

Supporting Statement A
Protection of Marine Archaeological Resources Final Rulemaking
1010-AE11
30 CFR 550, Subpart A
OMB Control Number 1010-0196

Terms of Clearance: The agency shall examine public comment in response to the proposed rulemaking and include in the supporting statement of the next ICR—to be submitted to OMB at the final rule stage—a description of how the agency has responded to any public comments on the ICR, including comments on maximizing the practical utility of the collection and minimizing the burden. Given that the cost estimates presented rely largely on non-public data, the agency is requested to work with OMB to increase the amount of quality supporting information underlying the cost estimates before this information collection is submitted for renewal. Lastly, the supporting statement submitted at final rule stage should include any changes that occurred between the proposed and final rule related to this ICR.

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 the Protection of Marine Archaeological Resources final rulemaking, the Bureau of Ocean Energy Management (BOEM) finalizes requirements 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). This rule defines 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 operations.

Justification

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

Final Rulemaking

Through the rulemaking process, BOEM is updating the 30 CFR part 550 regulations pertaining to the protections of marine archaeological resources. A notice of proposed rulemaking was published in the *Federal Register* on February 15, 2023 [88 FR 9797] referencing new and existing information collection requirements for regulations at 30 CFR 550, Subpart A. The information collections (IC) related to this rulemaking concern requirements under 30 CFR part 550, specifically 30 CFR 550.194 regarding archaeological reporting.

This rule defines the minimum level of survey information necessary to support the conclusions in the archaeological report, the procedure for reporting possible archaeological resources and cultural items, 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 National Historic Preservation Act (NHPA) requires federal agencies to consider the impacts its undertakings will have on historic properties, cultural items and/or archeological resources. 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.

Through the regulations, BOEM is deleting the “reason to believe” standard under which archaeological surveys would only be conducted if prior evidence of an archeological resources was present in any given area and requiring lessee and operators to submit an archaeological report with all plans that propose seabed disturbance. This report is based on site-specific, high-resolution geophysical (HRG) survey. HRG surveys are routinely used in the offshore environment to identify the presence or absence of potential geological and man-made hazards, sensitive biological habitats, and archaeological resources. In keeping with professional standards that have evolved since the existing regulations were adopted, this revision would define the minimum level of survey information necessary to support the conclusions in the archaeological report.

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. When this rule becomes effective and OMB approves the information collection request, BOEM will revise the existing OMB Control Number 1010-0114 for the Subpart A and will adjust the annual burden hours accordingly.

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 final rule mostly codifies current guidance and best practices used since 2011. An important change made by this rule to BOEM’s existing regulations is to eliminate the “reason to believe” standard, whereby marine archaeological surveys are required only in cases where “the Regional Director has reason to believe that an archaeological resource may exist in the lease area.”

Instead, BOEM will require the submission, with all proposals for seabed disturbance for plans, of an archaeological report based on site-specific high-resolution geophysical (HRG) survey designed in such a manner as to effectively identify potential archaeological resources.

Lease operators already conduct HRG surveys and prepare the required archaeological analysis which are mostly consistent with the regulatory requirements in this rule since 2011. Because of this, regulatory changes in this rule are primarily clarifications, codifying existing practice, or reflect BOEM updates to maintain consistency with NHPA guidance.

A change to § 550.194(c)(1)(ii) addressing shallow water surveys likely increases burden on lessees and operators. Current standards require surveys to be conducted with 50 meters spacing in the GOM Region (for surveys in water depths less than or equal to 200 meters) and 150 meters in the Alaska Region. The change requires a survey less than or equal to 100 meters must be designed to identify ferrous metal anomalies of at least 1,000 pounds. To detect ferrous metal of at least 1,000 pounds, operators would need to conduct surveys with spacing no greater than 30 meters, which is tighter than what is currently required for shallow water surveys and is expected to be sufficient to locate most historically significant shipwrecks on the OCS. Wider survey spacing conducted in water depths of 100-meter or less may be unable to detect historically significant shipwrecks or other relevant, protected resources.

The following are the minimum requirements for any new high resolution geographical surveys:

- Each survey must be conducted using state-of-the-art instrumentation and methodology that meets or exceeds scientific standards for conducting marine archaeological surveys.
- BOEM will outline the minimum scientific standards that must be complied with; however, BOEM recognizes that emerging technologies and methods may be used to achieve or exceed these standards. In these instances, BOEM may approve a departure from the standard provisions of the rule on a case-by-case basis if it meets the objectives specified in the regulations.
- This final rule establishes the requirements for the navigation system to continuously register surface position of the survey vessel, specify the logging position data, and specify the presentation of geodesy information.
- This final rule requires the use of a total field magnetometer, gradiometer, or other similar instrument having equal or superior measurement capability for surveys conducted in waters of 100-meter depth or less. It also establishes the requirements for the collection of data necessary to assist in the identification of archaeological resources on the OCS.
- For geophysical surveys conducted in water depths of 140 meters or less, a sub-bottom profiler system must be used to detect potential areas of prior human occupation that may exist.
- Every survey on the OCS is required to meet various performance standards to ensure that archaeological resources are not overlooked. The result of every survey is to be collected and analyzed by a qualified marine archaeologist that meets the Secretary of the Interior's Standards and Guidelines and must have

experience in conducting high-resolution geophysical surveys and processing and interpreting the resulting data for archaeological potential.

- In all water depths, a side-scan sonar or equivalent system must be used to provide continuous planimetric imagery of the seafloor to identify potential archaeological resources partly embedded in the seafloor. To provide sufficient resolution of seafloor features, BOEM requires the use of a system that operates at as high a frequency as practicable based on the factors of line spacing, instrument range, and water depth.
- In all water depths, an echo-sounder or equivalent system must be used to measure accurate water depths across the area.
- If a lessee or operator discovers any unanticipated archaeological resource or while conducting operations on the lease or right-of-way area, they must immediately halt seafloor disturbing operations within at least 305 meters of the area of the discovery and report the discovery to the Regional Director within 72 hours.

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.

BOEM manages the Federal OCS leasing program. No similar information pertaining to leasing in the OCS is collected by other Federal agencies. The information collected is specific to a lease, a lessee/operator, or a particular request for BOEM approval of a proposed geological or geophysical survey to be conducted on the OCS.

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

The regulatory changes in this rule are primarily clarifications, codifying existing practice, or reflect BOEM regulatory updates to maintain consistency with NHPA regulations. Most operators have been conducting HRG surveys and the archaeological analysis consistent with the regulatory requirements in this rule since at least 2011. Therefore, BOEM does not anticipate that these regulatory updates will have a significant economic impact on small or large operators.

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.

Section 106 of the NHPA requires federal agencies to consider the impacts its undertakings will have on historic properties which include certain shipwrecks and submerged sites. The Advisory Council on Historic Preservation (ACHP) has prepared guidance that outlines what is required to meet reasonable and good faith compliance with Section 106 regulations, Protection of Historic Properties. BOEM has concluded that modifying and codifying the existing survey methods would be the most effective method for complying with the ACHP guidelines.

Unlike the situation onshore, where a physical observation of the local environment could easily be conducted, archeological resources on the OCS are typically located below the ground level buried and not visible. For that reason, the only viable means for ensuring that ground disturbances do not damage OCS archeological resources is to require the use of geophysical and geological electronic sub-surface surveillance.

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 provided for and described the 60-day review and comment process in the preamble of the proposed rule. BOEM reviews and considers all public comments related to the Paperwork Reduction Act (PRA) requirements. These comments allow BOEM to make adjustments and improvements to information collection burdens.

BOEM received supportive and non-supportive comments. One association stated that the rule would reduce risks and potential mitigation costs related to inadvertent discovery or archaeological resources. One state agency and several oil and gas industry groups stated that the rule would add costs and cause delays, without providing any specific information.

More specifically, one organization stated that the estimated costs and burdens of the proposed rule were too low. Specifically, the organization referred to the following statement in the preamble “[t]he burdens related to the submission of archaeological resource information are accounted for in OMB approved Control Number 1010–0151. Therefore, BOEM has determined there will likely not be an additional burden on industry with this proposed provision.” It further states that “the recent request for re-approval for the revised OMB approved Control Number 1010–0151 for Plans (issued 3/3/23) has not been approved yet. ... In the request for re-approval – with revisions – BOEM provides burden-hour estimates for ‘shallow hazards surveys...G&G, archaeological surveys & reports (550.194)’” (as well as for the time it takes an archaeologist to create reports). The burden hour estimates between this proposed rule and the re-approval of OMB approved Control Number 1010–0151 for Plans should be consistent.”

This commenter also indicated that BOEM’s current information collection requirements underestimate the information collection burden. BOEM is revising the information collection burden estimates with this rule to align with existing industry practice. As stated in the PRA section of the preamble, the new and revised information collections requirement for 30 CFR 550.194 and 550.195 would increase overall annual burdens. BOEM plans to add the increases in annual burden hours to OMB approved Control Number 1010-0114, 30 CFR 550, subpart A, General and subpart K, Oil and Gas Production (expiration May 31, 2026), and not to OMB Control Number 1010-0151, 30 CFR 550, subpart B, Plans and Information.

Response: Currently, OMB has approved 12 annual burden hours for archaeological reports and/or supporting evidence per response. BOEM believes this number is low and has increased

the annual burden hours to 50 hours per response. The burden increase would revise OMB Control Number 1010-0114, and not OMB Control Number 1010-0151. When the final rule becomes effective, BOEM will revise and add the increase to the correct OMB Control Number. If the annual burden hours should be adjusted in the future based on reported feedback from OCS operators, BOEM will work closely with the OMB to revise the numbers accordingly.

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

BOEM does not provide payment 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.

We protect proprietary information according to the Freedom of Information Act (5 U.S.C. 552), it's 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 final rule. This rule adds or revises the following:

Citation 30 CFR 550 subpart A and related forms/NTLs	Reporting or recordkeeping Requirement	Hour burden	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 (based on HRG survey or better) signed by a qualified marine archaeologist. Submit archaeological and follow-up reports and additional information.	50	10 submissions	500
194	Request departures from conducting archaeological resources surveys and/or submitting reports.[**]	1	2 requests	2 hours
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	Report archaeological discoveries to the Regional Director.	1	3 reports	3 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 \$90/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	\$21	29	25%	\$7
Petroleum Engineers, Geologists* 17-2171	\$77	\$108	65%	\$70
Engineer Managers 11-9041	\$89	\$125	10%	\$13
Weighted Average (\$/hour)				\$90

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 \$90 per hour, we estimate the hour burden as a dollar equivalent to industry is \$45,450 (\$90 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 ¾ hour for each hour spent by the respondents for a total of 379 (rounded) hours.

The average government cost is \$83/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/24Tables/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	\$21	\$34	4%	\$1
Technician(s)	GS-11/5	\$39	\$62	25%	\$16
Engineer(s)	GS-13/5	\$56	\$90	65%	\$59
Supervisory	GS-14/5	\$68	\$109	6%	\$7
Weighted Average (\$/hour)					\$83

*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 \$83 per hour, the cost to the government would be \$ (505 hours x 0.75 = 379 hours x \$83 = \$31,457).

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

BOEM is revising its IC burden estimates with the new rule to align with existing industry practice. While the IC estimates an increase in associated burdens as a result of this revision, the rule does not expand the current reporting or recordkeeping requirements. The new and revised information collection requirements for 30 CFR 550.194 identified below require approval by OMB. BOEM increases their overall annual burden hours by 505 hours. The burden hours are discussed below.

- 30 CFR 550.194(a): This final rule requires that any EP, DOCD, or DPP, or any other request to conduct activities that may disturb the seafloor be accompanied by or contain an

archaeological report and supporting evidence. BOEM increases the estimated annual burden hours to 500 hours (+500 annual burden hours over the currently approved burden).

- 30 CFR 550.194(c): This final rule requires that archaeological reports be based on a HRG survey of the APE. The high-resolution geophysical requirements described in 30 CFR 550.194(c) are also part of the requirements used for geological and geophysical IC (i.e., shallow hazards surveys) under 30 CFR 550.214 and 550.244 that OMB approved in Control Number 1010-0151. Therefore, no additional burdens are expected to be placed on industry.
- 30 CFR 550.194(g): If an archaeological resource is likely to be present, this final rule requires an operator to either relocate the operations to avoid adversely affecting the resource or establish that the resource does not exist, will not be adversely affected by the operations, or will be protected by mitigation measures during the operations. The likelihood that operators would 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). The burdens related to the submission of archaeological resource information are accounted for in OMB approved Control Number 1010-0151. Therefore, BOEM has determined there will likely not be an additional burden on industry with this final rule provision.
- 30 CFR 550.195(a): This final rule requires the operator to notify the BOEM Regional Director of any archaeological resource discovery. This notification will 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 above the currently approved burden).
- The annual burden hours for departure requests will likely be 2 annual burden hours. (+2 annual burden hours above the currently approved burden).

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.”