tighter line spacing to detect potential archaeological resources.

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.

If we did not collect the information, BOEM would be unable to carry out the mandate of the Outer Continental Shelf Lands Act effectively and to administer the offshore program with regard to determining well producibility and reservoir capability, conserving resources, reimbursing certain costs, protecting correlative rights provisions, or allowing lessees greater flexibility in the manner in which they comply with the requirements of regulations under 30 CFR 550 through the adoption of performance standards. The frequency of submission is on occasion.

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

- (a) requiring respondents to report information to the agency more often than quarterly.**
- (b) requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it.**
- (c) requiring respondents to submit more than an original and two copies of any document.**
- (d) requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than 3 years.**
- (e) 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.**
- (f) requiring the use of statistical data classification that has been reviewed and approved by OMB.**
- (g) 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.**
- (h) 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 special circumstances that would require the collection to be conducted in a manner inconsistent with the guidelines. We do not exceed the guidelines in 5 CFR 1320.5.

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 3 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.

As required in 5 CFR 1320.11, BOEM is providing for and has described the 60-day review and comment process in the preamble of the proposed rule. We will address comments received on the information collection in the final rulemaking process.

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

As stated in subsection 26(a)(1)(C), the OCS Lands Act mandates that we reimburse respondents for their costs of reproduction and processing of certain data and information requested by BOEM. The implementing regulations (§ 550.196) comply with the Act and provide for reimbursement payment of G&G information when applicable. We do not provide gifts to respondents.

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

We protect proprietary information according to the Freedom of Information Act (5 U.S.C. 552), its implementing regulations (43 CFR 2), 30 CFR 252, and 30 CFR 550.197, “Data and information to be made available to the public or for limited inspection.” Proprietary information concerning geological and geophysical data will be protected according to 43 U.S.C. 1352.

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.

The collection does not include sensitive or private questions.

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

(a) 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.

(b) If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.

Potential respondents comprise Federal oil and gas or sulfur lessees/operators. It should be noted that not all of the potential respondents will submit information in any given year. The burden estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Refer to the following table for a breakdown of the hour burdens for this proposed rule. This rule proposes to add or revise the following:

Citation 30 CFR 550 subpart A and related forms/NTLs	Reporting or recordkeeping Requirement	Hour burde n	Average number of annual responses	Annual burden hours
		Non-hour cost burdens		
Information and Reporting Requirements				
194 (a), (c)	Prepare and/or submit archaeological reports or evidence. Submit archaeological and follow-up reports and additional information.	50	10 submissions	500
194 (g)	Locate and protect archaeological sites. Submit archaeological and follow-up reports and additional information.[*]	Requirement not considered IC under 5 CFR 1320.3(b)(2).		
195 (a)	Report archaeological discoveries to the Regional Director.	1	3 reports	3 hours

Citation 30 CFR 550 subpart A and related forms/NTLs	Reporting or recordkeeping Requirement	Hour burde n	Average number of annual responses	Annual burden hours
194	Request departures from conducting archaeological resources surveys and/or submitting reports.[**]	1	2 requests	2 hours
Total Burden	15 responses	505
			\$0 Non-hour cost burdens	

[*] The time and financial resources necessary to comply with this requirement would be incurred in the normal course of business using existing contracts already in place by the operator.

[**] Departure requests do not occur often but are included in burden calculation to allow for the rare occurrence when a company would request a departure from conducting a survey or submitting a report.

(c) 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.

The average respondent cost is \$89/hour* (rounded). This cost is broken out in the below table using the Bureau of Labor Statistics data for the Houston, TX area. See BLS website http://www.bls.gov/oes/current/oes_26420.htm.

Position	Hourly Pay rate (\$/hour estimate)	Hourly rate including benefits (1.4** x \$/hour)	Percent of time spent on collection	Weighted Average (\$/hour)
Administrative Support 43-6014	\$19	27	25%	\$7
Petroleum Engineers, Geologists* 17-2171	\$77	\$108	65%	\$70
Engineer Managers 11-9041	\$88	\$123	10%	\$12
Weighted Average (\$/hour)				\$89

The benefits multiplier of 1.4 is supported by data at: <http://www.bls.gov/news.release/ecec.nr0.htm>.

*Including archeologists within this wage rate category.

Based on a cost factor of \$89 per hour, we estimate the hour burden as a dollar equivalent to industry is \$44,945 (\$89 x 505 hours).

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 shown in Item 12).

(a) 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.

(b) 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.

(c) 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 related to this information collection request.

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.

To analyze and review the information required by subparts A and K, we estimate the Government will spend an average of approximately $\frac{3}{4}$ hour for each hour spent by the respondents for a total of 379 (rounded) hours.

The average government cost is \$75/hour. This cost is broken out in the below table using the current Office of Personnel Management salary data for the REST OF THE UNITED STATES https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/22Tables/html/RUS_h.aspx.

Position	Grade	Hourly Pay rate (\$/hour estimate)	Hourly rate including benefits (1.6* x \$/hour)	Percent of time spent on collection	Weighted Average (\$/hour)
Clerical	GS-5/5	\$20	\$32	4%	\$1
Technician(s)	GS-11/5	\$36	\$58	25%	\$15
Engineer(s)	GS-13/5	\$51	\$82	65%	\$53
Supervisory	GS-14/5	\$61	\$98	6%	\$6
Weighted Average (\$/hour)					\$75

*A multiplier of 1.6 is implied by BLS information at <http://www.bls.gov/news.release/ecec.nr0.htm> was added for benefits.

Based on a cost factor of \$75 per hour, the cost to the government would be \$ (505 hours x 0.75 = 379 hours x \$75 = \$28,425).

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

The new and revised information collection requirements for 30 CFR 550.194 identified below require approval by OMB. BOEM would increase their overall annual burden hours by 505 hours. The burden hours are discussed below.

- Proposed 30 CFR 550.194(a): The proposed revision would require that any EP, DOCD, or DPP, or other authorization permit requiring a disturbance of the seafloor be accompanied by or contain archaeological reports or supporting evidence. OMB has approved 12 annual burden hours under existing OMB Control Number 1010-0114. The approved annual burden hours for this control number are low compared to the actual numbers. BOEM is proposing, therefore, to increase the estimated annual burden hours to 500 hours. (+500 annual burden hours).
- Proposed 30 CFR 550.194(c): Archaeological reports would be required to be based on a high-resolution geophysical survey of the Area of Potential Effects. The high-resolution geophysical requirements proposed in 30 CFR 550.194(c) are also part of the requirements used for geological and geophysical information collection (i.e., shallow hazards surveys) under 30 CFR 550.214 and 550.244, and approved by OMB in OMB Control Number 1010-0151. Therefore, no additional burdens are expected to be placed on industry.
- Proposed 30 CFR 550.194(g): If an archaeological resource is likely to be present, the operator would be required to either relocate the proposed operations at the site to avoid adversely affecting the area, or establish that the archaeological resource does not exist, will not be adversely affected by the operations, or that measures can be taken to protect the archaeological resource during the operations. The likelihood that operators would opt for this latter option (to establish the archaeological resource is not present) is low. If operators relocate the project to avoid the known archaeological resource, they could use resources already contracted and available on the project (without the delay of additional investigation). Therefore, BOEM has determined there will likely not be an additional burden on industry.

- Proposed 30 CFR 550.195(a): The proposed revision would require the operator to notify the BOEM Regional Director of any archaeological resource discovery. This requirement would likely occur during the operator's remote sensing phase or during deployment by a remotely operated vehicle for surveys related to hydrophones. BOEM expects that the occurrence would be low, so BOEM estimates the annual burden hours to equal 3 hours (1 hour x 3 responses). (+3 annual burden hours).
- The annual burden hours for departure requests will remain the same at 2 annual burden hours. (+2 annual burden hours).

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 BOEM will not tabulate or publish the data.

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 BOEM will display the OMB approval number and OMB expiration date where required.

18. Explain each exception to the topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions."

To the extent that the topics apply to this collection of information, we are not making any exceptions to the "Certification for Paperwork Reduction Act Submissions."