

**National Park Service  
U.S. Department of the Interior**

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***Cost-Benefit and Regulatory Flexibility Threshold Analyses:  
Native American Graves Protection and Repatriation Act  
Proposed Revisions***

National Park Service

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## Introduction

This report presents the cost-benefit analysis and regulatory flexibility threshold analysis of the proposed regulatory action to revise existing regulations that implement the Native American Graves Protection and Repatriation Act (NAGPRA or Act), 25 U.S.C. 3001 *et seq.*, 43 CFR Part 10 (RIN 1024-AE19). Quantitative analyses were conducted where possible for anticipated costs and benefits. In some cases, benefits could not be monetized or quantified due to a lack of available data or inappropriateness of such an estimate. In these cases, benefits are described qualitatively. The National Park Service (NPS) believes that these analyses provide an adequate assessment of the relevant costs and benefits associated with the proposed regulatory action.

The results of the cost-benefit analysis indicate that the costs of the proposed regulatory action are likely to be justified by the associated quantitative and qualitative benefits. Additionally, this proposed regulatory action is unlikely to have an annual economic effect of \$100 million. This proposed regulatory action will streamline requirements, clarify timelines and terms, reduce ambiguity, and improve efficiency in the systematic process for the disposition and repatriation of Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony. The results of the regulatory flexibility threshold analysis indicate that the proposed regulatory action is unlikely to impose a significant economic impact on a substantial number of small entities.

The NPS solicits comment from the public on the entirety of the proposed rule and is particularly interested in receiving comments from the public on the cost-benefit and regulatory flexibility analyses. Please see the preamble for specific questions.

## Cost-Benefit Analysis

### Background

The Native American Graves Protection and Repatriation Act of 1990 (NAGPRA or Act) (25 U.S.C. 3001 *et seq.*) requires the disposition and repatriation of Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony to lineal descendants, Indian Tribes, and Native Hawaiian organizations (NHOs). The Act governs the disposition of human remains or cultural items removed from Federal or Tribal lands (25 U.S.C. 3002); requires the inventory of human remains and associated funerary objects in holdings or collections (25 U.S.C. 3003); requires a summary of unassociated funerary objects, sacred objects, and cultural patrimony objects in holdings or collections (25 U.S.C. 3004); governs the repatriation of human remains and cultural items in holdings or collections (25 U.S.C. 3005); creates a Federal advisory committee (Review Committee) to monitor and review the inventory and identification process and repatriation activities (25 U.S.C. 3006); and authorizes civil penalties for museums that fail to comply with the Act (25 U.S.C. 3007). The Secretary of the Interior (Secretary) is responsible for implementation of the Act, including the issuance of regulations implementing and interpreting its provisions (25 U.S.C. 3011). The regulations are codified at 43 CFR Part 10.

The Act requires any person, Indian Tribes, NHOs, Federal agencies, and the State of Hawai‘i Department of Hawaiian Home Lands to take certain actions to protect human remains or cultural items on Federal or Tribal lands. Under the Act (25 U.S.C. 3002), human remains or cultural items on Federal or Tribal lands must be protected and, if removed, transferred to the appropriate lineal descendant, Indian Tribe, or NHOs.

The Act requires all public and private museums receiving Federal funds and all Federal agencies (other than the Smithsonian Institution) to compile certain information regarding Native American human remains and cultural items in their possession or control and provide that information to lineal descendants, likely interested Indian tribes, and NHOs. Under the Act (25 U.S.C. 3003, 3004, and 3005), museums and Federal agencies must repatriate human remains and cultural items after an examination of available records and consultation with lineal descendants, Indian Tribes, and NHOs.

As envisioned by Congress, most of requirements for repatriation under the Act should have been completed five years after enactment, although extensions for museums of five additional years were authorized in some cases. In 1990, the Congressional Budget Office (CBO) reviewed the Act and estimated the legislation would cost between \$20 million and \$50 million over five years. The main costs of the Act were in preparing inventories of human remains, estimated between \$5 million and \$30 million over five years. The CBO acknowledged that to some extent, “the total cost is discretionary-the more funds made available, the more accurate and comprehensive will be the information collected by museums.” More extensive and expensive studies might be required for some human remains, but the CBO noted, such studies were not required by the Act. CBO noted that “If museums were required to identify all of their holdings definitively, the costs of this bill would be significantly higher than the \$30 million estimate.” The other \$5 million to \$20 million in estimated costs were for identifying associated funerary objects and completing summaries as well as grants to Indian Tribes for making claims and assisting with repatriation (House Report 101-877, October 15, 1990).<sup>1</sup>

After almost 32 years of implementation, the total cost of repatriation is clearly discretionary, and, in addition to funds, the more time available to complete an inventory of human remains, the more comprehensive and extensive the inventories have become. After meeting the initial deadline for inventories in 1995, many museums and Federal agencies have continued to update inventories at their own discretion, going far beyond what is required by the Act and the existing regulations. Under the Act and the existing regulations, an inventory of human remains only requires use of “information possessed by such museum or Federal agency” (25 U.S.C. 3003(a)). Yet, despite the minimum requirements, hundreds of museums and several Federal agencies submit update inventory data each year. As explained in our baseline estimate below, the number of museums updating inventory data is relatively large and accounts for multiple submissions each year from a single museum because the data is updated on a case-by-case basis based on the requirements of the museum.

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<sup>1</sup> The implementing regulations (published as final at 60 FR 62134-62169, December 4, 1995), included an estimate of the annual reporting burden to be “100 hours for the exchange of summary/inventory information between a museum or Federal agency and an Indian tribe or Native Hawaiian organization and six hours per response for the notification to the Secretary, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collected information.”

## Statement of Need for the Proposed Plan

The Department of the Interior (Department) proposes to revise the existing 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 regulatory action 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 action would simplify and improve the regulatory process for repatriation and thereby advance the goals of racial justice, equity, and inclusion.

Executive Order 12866 (58 FR 51735) directs Federal agencies to demonstrate the need for the regulations they promulgate. In general, regulations should be promulgated only when a “market failure” exists that cannot be resolved effectively through other means. A market failure exists when private markets fail to allocate resources in an economically efficient manner based on other justifications: improving the functioning of government, removing distributional unfairness, and promoting privacy and personal freedom.<sup>2</sup>

For this rulemaking, there is not a market failure; instead, the rulemaking is being promulgated to improve the functioning of government. As part of the Department’s regulatory review in accordance with the Regulatory Flexibility Act and E.O. 13563, the Department regularly seeks public input on how we may best achieve regulatory ends. Over the past 12 years, parties affected by the definitions and procedures established in 43 CFR Part 10 have commented, in various forums, that some of the regulatory provisions should be amended to improve implementation of the Act. Based on this input as well as more than 30 years of implementation, the Department proposes to revise the entire existing regulations by clarifying requirements and establishing timelines.

The Department proposed to revise the existing regulations to streamline requirements, clarify timelines and terms, reduce ambiguity, and improve efficiency in the systematic process for the disposition and repatriation of Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony under the Act. The proposed revisions 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

The Department has heard frequently that the existing regulations themselves pose barriers to successful and expedient repatriation. In 2021, the Department conducted consultation with Indian Tribes and NHOs on a draft text of this regulatory action and received 71 individual comment letters, yielding over 700 specific comments. To the maximum extent possible, the Department incorporated input from Indian Tribes and NHOs into the proposed regulatory action.

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<sup>2</sup> Office of Management and Budget (OMB). 2003. Circular A-4: guidance for developing regulatory analyses. September 17, 2003.

A central issue identified by the Department and confirmed by consultation is the number of Native American human remains identified by museums and Federal agencies in inventories that are pending consultation and notification under the existing regulatory process (Subpart C of the existing regulations and proposed regulatory action). Since 2010, the existing regulations have provided for a process to repatriate all Native American human remains in holdings or collections but the existing regulations do not impose deadlines and leave the process at the discretion of the museum or Federal agency. As of September 30, 2021, only 41.9% of human remains in holdings or collections have completed the regulatory process for repatriation. After almost 32 years of implementation, 117,575 Native American human remains are still pending consultation and notification before they can be repatriated to the appropriate Indian Tribes or NHOs.

Using data on implementation since 2012, the NPS estimates it will take an additional 26 years to complete the consultation and notification process for all 117,000 Native American human remains currently pending in the existing regulatory framework. Over the last ten years, the average number of human remains completing the existing regulatory process per year is 4,437 individual sets of Native American human remains. Table 1 shows the total number and the annual change in the number of Native American human remains completing the existing regulatory process over the last ten years.<sup>3</sup>

**Table 1. Native American human remains**

<b>Fiscal Year</b>	<b>Total published in notices</b>	<b>Annual change</b>
2012	43,525	3,220
2013	45,975	2,450
2014	48,588	2,613
2015	51,558	2,970
2016	56,336	4,778
2017	63,885	7,549
2018	67,077	3,192
2019	79,093	12,016
2020	83,076	3,983
2021	84,677	1,601

### **Alternatives Considered in the Current Analysis**

In the course of developing the proposed rule, the Department considered three main alternatives. The first alternative was no-action, or no revision of the existing regulations. The second alternative was a less restrictive regulatory action. The third was a new administrative regulatory process. The reasons for dismissing these alternatives are explained below. The Department prefers a full revision of the existing regulations to clarify and improve the

<sup>3</sup> See NPS, National NAGPRA Program Annual Reports, <https://www.nps.gov/subjects/nagpra/reports.htm> (accessed August 1, 2022). As the table shows, the number of human remains completing the existing regulatory process varies from year to year, depending on the decision making process of museums and Federal agencies on repatriation.

regulatory process with specific timelines to facilitate the required disposition and repatriation. The preferred alternative provides a step-by-step roadmap for completing the regulatory process using accessible language, fewer ambiguities, and improved efficiencies.

*Alternative 1 (no action/no rule)*

Under this alternative, the Department would not publish the proposed regulatory action revising the existing regulations. The Department dismissed this alternative because it would not be responsive to the multiple and varied requests we have received since 2010 from lineal descendants, Indian Tribes, NHOs, museums, and Federal agencies on the need to improve and revise implementation of the Act. In addition, the Department dismissed this alternative because it would not be responsive to the feedback received during consultation with Indian Tribes and NHOs in 2021. Finally, the Department dismissed this alternative because it would not provide an opportunity for public notice and comment on the proposed regulatory action. The Department released a draft text of the proposed regulatory action for consultation but has not yet received comments from museum and scientific organizations on the proposal, and many tribal organizations declined to comment during the tribal consultation period. The status quo is the same as the no action alternative, under which the existing regulations would continue to govern the disposition and repatriation process. The current regulatory framework is ambiguous, inaccurate, and inconsistent, includes duplicative and circular language, lacks a consistent writing style, and provides few timelines and deadlines.

*Alternative 2 (less restrictive regulations)*

Under this alternative, the proposed regulatory action would revise only the administrative or procedural requirements to provide clarification or make the existing regulations more user-friendly. This would include reducing the number of sections and removing duplicative language into a clear, easy to follow, step-by-step process, correcting inaccuracies and ambiguities in the existing regulations by using consistent language and clearly defined terms, and creating a consistent writing style with clear, concise headings that describe each specific regulatory step. This alternative would not impose specific timelines and deadlines for disposition or repatriation nor would it include new requirements for disposition and repatriation. The Department dismissed this alternative because it would not improve the efficiency in the systematic process for disposition and repatriation. This alternative would not ensure timely and effective disposition or repatriation and would likely result in a continuation of the lengthy and time-consuming process for disposition and repatriation that has occurred over the last almost 32 years. For example, without requiring a response to a request for repatriation within a specific timeframe, a museum or Federal agency could continue to request information and consult on a single item in a collection for years or decades before agreeing or refusing to repatriate the item. The requesting lineal descendant, Indian Tribe, or NHO would have little recourse to move the process forward without clear deadlines. Under this alternative, as under the existing regulations, the Indian Tribe or NHO would not have access to some of the remedies provided for in the Act or the regulations (such as civil penalties or possible actions in court) until the museum or Federal agency rejected the request for repatriation.

*Alternative 3 (new Review Committee and Secretary administrative process)*

Under this alternative, the Review Committee and the Secretary would facilitate an administrative process by which Indian Tribes and NHOs request repatriation of certain human

remains and associated funerary objects. This alternative was proposed by several comments received during consultation in 2021. This alternative process would result in recommendations by the Review Committee and the Secretary to a museum or Federal agency to repatriate to the requesting Indian Tribes or NHOs. Within a set timeframe, the museum or Federal agency would be required to respond to the request and recommendation and publish a notice, unless certain exceptions applied. The Department determined this alternative was not advisable because of the limited advisory authority given to the Review Committee and the Secretary under the Act. In addition, the Department determined this alternative did not achieve one of the main objectives of the proposed regulatory action, to shift the burden of the regulatory process from Indian Tribes and NHOs to museums and Federal agencies. This alternative would still require an initial request from the Indian Tribes and NHOs, and the Department is unsure if this alternative would produce a different result than the existing regulatory process, except by requiring a response from the museum or Federal agency within a set timeframe. Further, adding this administrative process to the existing regulations seems unnecessary. Under the existing regulations, any Indian Tribe or NHO may bring a request to the Review Committee regarding the cultural affiliation or return of human remains and associated funerary objects. As the Review Committee's recommendation is advisory only, nothing compels the museum or Federal agency to repatriate based on that recommendation. The Department determined this alternative was not advisable because it would add an additional layer of administrative oversight to the process without necessarily resulting in more expeditious repatriations.

Finally, all three of the dismissed alternatives would be inconsistent with the intent and purpose of the Act itself-to facilitate disposition and repatriation. For all of these reasons, the proposed regulatory action considered in this analysis represents the best alternative for the regulations implementing the Act.

## **Baseline Conditions**

The costs and benefits of a regulatory action are measured with respect to its baseline conditions. Guidance from the Office of Management and Budget (OMB) for a regulatory analysis suggests that the baseline conditions should represent the agency's best assessment of the way the world would look absent the proposed action.<sup>4</sup> Therefore, all costs and benefits included in this analysis are incremental to the baseline conditions. That is, any future impacts that would occur without the proposed action, as well as any past impacts that have already occurred, are not included in this analysis.

The baseline conditions are described in the regulatory requirements at 43 CFR Part 10. In estimating the baseline conditions under the existing regulations, the NPS relies on the number of annual submissions it currently receives to estimate the annual number of responses, hours, and costs. We have estimated an average time per response based on the regulatory requirements, although the actual time required may vary widely because of difference in size and complexity of the required response. Table 2 summarizes the responsible parties and regulatory requirements under baseline conditions.

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<sup>4</sup> Office of Management and Budget (OMB). 2003. Circular A-4: guidance for developing regulatory analyses. September 17, 2003.

**Table 2. Baseline regulatory requirements**

<b>Responsible party</b>	<b>Regulatory Requirement</b>
Any person	Report a discovery on Federal or Tribal lands File an allegation of failure to comply
Any affected party	Request assistance of the Review Committee
Lineal descendants, Indian Tribes, or NHOs	Respond to a discovery Consent to an excavation Submit a claim for disposition Submit a request to consult (Subpart C) <sup>5</sup> Submit a request for repatriation Request transfer of human remains or cultural items
Federal agencies	Respond to a discovery Authorize an excavation Conduct consultation (Subpart B) Complete a plan of action Publish notices of intended disposition Evaluate competing claims for disposition Transfer or reinter unclaimed human remains or cultural items Identify holdings or collection in museum custody
Museums	Respond to a civil penalty action
Museums/Federal agencies	Initiate consultation and request information Conduct consultation (Subpart C) Submit a new inventory Submit a new summary Update inventory data Update summary data Submit notices of intent to repatriate Submit notices of inventory completion Document physical transfer Evaluate competing requests and resolve stays of repatriation

<sup>5</sup> In the existing regulations, consultation is required throughout the regulatory process in both Subpart B and C for any decision-making action by a Federal agency or museum. However, the regulations do not require any Indian Tribe or NHO to participate in such consultation. Choosing to participate in consultation is an act of sovereignty and these regulations, either existing or proposed, do not require any Indian Tribe or NHO to consult. These regulations, both existing and proposed, do require museums and Federal agencies to initiate consultation and conduct consultation upon request. In only one instance in the existing regulations (43 CFR 10.11(b)), an Indian Tribe or NHO may request to consult prior to receiving an invitation to consult on culturally unidentifiable human remains. In preparing this estimate, we have included the estimated costs for Indian Tribes and NHOs to request to consult, but we have not included any estimate on the costs to Indian Tribes or NHOs to engage in consultation. The variables in estimating this cost are too great. For example, one tribal official recently stated publicly that under the existing regulations, consultation can require one email exchange or, in the most extreme case, eight years of regular consultation meetings. In addition to the varying time required to consult with museums and Federal agencies, the costs for Indian Tribes and NHOs to consult internally with religious leaders or to develop their own process and protocol for conducting consultation cannot and should not be estimated by the Federal government. In preparing this estimate, we reviewed other regulations for any estimate on the costs to Indian Tribes or NHOs to engage in consultation but were unable to find a relevant example. At this time, we do not have sufficient information to quantify the costs to Indian Tribes or NHOs to engage in consultation.

Table 3 summarizes the baseline conditions for each subpart of the existing regulations. We estimate the existing regulations require, annually, **1,298 responses** totaling **37,951.50 annual hours**. We estimate the annual dollar value is **\$2,438,032** (rounded).

**Table 3. Estimated baseline costs by subpart**

<b>Existing Subparts</b>	<b>Number of Responses</b>	<b>Annual Hours</b>	<b>Annual Cost</b>
Subpart B – From Federal or Tribal Lands	65	465.50	\$29,738
Subpart C – In Museums and Federal collections	1,218	36,750.25	\$2,361,014
Subpart D – General; Review Committee	15	735.75	\$47,280
<b>Total</b>	<b>1,298</b>	<b>37,951.50</b>	<b>\$2,438,032</b>

Under the existing regulatory framework, different parties are responsible for carrying out the various regulatory requirements in each subpart. The Appendix to this report provides detailed information on each regulatory requirement and the data and method for creating this estimate. Table 4 summarizes the baseline costs for each responsible party.

**Table 4. Estimated baseline costs by responsible party**

<b>Responsible party</b>	<b>Number of responses</b>	<b>Time per response</b>	<b>Annual Hours</b>	<b>Hourly Rate</b>	<b>Annual Costs</b>
Any person	17	0.50-1.25	10.00	\$40.90	\$409
Lineal descendants	6	1.25-5.25	19.50	\$38.61	\$753
Any affected party	3	25.25	75.75	\$64.26	\$4,868
Indian Tribes/NHOs	391	1.25-55.00	1,491.25	\$64.26	\$95,827
Federal agencies	136	2.75-155.00	3,126.50	\$64.26	\$200,910
Museums	745	2.75-155.00	33,228.50	\$64.26	\$2,135,265
<b>Total</b>	<b>1,298</b>		<b>37,951.50</b>		<b>\$2,438,032</b>

Please see the Appendix for a detailed accounting of estimated baseline costs by regulatory requirement.

### **Other Baseline Estimates Considered**

In 2022, NPS received and considered multiple estimates from non-governmental entities regarding the costs associated with the existing regulations.

The Society for American Archaeology (SAA) estimated annual costs of \$250 million over the next 10 years for repatriation of human remains and funerary objects. This estimate is based on the current museum completion rate of 21%, the amount of funding awarded through grants (\$50

million since 1994), and a multiplying factor of 10, representing additional funds provided by museums, Federal agencies, and Indian Tribes outside of grant funds.<sup>6</sup>

One museum estimated annual costs of more than \$117 million over the next 10 years for repatriation of human remains and funerary objects. This estimate is based on the costs incurred by the museum over the past 20 years to repatriate 3,490 items multiplied by the number of human remains and associated funerary objects currently pending repatriation.<sup>7</sup>

One comment from an individual estimated annual costs of nearly \$20 million over 30 months for repatriation of human remains and funerary objects. This estimate is based on a detailed analysis of grants awarded to museums since 2011 and the resulting number of notices published by those museums. The estimate then applies an average cost per notice to the number of human remains pending notification under the existing regulations. The shorter timeframe in this estimate (30 months) is based on changes in the proposed regulatory action requiring notice publication within two years and six months after promulgation of a final rule.<sup>8</sup>

Each of these estimates uses a different method to estimate costs for repatriation of human remains and associated funerary objects, but NPS does not feel they accurately estimate the costs of compliance with either the existing regulations or the proposed regulatory action. In the SAA estimate, NPS questions that there is a correlation between the number of museums who have completed the regulatory process and the grant funds awarded, as well as the multiplying factor. In the museum estimate, NPS questions adding the number of human remains and funerary objects together to arrive at the estimate. Under the existing regulations and the proposed regulatory action, each individual set of human remains and each associated funerary objects does not incur a unique cost and adding these numbers together inflates the overall estimate dramatically. In the individual estimate, NPS questions the assumption that each grant to a museum directly results in a notice. Many grants awarded to museums fund consultation meetings or other projects that ultimately result in repatriation but may not be directly connected to a notice published by the museum. Similarly, one notice might be published for thousands of human remains or one single human remain, so notice publication is not a good indicator of the overall costs of repatriation. NPS welcomes further data from these entities and from the general public on the expected costs of complying with the proposed rule.

## **Proposed Regulatory Action**

This section describes the expected costs and benefits associated with the proposed regulatory action compared to the current baseline conditions. The NPS believes this approach provides an appropriate means to characterize the relevant costs and benefits associated with this proposed regulatory action.

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<sup>6</sup> See [https://documents.saa.org/container/docs/default-source/doc-governmentaffairs/final\\_scia\\_testimony\\_02162022.pdf?sfvrsn=63d7c331\\_2](https://documents.saa.org/container/docs/default-source/doc-governmentaffairs/final_scia_testimony_02162022.pdf?sfvrsn=63d7c331_2)

<sup>7</sup> See Field Museum of Natural History (FMNH) Background062722 available at <https://www.reginfo.gov/public/do/viewEO12866Meeting?viewRule=true&rin=1024-AE19&meetingId=139323&acronym=1024-DOI/NPS>

<sup>8</sup> Email to NPS and OMB, 6/27/2022.

## Summary of Costs and Benefits

The goal of the proposed regulatory action is to increase the number of repatriations by clarifying requirements and establishing timelines. Due to the overall improved efficiency in the systematic process, this regulatory action is expected to generate benefits for museums, Federal agencies, Indian Tribes, and NHOs that are greater than the temporary increase in costs for museums, Federal agencies, Indian Tribes, and NHOs quantified below. The NPS anticipates the proposed regulatory action will also reduce the overall costs for curation and collections management by museums and Federal agencies. Lastly, while not quantified in this analysis, Indian Tribes and NHOs have expressed immeasurable benefits of repatriation to their communities.

In estimating the costs of the proposed regulatory action, the NPS relies on the number of annual submissions it currently receives and other available data to estimate the annual number of responses, hours, and costs. We have estimated an average time per response based on the proposed regulatory action requirements, although the actual time required may vary widely because of difference in size and complexity of the required response.

For the first three years<sup>9</sup> after implementation, the NPS anticipates a temporary increase of 9,347.75 hours and \$600,387 in annual costs under the proposed regulatory action compared to baseline conditions. The increase associated with the proposed regulatory action is temporary and will not exist after museums and Federal agencies complete the regulatory process for updating inventories and submitting notices of inventory completion under the proposed regulatory action.

By year four, the NPS estimates a reduction of 28,799.75 hours and \$1.85 million in annual costs under the proposed regulatory action compared to baseline conditions. The decrease associated with the proposed regulatory action will continue indefinitely as new collections and holdings are required to be repatriated.

### *Costs of the proposed regulatory action*

In general, requirements in the proposed regulatory action are the same as under the existing regulations described at 43 CFR Part 10 and summarized above in Table 3. The proposed regulatory action revises some existing requirements by adding new deadlines and adds new requirements for any affected party, Indian Tribes, NHOs, museums, and Federal agencies. Table 5 summarizes the new and revised regulatory requirements under the proposed regulatory action.

**Table 5. Proposed regulatory action requirements (new and revised)**

	<b>Responsible party</b>	<b>Regulatory Requirement</b>
New	Any affected party	Submit nominations to the NAGPRA Review Committee
	Indian	Delegate or accept responsibility on Tribal lands

<sup>9</sup> The proposed regulatory action requires updated inventories within two years of the final rule and submission of notices six months after the updated inventories. This totals less than three years or 30 months. To simplify this analysis, the NPS has estimated the hours and costs of the proposed regulatory action in years one through three rather than 30 months.

	Tribes/NHOs	Submit a request to consult (Subpart B) <sup>10</sup> Send or complete a disposition statement
	Federal agencies	Send a disposition statement
	Museums/Federal agencies	Submit or respond to statements describing holdings or collections Make a record of consultation Respond to a request for repatriation Send a repatriation statement
Revised	Lineal descendants, Indian Tribes, or NHOs	Submit a request to consult (Subpart C) <sup>11</sup> Submit a request for repatriation Request transfer of human remains or cultural items
	Federal agencies	Authorize an excavation Conduct consultation (Subpart B) Complete a plan of action
	Museums/Federal agencies	Initiate consultation and request information Conduct consultation (Subpart C) Update inventory data Submit notices of inventory completion Document physical transfer Transfer or reinter human remains and associated funerary objects

In the short-term, the proposed regulatory action is likely to increase the number of responses, hours, and costs to Indian Tribes, NHOs, museums, and Federal agencies. While the proposed regulatory action contains new requirements compared to baseline conditions, it also streamlines the requirements for all parties which will lessen the long-term impact of the regulatory requirements.

<sup>10</sup> In the proposed regulatory action, Federal agencies are required to initiate consultation and conduct consultation upon request. However, Indian Tribes or NHOs are not required to participate in such consultation. Choosing to participate in consultation is an act of sovereignty and these regulations, either existing or proposed, do not require any Indian Tribe or NHO to consult. The proposed regulatory action requires Indian Tribes and NHOs to request to consult in writing so we have included this as an estimated cost. However, we have not estimated the costs to Indian Tribes or NHOs to engage in consultation. See footnote 11 for more.

<sup>11</sup> In the proposed regulatory action, museums and Federal agencies are required to initiate consultation and conduct consultation upon request. However, Indian Tribes or NHOs are not required to participate in such consultation. Choosing to participate in consultation is an act of sovereignty and these regulations, either existing or proposed, do not require any Indian Tribe or NHO to consult. The proposed regulatory action requires Indian Tribes and NHOs to request to consult in writing so we have included this as an estimated cost. However, we have not estimated the costs to Indian Tribes or NHOs to engage in consultation. The variables in estimating this cost are too great depending on the size of the collection and the museum or Federal agency conducting consultation. In addition to the varying time required to consult with museums and Federal agencies, the costs for Indian Tribes and NHOs to consult internally with religious leaders or to develop their own process and protocol for conducting consultation cannot and should not be estimated by the Federal government. In preparing this estimate, we reviewed other regulations for any estimate on the costs to Indian Tribes or NHOs to engage in consultation but were unable to find a relevant example. At this time, we do not have sufficient information to quantify the costs to Indian Tribes or NHOs to engage in consultation.

For the first three years of the proposed regulatory action, Table 6 summarizes the estimated costs by subpart. We estimate the proposed regulatory action will require, annually for three years, **3,091 responses** totaling **47,299.25 annual hours**. We estimate the annual dollar value is **\$3,038,419** (rounded).

**Table 6. Estimated proposed action costs (years 1-3) by subpart**

<b>Proposed Regulatory Requirements</b>	<b>Number of Responses</b>	<b>Annual Hours</b>	<b>Annual Cost</b>
Subpart B – Protection on Federal or Tribal Lands	124	950.75	\$60,921
Subpart C – Repatriation by Museum/Federal agency	2,962	46,262.25	\$2,971,955
Subpart D – Review Committee	5	86.25	\$5,543
<b>Total</b>	<b>3,091</b>	<b>47,299.25</b>	<b>\$3,038,419</b>

Under the proposed regulatory action, different parties are responsible for carrying out the various regulatory requirements in each subpart. The Appendix to this report provides detailed information on each regulatory requirement and the method for creating this estimate. Table 7 summarizes the proposed regulatory action costs, annually for three years, for each responsible party.

**Table 7. Estimated proposed action costs (years 1-3) by responsible party**

<b>Responsible party</b>	<b>Number of responses</b>	<b>Time per response</b>	<b>Annual Hours</b>	<b>Hourly Rate</b>	<b>Annual Costs</b>
Any person	17	0.50-1.25	10.00	\$40.90	\$409
Lineal descendants	9	1.25-5.25	31.25	\$38.61	\$1,207
Any affected party	5	5.25-25.25	86.25	\$64.26	\$5,543
Indian Tribes/NHOs	590	0.50-5.25	2,078.50	\$64.26	\$133,564
Federal agencies	636	2.75-155.00	10,756.25	\$64.26	\$691,198
Museums	1,834	2.75-155.00	34,337	\$64.26	\$2,206,498
<b>Total</b>	<b>3,091</b>		<b>47,299.25</b>		<b>\$3,038,419</b>

Please see the Appendix for a detailed accounting of estimated proposed action costs by regulatory requirement.

The increase in the number of responses, hours, and costs associated with the proposed regulatory action is temporary and will not exist after museums and Federal agencies complete the regulatory process for updating inventories and submitting notices of inventory completion, which is expected to happen within three years of implementation.

Table 8 summarizes the estimated costs that will begin in year four of the proposed regulatory action. Starting in year four, we estimate the proposed regulatory action will require, annually, **592 responses** totaling **9,151.75 annual hours**. We estimate the annual dollar value is **\$587,061** (rounded).

**Table 8. Estimated proposed action costs (years 4 +) by responsible party**

Responsible party	Number of responses	Time per response	Annual Hours	Hourly Rate	Annual Costs
Any person	17	0.50-1.25	10.00	\$40.90	\$409
Lineal descendants	9	1.25-5.25	31.25	\$38.61	\$1,207
Any affected party	5	5.25-25.25	86.25	\$64.26	\$5,543
Indian Tribes/NHOs	132	0.50-5.25	394.00	\$64.26	\$25,318
Federal agencies	110	2.75-155.00	1,877.00	\$64.26	\$120,617
Museums	319	2.75-155.00	6,753.25	\$64.26	\$433,967
<b>Total</b>	<b>592</b>		<b>9,151.75</b>		<b>\$587,061</b>

Please see the Appendix for a detailed accounting of estimated proposed action costs by regulatory requirement.

As shown in Table 9, during the first three years of the proposed regulatory action, the NPS expects an increase of 9,347.75 annual hours compared to baseline conditions. For these three years, this is an overall increase of \$600,387 in annual costs under the proposed regulatory action compared to baseline conditions. Four years after promulgating a final rule, the NPS expects a decrease of 28,799.75 annual hours compared to baseline conditions. From year four and all future years, this is an overall annual decrease of \$1.85 million in costs under the proposed regulatory action compared to baseline conditions.

**Table 9. Comparison of regulatory frameworks per year**

Framework	Number of Responses	Annual Hours	Change from baseline (hours)	Annual Cost	Change from baseline (dollars)
Baseline conditions	1,298	37,951.50	--	\$2,438,032	--
Proposed action years 1-3	3,091	47,299.25	+9,347.75	\$3,038,419	+\$600,387
Proposed action years 4 +	592	9,151.75	-28,799.75	\$587,061	-\$1,850,971

As shown in Table 10, the increase for the first three years under the proposed regulatory action occurs because of changes to the regulatory requirements in Subparts B and C. The decrease under the proposed regulatory action occurs because of changes to the regulatory requirements in Subpart C starting in year 4.

**Table 10. Comparison of regulatory frameworks by subpart**

Regulatory Requirements	Annual Number of Responses			Annual Hours		
	Baseline conditions	Proposed Years 1-3	Proposed Years 4+	Baseline conditions	Proposed Years 1-3	Proposed Years 4+
Subpart B – Protection on Federal or Tribal Lands	65	124	124	465.50	950.75	950.75
Subpart C – Repatriation by Museums and Federal agencies	1,218	2,962	463	36,750.25	46,262.25	8,114.75
Subpart D – Review Committee	15	5	5	735.75	86.25	86.25
<b>Total</b>	<b>1,298</b>	<b>3,091</b>	<b>592</b>	<b>37,951.50</b>	<b>47,299.25</b>	<b>9,151.75</b>

Under the proposed regulatory action, different parties are responsible for carrying out the various regulatory requirements in each subpart. The Appendix to this report provides detailed information on each regulatory requirement and the method for creating this estimate. As shown in Table 11, the increase in the first three years and the decrease thereafter relates to changes in the regulatory requirements for Indian Tribes, NHOs, Federal agencies, and museums.

**Table 11. Comparison of regulatory frameworks by responsible party**

Responsible party	Annual Number of Responses			Annual Hours		
	Baseline conditions	Proposed Years 1-3	Proposed Years 4+	Baseline conditions	Proposed Years 1-3	Proposed Years 4+
Any person	17	17	17	10.00	10.00	10.00
Lineal descendants	6	9	9	19.50	31.25	31.25
Any affected party	3	5	5	75.75	86.25	86.25
Indian Tribes/NHOs	391	590	132	1,491.25	2,078.50	394.00
Federal agencies	136	636	110	3,126.50	10,756.25	1,877.00
Museums	745	1,834	319	33,228.50	34,337.00	6,753.25
<b>Total</b>	<b>1,298</b>	<b>3,091</b>	<b>592</b>	<b>37,951.50</b>	<b>47,299.25</b>	<b>9,151.75</b>

Table 12 shows the specific changes in regulatory requirements for museums under baseline conditions and under the proposed regulatory action. There is no change between the baseline conditions and the proposed regulatory action for the following requirements: submit a new inventory; submit a new summary; update summary data; submit notices of intent to repatriate; evaluate competing requests and resolve stays of repatriation; and respond to a civil penalty action, listed below as other requirements.

**Table 12. Comparison of regulatory frameworks by museum requirements**

Regulatory Requirement	Annual Number of Responses			Annual Hours		
	Baseline	Proposed	Proposed	Baseline	Proposed	Proposed

	<b>conditions</b>	<b>Years 1-3</b>	<b>Years 4+</b>	<b>conditions</b>	<b>Years 1-3</b>	<b>Years 4+</b>
Initiate consultation and request information	14	137	0	38.50	376.75	0.00
Conduct consultation	204	174	37	20,451.00	17,443.50	3,709.25
Make a record of consultation	0	174	37	0.00	913.50	194.25
Update inventory data	167	137	0	8,391.75	6,884.25	0.00
Submit notices of inventory completion	119	274	10	1,219.75	2,808.50	102.50
Respond to a request for repatriation	0	251	40	0.00	1,317.75	210.00
Send a repatriation statement	0	251	40	0.00	690.25	110.00
Document physical transfer	127	251	40	666.75	1,317.75	210.00
Transfer or reinter human remains and associated funerary objects	5	6	6	275.00	31.50	31.50
Submit statements describing holdings and collections	0	70	0	0.00	367.50	0.00
Other requirements	109	109	109	2,185.75	2,185.75	2,185.75
<b>Total</b>	<b>745</b>	<b>1,834</b>	<b>319</b>	<b>33,228.50</b>	<b>34,337.00</b>	<b>6,753.25</b>

*Benefits of the proposed regulatory action*

The purpose of this proposed regulatory action is to streamline requirements, clarify timelines and terms, reduce ambiguity, and improve efficiency in the systematic process for the disposition and repatriation of Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony under the Act. The NPS estimates an overall decrease in the annual costs under the proposed regulatory action after four years.

Under baseline conditions, the NPS estimates it will take an additional 26 years to complete the consultation and notification process for all 117,000 Native American human remains currently

pending in the existing regulatory framework (see Table 1 on page 4). Under baseline conditions, the NPS estimates annual costs of \$2.4 million for the next 26 years for consultation and notification under the existing regulations. Under the proposed regulatory action, the NPS estimates annual costs of \$3.04 million for three years after promulgation of a final rule. By year four, the NPS estimates a significant decrease in the annual costs for repatriation by museums and Federal agencies as well as for Indian Tribes and NHOs. The NPS estimates annual costs of \$587,061 after three years of implementation of the proposed regulatory action. This is an overall decrease of \$1.85 million in annual costs over the baseline conditions. Setting annual benefits equal to annual costs demonstrates the number of years it would take to “break-even” and become net beneficial. The total increase in costs for years one through three compared to baseline conditions is \$1,801,161 (\$600,387 per year for three years). The decrease in costs for year four compared to baseline conditions is \$1,850,971 (\$47,810 more than the total increased costs of the first three years). Therefore, this proposed regulatory action would become net beneficial in year four. Across the horizon of 26 years, the net savings in costs of the proposed regulatory action totals \$40.7 million. Table 13 shows the change in the baseline conditions after promulgation of the proposed regulatory action over a total of 26 years.

**Table 13. Comparison of regulatory frameworks over 26 years**

<b>Framework</b>	<b>Number of years</b>	<b>Calculated Number of Responses</b>	<b>Calculated Hours</b>	<b>Calculated Costs (dollars)</b>
Baseline conditions	26	33,748	986,739.00	\$63,388,832
Proposed action	26	22,889	352,388.00	\$22,617,660
Years 1-3	3	9,273	141,897.75	\$9,115,257
Years 4-26	23	13,616	210,490.25	\$13,502,403

Under baseline conditions, the NPS estimates total costs of \$63.4 million over 26 years. Under the proposed regulatory action, the NPS estimates total costs of \$22.6 million over 26 years. The NPS estimates that under the proposed regulatory action there will be a significant decrease in total costs for museums (\$38.9 million) and Indian Tribes and NHOs (\$1.5 million). A smaller decrease in total costs is expected for Federal agencies (\$375,875). Table 14 shows the change in the baseline conditions after promulgation of the proposed regulatory action over a total of 26 years for each responsible party.

**Table 14. Comparison of regulatory frameworks over 26 years by responsible party**

Responsible party	Calculated Number of Responses		Calculated Hours		Calculated Costs (dollars)	
	Baseline conditions	Proposed Action	Baseline conditions	Proposed action	Baseline conditions	Proposed action
Any person	442	442	260.00	260.00	\$10,634	\$10,634
Lineal descendants	156	234	507.00	812.50	\$19,578	\$31,382
Any affected party	78	130	1,969.50	2,242.50	\$126,568	\$144,118
Indian Tribes/NHOs	10,166	4,806	38,772.50	15,297.50	\$2,491,502	\$983,006
Federal agencies	3,536	4,438	81,289.00	75,439.75	\$5,223,660	\$4,847,785
Museums	19,370	12,839	863,941.00	258,335.75	\$55,516,890	\$16,600,735
<b>Total</b>	<b>33,748</b>	<b>22,889</b>	<b>986,739.00</b>	<b>352,388.00</b>	<b>\$63,388,832</b>	<b>\$22,617,660</b>

In addition, the NPS anticipates the proposed regulatory action will likely result in a potential economic benefit to museums and Federal agencies by reducing the costs for long-term curation of NAGPRA holdings or collections. Curation fees can exceed \$2000 per cubic foot box.<sup>12</sup> Although it is unknown how many cubic feet of space are occupied by Native American human remains and funerary objects, there is very likely a large potential cost savings in expeditious repatriation.

In addition to the decreased costs, several of these revisions in the proposed regulatory action are considered administrative or procedural in nature with the intent to provide clarification or make the existing regulations more user-friendly. Lastly, additional benefits associated with the proposed regulatory action include equity in the treatment accorded the human remains of native and non-native people and overall improved efficiency in the systematic process for museums, Federal agencies, Indian Tribes, and NHOs.

Within the analyzed time horizon of the rule, NPS expects that 1,388 public and private museums, 574 federally recognized Indian Tribes, hundreds of NHOs, and 19 Federal agencies will likely benefit from the proposed regulatory action and the resulting improvements to the systematic process for repatriation. Therefore, the NPS believes positive benefits will be generated by this proposed action.

#### *Transfers of the proposed regulatory action*

The Act authorizes grants to Indian Tribes, NHOs, and museums for the purpose of assisting with repatriation and in conducting the inventories and identifications required by the Act and its implementing regulations. Since 1994, Congress has appropriated approximately \$2 million

<sup>12</sup> Department of the Interior (DOI). 2010. Department of the Interior Museum Property Management Summary Report Fiscal Year 2010. [https://www.doi.gov/sites/doi.gov/files/migrated/museum/upload/FY2010-DOI\\_Museum\\_Property\\_Report\\_Final.pdf](https://www.doi.gov/sites/doi.gov/files/migrated/museum/upload/FY2010-DOI_Museum_Property_Report_Final.pdf).

annually for grants under this authorization. Each year, approximately 5% of the available funds (\$100,000 or less) is awarded for repatriation assistance, which can include transportation of people and objects as well as other costs associated with repatriation and reburial. Recipients of these grants include both Indian Tribes or NHOs and museums. The majority of appropriated funds (95%) are awarded for consultation or documentation projects related to the inventory, summary, or notification process under the Act and the regulations. Both museums and Indian Tribes or NHOs receive these grants for specific projects. Many museum projects involve updating inventories or re-evaluating collections to identify additional human remains or funerary objects. Indian Tribes and NHOs use these funds to consult on specific collections or with specific museums and sometimes to create procedures and protocols for making requests for repatriation.

The NPS anticipates a change in grant projects under the proposed regulatory action. During the first three years after publication of a final rule, grant funds will likely continue to go to consultation and documentation projects related to the requirement to update inventories. After four years, the NPS anticipates grant funds will be used mostly for repatriation assistance or for making requests for repatriation. The NPS anticipates the recipients of these grant funds will also change from mostly museums to mostly Indian Tribes or NHOs. Museums may still request funds to assist with new inventories or summaries, or for consultation on summary cultural items. The changes to the requirements for inventories is likely to impact the use of grant funds. At this time, NPS does not have data to assess the full extent of the transfer impacts of grant funds.

## **Uncertainty**

The total benefits associated with the proposed regulatory action could not be quantified due to a lack of available data. The total costs and hours associated with the proposed regulatory action were estimated with the best available data. Any uncertainty involved in this analysis is anticipated to be associated with the magnitude of these benefits to museums, Federal agencies, Indian Tribes, and NHOs under the proposed changes. NPS is not aware of any other sources of uncertainty.

## **Conclusion**

The NPS anticipates a temporary increase of \$600,387 in annual costs for the first three years under the proposed regulatory action compared to baseline conditions. Starting year four, NPS anticipates a \$1.85 million benefit in reduced annual costs compared to baseline conditions. This proposed regulatory action would become net beneficial in year four when reduced annual costs exceed the total temporary increase in costs from the first three years. Across the horizon of 26 years, the net savings in costs of the proposed regulatory action totals \$40.7 million. Therefore, the results of this cost-benefit analysis indicate that positive net benefits will be generated by implementing the proposed regulatory action. Given that, NPS concludes that the benefits associated with the proposed regulatory action justify the associated costs. Further, this proposed regulatory action is not expected to have an annual economic effect of \$100 million. This proposed regulatory action would streamline requirements, clarify timelines and terms, reduce ambiguity, and improve efficiency in the systematic process for the disposition and repatriation

of Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony.

## Regulatory Flexibility Threshold Analysis

The Regulatory Flexibility Act, as amended, requires agencies to analyze impacts of regulatory actions on small entities (businesses, nonprofit organizations, and governments), and to consider alternatives that minimize such impacts while achieving regulatory objectives.<sup>13</sup> (Small Business Administration, 2017). Agencies must first conduct a threshold analysis to determine whether regulatory actions are expected to have significant economic impact on a substantial number of small entities. If the threshold analysis indicates a significant economic impact on a substantial number of small entities, an initial regulatory flexibility analysis must be produced and made available for public review and comment along with the proposed regulatory action. A final regulatory flexibility analysis that considers public comments must then be produced and made publicly available with the final regulatory action. Agencies must publish a certification of no significant impact on a substantial number of small entities if the threshold analysis does not indicate such impacts.

This threshold analysis relies on the cost-benefit analysis, which concludes that this proposed regulatory action will likely generate benefits for museums, Federal agencies, Indian Tribes, and NHOs that are greater than the temporary increase in reporting costs for museums. From 1990 to date, the NPS has estimated that approximately 10% of the total number of responding museums could be characterized as small entities. This estimate and impact on these entities are addressed in this analysis.

Most of the state, local and private museums required to report under NAGPRA are large not-for-profit enterprises, part of a university or college, or state or local government entities. Of the 1,388 museums reporting under NAGPRA, 419 are classified as state entities, 382 as local government entities, and 587 as private museums. Of the private museums, 141 are classified as universities or colleges, 18 as large urban museums, 42 as large historical societies, 247 as not-for profit museums or organizations that are large or dominant in the field, and the remaining 139 entities are small museums, historical societies, or nature parks.

Based on the estimate of baseline conditions and estimated changes required under the proposed regulatory action, the NPS anticipates 10% of the change in museum responses will be from small entities. Table 15 shows the number of responses, hours, and costs for all museums and for small entities (rounded up to whole numbers) in each regulatory framework.

**Table 15. Comparison of regulatory frameworks for museums**

Framework	Museums Number of	Small Entities	Museums Annual	Small Entities	Museums Annual	Small Entities
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<sup>13</sup> Small Business Administration. 2017. "A Guide for Government Agencies: How to Comply with the Regulatory Flexibility Act." August 2017.

	<b>Responses</b>	<b>Responses</b>	<b>Hours</b>	<b>Annual Hours</b>	<b>Costs</b>	<b>Annual Costs</b>
Baseline conditions	745	80	33,228.50	3,559.00	\$2,135,265	\$228,700
Proposed action years 1-3	1,834	192	34,337.00	3,662.25	\$2,206,498	\$235,336
Proposed action years 4 +	319	36	6,753.25	838.25	\$433,967	\$53,864

As shown in Table 15, the increase in hours and costs for small entities between the baseline conditions and the proposed action in years one through three is 103.25 annual hours and \$6,636 in annual costs. Beginning in year four, the decrease in hours and costs for small entities from baseline conditions is 2,720.75 annual hours and \$174,836 in annual costs.

The impact on these small entities aligns with their normal duties of collections management. In an effort to reduce respondent burden, the NAGPRA Program provides templates and technical assistance to direct inquiries by phone and email. The NAGPRA Program assists many small entities directly with drafting and completing the notice requirements, which generally falls outside the scope of normal collections management duties. The NAGPRA Program also provides grants, when funds are appropriated, to any museum or Indian Tribe, including small entities.

The increase in costs associated with the new information collection requirements is temporary and will not exist after all museums complete the required inventory updates which is expected to happen within three years of implementation. After this initial three-year period, the NPS expects overall hours and costs for small entities will be less than current hours and costs under baseline conditions. Given these findings, this threshold analysis concludes and certifies that this proposed regulatory action will not impose a significant economic impact on a substantial number of small entities.

## Appendix – Detailed Estimated Costs

### Subpart B – Protection on Federal or Tribal Lands.

This estimate relies on an average of 11 notices of intended disposition submitted by Federal agencies in the last three years (FY2019=13, FY2020=9, and FY2021=10). The number of discoveries and excavations on Tribal lands is unknown.

**Table 16. Estimate for Baseline Conditions Subpart B**

Regulatory Requirement	Responsible party	Number of responses	Time per response	Annual Hours	Hourly Rate	Annual Costs
Report a discovery	Any person	15	0.50	7.50	\$40.90	\$307.00
Respond to a discovery	Indian Tribes/NHOs	4	5.25	21.00	\$64.26	\$1,349.00
Respond to a discovery	Federal Agency	11	5.25	57.75	\$64.26	\$3,711.00
Consent to an excavation	Indian Tribes/NHOs	1	5.25	5.25	\$64.26	\$337.00
Authorize an excavation	Federal Agency	3	5.25	15.75	\$64.26	\$1,012.00
Conduct consultation	Federal Agency	3	30.25	90.75	\$64.26	\$5,832.00
Complete a plan of action	Federal Agency	3	20.50	61.50	\$64.26	\$3,952.00
Publish notices of intended disposition	Federal Agency	11	10.25	112.75	\$64.26	\$7,245.00
Submit a claim for disposition	Indian Tribes/NHOs	11	5.25	57.75	\$64.26	\$3,711.00
Evaluate competing claims for disposition	Federal Agency	1	25.25	25.25	\$64.26	\$1,623.00
Transfer or reinter unclaimed human remains or cultural items	Federal Agency	2	5.25	10.25	\$64.26	\$659.00
<b>Total</b>		<b>65</b>		<b>465.50</b>		<b>\$29,738</b>

*Report a discovery on Federal or Tribal lands.* We estimate the number of persons reporting a discovery on Federal or Tribal lands (n=15) based on available data for notices on Federal lands (n=11) plus an estimated number of discoveries on Tribal lands (n=4). In reporting a discovery, the existing regulations require immediate telephone notification with written confirmation. We estimate the time per response is less than one hour, or 0.50 hours.

*Respond to a discovery.* We estimate that the number of Indian Tribes and NHOs responding to a discovery on Tribal lands is 25% (n=4) of the total estimated number of discoveries on Federal or Tribal lands. The existing regulations require a response to a discovery no later than 3 working days after a discovery. We estimate the time per response ranges from less than one hour, or 0.50 hours, to 10 hours, depending on the size and complexity of the response, for a median of 5.25 hours.

*Respond to a discovery.* We estimate that the number of Federal agencies responding to a discovery is 75% (n=11) of the total estimated number of discoveries. The existing regulations require a response no later than 3 working days after a discovery. We estimate the time per response ranges from less than one hour, or 0.50 hours, to 10 hours, depending on the size and complexity of the discovery, for a median of 5.25 hours.

*Consent to an excavation.* We estimate that the number of Indian Tribes and NHOs consenting to an excavation is 25% (n=1) of the discoveries on Tribal lands. We assume most Indian Tribes and NHOs prefer to avoid excavation whenever possible. We estimate the time per response ranges from less than one hour, or 0.50 hours, to 10 hours, depending on the size and complexity of the response, for a median of 5.25 hours.

*Authorize an excavation.* We estimate that the number of Federal agencies authorizing an excavation is 25% (n=3) of the discoveries on Federal lands. We assume most Federal agencies prefer to avoid excavation whenever possible. We estimate the time per response ranges from less than one hour, or 0.50 hours, to 10 hours, depending on the size and complexity of the discovery, for a median of 5.25 hours.

*Conduct consultation.* We estimate that the number of Federal agencies conducting consultation is 25% (n=3) of the discoveries on Federal lands. Under the existing regulations, Federal agencies respond to a discovery with an invitation to consult, estimated above for all discoveries. Conducting consultation is dependent on a response from Indian Tribes or NHOs. Therefore, we have estimated a smaller number of discoveries will result in conducting consultation. We estimate the time per response ranges from less than one hour, or 0.50 hours, to 60 hours, depending on the size and complexity of the consultation, for a median of 30.25 hours.

*Complete a plan of action.* We estimate that the number of Federal agencies approving a plan of action is 25% (n=3) of the discoveries on Federal lands. We estimate the time per response ranges from one hour to 40 hours, depending on the size and complexity of the plan of action, for a median of 20.50 hours.

*Publish notices of intended disposition.* We estimate that the number of Federal agencies publishing notices of intended disposition (n=11) is the same as the number of discoveries on Federal lands. The information needed for notices of intended disposition are drawn directly from Federal records. NPS provides a simple template to fill in the necessary information. We estimate the time per

response ranges from less than one hour, or 0.50 hours, to 20 hours, depending on the size and complexity of the notice, for a median of 10.25 hours.

*Submit a claim for disposition.* We estimate that the number of Indian Tribes or NHOs submitting a claim for disposition (n=11) is the same as the number of discoveries on Federal lands. We estimate the time per response ranges from less than one hour, or 0.50 hours, to 10 hours, depending on the size and complexity of the response, for a median of 5.25 hours.

*Evaluate competing claims for disposition.* We estimate that the number of Federal agencies evaluating competing claims for disposition is 10% (n=1) of the discoveries on Federal lands. The information needed to evaluate competing claims is submitted by claimants and evaluated against the priority of custody in the existing regulations. We estimate the time per response ranges from less than one hour, or 0.50 hours, to 50 hours, depending on the size and complexity of the competing claims, for a median of 25.25 hours.

*Transfer or reinter unclaimed human remains or cultural items.* We estimate that the number of Federal agencies transferring or reinterring unclaimed human remains or cultural items (n=2) based on reporting over the last three years. The information needed to transfer or reinter unclaimed human remains or cultural items is drawn directly from Federal records. NPS provides a simple template to fill in the necessary information. We estimate the time per response ranges from less than one hour, or 0.50 hours, to 10 hours, depending on the size and complexity of the discovery, for a median of 5.25 hours.

**Table 17. Estimate for Proposed regulatory action Subpart B**

<b>Regulatory Requirement</b>	<b>Responsible party</b>	<b>Number of responses</b>	<b>Time per response</b>	<b>Annual Hours</b>	<b>Hourly Rate</b>	<b>Annual Costs</b>
Report a discovery	Any person	15	0.50	7.50	\$40.90	\$307.00
Respond to a discovery	Indian Tribes/NHOs	4	5.25	21.00	\$64.26	\$1,349.00
Respond to a discovery	Federal Agency	11	5.25	57.75	\$64.26	\$3,711.00
Consent to an excavation	Indian Tribes/NHOs	1	5.25	5.25	\$64.26	\$337.00
Authorize an excavation	Federal Agency	6	5.25	31.50	\$64.26	\$2,024.00
Delegate or accept responsibility on Tribal lands	Indian Tribes/NHOs	13	1.25	16.25	\$64.26	\$1,044.00
Conduct consultation	Federal Agency	11	30.25	332.75	\$64.26	\$21,383.00
Submit a request to consult	Indian Tribes/NHOs	11	1.25	13.75	\$64.26	\$884.00
Complete a plan of action	Federal Agency	11	20.50	225.50	\$64.26	\$14,491.00
Publish notices of intended	Federal Agency	11	10.25	112.75	\$64.26	\$7,245.00

<b>Regulatory Requirement</b>	<b>Responsible party</b>	<b>Number of responses</b>	<b>Time per response</b>	<b>Annual Hours</b>	<b>Hourly Rate</b>	<b>Annual Costs</b>
disposition						
Submit a claim for disposition	Indian Tribes/NHOs	11	5.25	57.75	\$64.26	\$3,711.00
Send or complete a disposition statement	Indian Tribes/NHOs	4	0.50	2.00	\$64.26	\$129.00
Send a disposition statement	Federal Agency	11	2.75	30.25	\$64.26	\$1,944.00
Evaluate competing claims for disposition	Federal Agency	1	25.25	25.25	\$64.26	\$1,623.00
Request transfer of unclaimed human remains or cultural items	Indian Tribes/NHOs	1	1.25	1.25	\$64.26	\$80.00
Transfer or reinter unclaimed human remains or cultural items	Federal Agency	2	5.25	10.25	\$64.26	\$659.00
<b>Total</b>		<b>124</b>		<b>950.75</b>		<b>\$60,921.00</b>

**No change from baseline conditions for:**

*Report a discovery.*

*Respond to a discovery.*

*Respond to a discovery.*

*Consent to an excavation.*

*Publish notices of intended disposition.*

*Submit a claim for disposition.*

*Evaluate competing claims for disposition.*

*Transfer or reinter unclaimed human remains or cultural items.*

**Revisions to baseline conditions under proposed action:**

*Authorize an excavation.* We estimate that the number of Federal agencies authorizing an excavation is 50% (n=6) of the discoveries on Federal lands. We assume most Federal agencies prefer to avoid excavation whenever possible, but the additional requirements to consult and develop plans of action in the proposed regulatory action will result in additional excavations on Federal lands. We estimate the time per response ranges from less than one hour, or 0.50 hours, to 10 hours, depending on the size and complexity of the discovery, for a median of 5.25 hours.

*Conduct consultation.* Consultation will be required on all discoveries on Federal lands (n=11). We do not estimate a change in the time per response from baseline conditions.

*Complete a plan of action.* Completing a plan of action will be required for all discoveries on Federal lands (n=11). We do not estimate a change in the time per response from baseline conditions.

**New requirements in proposed action:**

*Delegate or accept responsibility on Tribal lands.* We estimate 2% of Indian Tribes (n=11) and NHOs (n=2) will delegate or accept responsibility on their Tribal lands. (The total number of Indian Tribes is 574. The estimated number of NHOs is 120.) We estimate the time per response ranges from less than one hour, or 0.50 hours, to 2 hours, depending on the size and complexity of the request, for a median of 1.25 hours.

*Submit a request to consult.* We estimate Indian Tribes and NHOs will request to consult on all discoveries on Federal lands (n=11). We estimate the time per response ranges from less than one hour, or 0.50 hours, to 2 hours, depending on the size and complexity of the request, for a median of 1.25 hours.

*Send or complete a disposition statement.* We estimate that all of the discoveries on Tribal lands (n=4) will require a disposition statement. We estimate the time per response is less than one hour, or 0.50 hours.

*Send a disposition statement.* We estimate that all of the discoveries on Federal lands (n=11) will require a disposition statement. We estimate the time per response ranges from less than one hour, or 0.50 hours, to 5 hours, depending on the size and complexity of the request, for a median of 2.75 hours.

*Request transfer of unclaimed human remains or cultural items.* We estimate that the number of Indian Tribes or NHOs requesting transfer of unclaimed human remains or cultural items (n=1) based on reporting over the last three years. We estimate the time per response ranges from less than one hour, or 0.50 hours, to 2 hours, depending on the size and complexity of the request, for a median of 1.25 hours.

**Subpart C – Repatriation by Museums and Federal agencies.**

This estimate relies on the average number of submissions by museums and Federal agencies over the last three years or calculates an estimate based on those submissions.<sup>14</sup>

<sup>14</sup> See NPS, National NAGPRA Program Annual Reports, <https://www.nps.gov/subjects/nagpra/reports.htm> (accessed August 1, 2022).

**Table 18. Estimate for Baseline Conditions Subpart C**

<b>Regulatory Requirement</b>	<b>Responsible party</b>	<b>Number of responses</b>	<b>Time per response</b>	<b>Annual Hours</b>	<b>Hourly Rate</b>	<b>Annual Costs</b>
Identify holdings or collection in museum custody	Federal Agency	3	50.25	150.75	\$64.26	\$9,687.00
Submit a new summary	Museums	7	52.50	367.50	\$64.26	\$23,616.00
Submit a new summary	Federal Agency	0	52.50	0.00	\$64.26	\$0.00
Initiate consultation and request information	Museums	14	2.75	38.50	\$64.26	\$2,474.00
Initiate consultation and request information	Federal Agency	5	2.75	13.75	\$64.26	\$884.00
Submit a request to consult	Indian Tribes/NHOs	215	1.25	268.75	\$64.26	\$17,270.00
Submit a request to consult	Lineal descendants	3	1.25	3.75	\$38.61	\$145.00
Conduct consultation	Museums	204	100.25	20,451.00	\$64.26	\$1,314,181.00
Conduct consultation	Federal Agency	14	100.25	1403.50	\$64.26	\$90,189.00
Submit a new inventory	Museums	5	155.00	775.00	\$64.26	\$49,802.00
Submit a new inventory	Federal Agency	1	155.00	155.00	\$64.26	\$9,960.00
Update inventory data	Museums	167	50.25	8391.75	\$64.26	\$539,254.00
Update inventory data	Federal Agency	8	50.25	402.00	\$64.26	\$25,833.00
Update summary data	Museums	49	10.25	502.25	\$64.26	\$32,275.00
Update summary data	Federal Agency	2	10.25	20.50	\$64.26	\$1,317.00
Submit notices of intent to repatriate	Museums	32	5.25	168.00	\$64.26	\$10,796.00
Submit notices of intent to repatriate	Federal Agency	5	5.25	26.25	\$64.26	\$1,687.00
Submit notices of inventory completion	Museums	119	10.25	1219.75	\$64.26	\$78,381.00
Submit notices of inventory completion	Federal Agency	31	10.25	317.75	\$64.26	\$20,419.00
Submit a request for repatriation	Indian Tribes/NHOs	154	5.25	808.50	\$64.26	\$51,954.00

<b>Regulatory Requirement</b>	<b>Responsible party</b>	<b>Number of responses</b>	<b>Time per response</b>	<b>Annual Hours</b>	<b>Hourly Rate</b>	<b>Annual Costs</b>
Submit a request for repatriation	Lineal descendants	3	5.25	15.75	\$38.61	\$608.00
Document physical transfer	Museums	127	5.25	666.75	\$64.26	\$42,845.00
Document physical transfer	Federal Agency	30	5.25	157.50	\$64.26	\$10,121.00
Evaluate competing requests and resolve stays of repatriation	Museums	12	25.25	303.00	\$64.26	\$19,471.00
Evaluate competing requests and resolve stays of repatriation	Federal Agency	2	25.25	50.50	\$64.26	\$3,245.00
File an allegation of failure to comply	Any person	2	1.25	2.50	\$40.90	\$102.00
Respond to a civil penalty action	Museums	4	17.50	70.00	\$64.26	\$4,498.00
<b>Total</b>		<b>1,218</b>		<b>36,750.25</b>		<b>\$2,361,014.00</b>

*Identify Federal collections in museums.* We estimate the number of Federal agencies (n=3) identifying Federal collections in the custody of museums based on revised inventory data submitted in FY2022. There is currently no requirement in the existing regulations for a museum to report on a Federal holding or a collection. Other authorities allow Federal agencies to request information, but the process of requesting information from museums has proven difficult, time consuming, and inefficient for many Federal agencies. We estimate the time per response ranges from less than one hour, or 0.50 hours, to 100 hours, depending on the size and complexity of the update, for a median of 50.25 hours.

*Submit a new summary.* We estimate the number of museums (n=7) and Federal agencies (n=0) submitting new summaries based on the number of new submissions in FY2022. A new summary is a general description of a holding or collection sent by letter to lineal descendants, Indian Tribes, and NHOs. We estimate the time per response will range from five hours to 100 hours, depending on the size and complexity of a collection, for a median of 52.5 hours.

*Initiate consultation and request information.* (previously Notify Indian Tribes/NHOs and request information) Previously, we estimated the number of museums (n=14) and Federal agencies (n=5) required to notify Indian Tribes or NHOs and request information under similar estimates for the Paperwork Reduction Act previously reviewed and approved under OMB Control Number 1024-0144 (expires 4/30/2025). For purposes of this estimate, we have not revised the number of responses but it is likely underestimated. The existing regulations require notification to Indian Tribes and NHOs about culturally unidentifiable human remains and requests information about temporal or geographic criteria. In estimating the time per response, we assume museums and

Federal agencies previously prepared and submitted inventories in accordance with the existing regulations and will only be required to share previously prepared and updated information to meet this requirement. We estimate the time per response ranges from less than one hour, or 0.50 hours, to 5 hours, depending on the size and complexity of the holding or collection, for a median of 2.75 hours.

*Submit a request to consult.* We estimate lineal descendants (n=3), Indian Tribes, and NHOs (n=215) request to consult based on the total number of new or updated inventories (which require consultation) and the total number of notices of intent to repatriate (which require consultation). We estimate the time per response ranges from less than one hour, or 0.50 hours, to 2 hours, depending on the size and complexity of the request, for a median of 1.25 hours.

*Conduct consultation.* We estimate that the number of museums (n=204) and Federal agencies (n=14) initiating and conducting consultation based on the number of new or updated inventories (which require consultation) and the number of notices of intent to repatriate (which require consultation). We estimate the time per response ranges from less than one hour, or 0.50 hours, to 200 hours, depending on the size and complexity of the consultation, for a median of 100.25 hours.

*Submit a new inventory.* We estimate the number of museums (n=5) and Federal agencies (n=1) submitting new inventories based on the number of new submissions in FY2022. A new inventory requires preparation of a simple itemized list based on available information. We estimate the time per response ranges from ten hours to 300 hours, depending on the size and complexity of a collection, for a median of 155 hours.

*Update inventory data.* We estimate the number of museums (n=167) and Federal agencies (n=8) updating inventory data based on the average number of updates we received in FY2021 and FY2022. The number of museums updating inventory data is relatively large and accounts for multiple submissions from a single museum because the data is updated on a case-by-case basis. We assume museums and Federal agencies previously prepared and submitted inventories in accordance with the existing regulations and an update to that inventory requires less time than submission of a new inventory. We estimate the time per response ranges from less than one hour, or 0.50 hours, to 100 hours, depending on the size and complexity of the update, for a median of 50.25 hours.

*Update summary data.* We estimate the number of museums (n=49) and Federal agencies (n=2) updating summary data based on the average number of updates we received in FY2021 and FY2022. We assume museums and Federal agencies previously prepared and submitted summaries in accordance with the existing regulations and an update to that summary requires less time than submission of a new summary. We estimate the time per response ranges from less than one hour, or 0.50 hours, to 20 hours, depending on the size and complexity of the response, for a median of 10.25 hours.

*Submit notices of intent to repatriate.* We estimate the number of notices of intent to repatriate by museums (n=32) and Federal agencies (n=5) based on the average number of notices published in the last three years. The information needed for notices of intent to repatriate are drawn directly from the summary and available records. NPS provides a simple template to fill in the necessary information. We estimate the time per response ranges from less than one hour, or 0.50 hours, to 10 hours, depending on the size and complexity of the response, for a median of 5.25 hours.

*Submit notices of inventory completion.* We estimate the number of notices of inventory completion by museums (n=119) and Federal agencies (n=31) based on the average number of notices published in the last three years. Museums submit multiple notices each year, according to their own requirements or in response to consultations. The information needed for notices of inventory completion are drawn directly from the inventory. NPS provides a simple template to fill in the necessary information. We estimate the time per response ranges from less than one hour, or 0.50 hours, to 20 hours, depending on the size and complexity of the response, for a median of 10.25 hours.

*Submit a request for repatriation.* We estimate the number of lineal descendants (n=3) and Indian Tribes or NHOs (n=154) submitting a request for 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). A request for repatriation ranges from a simple statement in response to a notice to a detailed request with supporting documentation to satisfy the criteria for a request. We estimate the time per response ranges from less than one hour, or 0.50 hours, to 10 hours, depending on the size and complexity of the claim or request, for a median of 5.25 hours.

*Document physical transfer.* We estimate the number of museums (n=127) and Federal agencies (n=30) 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). The existing regulations require internal procedures to permanently document repatriations. We estimate the time per response ranges from less than one hour, or 0.50 hours, to 10 hours, depending on the size and complexity of the response, for a median of 5.25 hours.

*Evaluate competing requests for repatriation.* We estimate the number of museums (n=12) and Federal agencies (n=2) evaluating competing requests for repatriation based on the number of competing requests known to the National NAGPRA Program or the Review Committee in an average year. The information needed to evaluate competing requests is submitted by requestors evaluated against the criteria in the existing regulations. We estimate the time per response ranges from less than one hour, or 0.50 hours, to 50 hours, depending on the size and complexity of the competing claims, for a median of 25.25 hours

*File an allegation of failure to comply.* We estimate the number of persons alleging a failure to comply (n=2) based on available data for civil penalty actions in an average year. The time per response ranges from less than one hour, or 0.50 hours, to 2 hours, depending on the size and complexity of the allegation, for a median of 1.25 hours

*Respond to a civil penalty action.* 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. The time per response ranges from 5 hours to 30 hours, depending on the complexity of the action, for a median of 17.5 hours.

**Table 19. Estimate for Proposed regulatory action (years 1-3) Subpart C**

Regulatory Requirement	Responsible party	Number of responses	Time per response	Annual Hours	Hourly Rate	Annual Costs
Submit statements describing holdings or collections	Museums	70	5.25	367.50	\$64.26	\$23,616.00
Respond to statement describing holdings or collections	Federal Agency	70	5.25	367.50	\$64.26	\$23,616.00
Submit a new summary	Museums	7	52.50	367.50	\$64.26	\$23,616.00
Submit a new summary	Federal Agency	0	52.50	0.00	\$64.26	\$0.00
Initiate consultation and request information	Museums	137	2.75	376.75	\$64.26	\$24,210.00
Initiate consultation and request information	Federal Agency	43	2.75	118.25	\$64.26	\$7,599.00
Submit a request to consult	Indian Tribes/NHOs	219	1.25	273.75	\$64.26	\$17,591.00
Submit a request to consult	Lineal descendants	4	1.25	5.00	\$38.61	\$193.00
Conduct consultation	Museums	174	100.25	17443.50	\$64.26	\$1,120,919.00
Conduct consultation	Federal Agency	49	100.25	4912.25	\$64.26	\$315,661.00
Make a record of consultation	Museums	174	5.25	913.50	\$64.26	\$58,702.00
Make a record of consultation	Federal Agency	49	5.25	257.25	\$64.26	\$16,531.00
Submit a new inventory	Museums	5	155.00	775.00	\$64.26	\$49,802.00
Submit a new inventory	Federal Agency	1	155.00	155.00	\$64.26	\$9,960.00
Update summary data	Museums	49	10.25	502.25	\$64.26	\$32,275.00
Update summary data	Federal Agency	2	10.25	20.50	\$64.26	\$1,317.00

<b>Regulatory Requirement</b>	<b>Responsible party</b>	<b>Number of responses</b>	<b>Time per response</b>	<b>Annual Hours</b>	<b>Hourly Rate</b>	<b>Annual Costs</b>
Update inventory data	Museums	137	50.25	6884.25	\$64.26	\$442,382.00
Update inventory data	Federal Agency	43	50.25	2160.75	\$64.26	\$138,850.00
Submit notices of intent to repatriate	Museums	32	5.25	168.00	\$64.26	\$10,796.00
Submit notices of intent to repatriate	Federal Agency	5	5.25	26.25	\$64.26	\$1,687.00
Submit notices of inventory completion	Museums	274	10.25	2808.50	\$64.26	\$180,474.00
Submit notices of inventory completion	Federal Agency	86	10.25	881.50	\$64.26	\$56,645.00
Submit a request for repatriation	Indian Tribes/NHOs	320	5.25	1680.00	\$64.26	\$107,957.00
Submit a request for repatriation	Lineal descendants	5	5.25	26.25	\$38.61	\$1,014.00
Respond to a request for repatriation	Museums	251	5.25	1317.75	\$64.26	\$84,679.00
Respond to a request for repatriation	Federal Agency	74	5.25	388.50	\$64.26	\$24,965.00
Send a repatriation statement	Museums	251	2.75	690.25	\$64.26	\$44,355.00
Send a repatriation statement	Federal Agency	74	2.75	203.50	\$64.26	\$13,077.00
Document physical transfer	Museums	251	5.25	1317.75	\$64.26	\$84,679.00
Document physical transfer	Federal Agency	74	5.25	388.50	\$64.26	\$24,965.00
Evaluate competing requests and resolve stays of repatriation	Museums	12	25.25	303.00	\$64.26	\$19,471.00
Evaluate competing requests and resolve stays of repatriation	Federal Agency	2	25.25	50.50	\$64.26	\$3,245.00
Request transfer of human remains or cultural items	Indian Tribes/NHOs	6	1.25	7.50	\$64.26	\$482.00
Transfer or reinter human remains and associated funerary objects	Museums	6	5.25	31.50	\$64.26	\$2,024.00
Transfer or reinter human remains and associated funerary objects	Federal Agency	0	5.25	0.00	\$64.26	\$0.00

<b>Regulatory Requirement</b>	<b>Responsible party</b>	<b>Number of responses</b>	<b>Time per response</b>	<b>Annual Hours</b>	<b>Hourly Rate</b>	<b>Annual Costs</b>
File an allegation of failure to comply	Any person	2	1.25	2.50	\$40.90	\$102.00
Respond to a civil penalty action	Museums	4	17.50	70.00	\$64.26	\$4,498.00
<b>Total</b>		<b>2,962</b>		<b>46,262.25</b>		<b>\$2,971,955.00</b>

**No change from baseline conditions for:**

*Submit a new summary.*

*Submit a new inventory.*

*Update summary data.*

*Submit notices of intent to repatriate.*

*Evaluate competing requests and resolve stays of repatriation.*

*File an allegation of failure to comply.*

*Respond to a civil penalty action.*

**Revision to baseline conditions under proposed action:**

*Respond to statements describing collections (replaces Identify Federal collections in museums.).* We estimate the number of Federal agencies (n=70) is 5% of all museums (n=1,388) that previously submitted information under the existing regulations. We estimate the time per response will range from less than one hour, or 0.50 hours, to 10 hours, depending on the size and complexity of a collection, for a median of 5.25 hours. There is currently no requirement for a museum to report on a holding or a collection under NAGPRA. Other authorities allow Federal agencies to request information, but the process of requesting information from museums has proven difficult, time consuming, and inefficient for many Federal agencies.

*Initiate consultation and request information.* The number of museums and Federal agencies initiating consultation and requesting information is expected to increase compared to baseline conditions. We estimate the number of museums (n=137) and Federal agencies (n=43) initiating consultation and requesting information based on the proposed regulatory action. The proposed regulatory action will require 414 museums to update inventory data within three years after promulgating of a final rule. Prior to updating inventory data, museums will be required to initiate consultation and request information from Indian Tribes and NHOs when consulting with requesting parties. We assume museums and Federal agencies previously prepared and submitted inventories in accordance with the existing regulations and will only be required to share previously prepared and updated information to meet this

requirement. We estimate the time per response will range from less than one hour, or 0.50 hours, to 5 hours, depending on the size and complexity of the holding or collection, for a median of 2.75 hours.

*Submit a request to consult.* We estimate the number of lineal descendants (n=4) and Indian Tribes or NHOs (n=219) requesting to consult based on the total number of new or updated inventories (which require consultation) and the total number of notices of intent to repatriate (which require consultation). We estimate the time per response will range from less than one hour, or 0.50 hours, to 2 hours, depending on the size and complexity of the request, for a median of 1.25 hours.

*Conduct consultation.* We estimate that the number of museums (n=174) and Federal agencies (n=49) initiating and conducting consultation based on the number of new or updated inventories (which require consultation) and the number of notices of intent to repatriate (which require consultation). We estimate the time per response will range from less than one hour, or 0.50 hours, to 200 hours, depending on the size and complexity of the consultation, for a median of 100.25 hours.

*Update inventory data.* We estimate the number of museums (n=137) and Federal agencies (n=43) updating inventory data based on the requirements in the proposed regulatory action. We estimate 414 museums and 19 Federal agencies will be required to update inventories within three years after promulgation of a final rule. We estimate that 33% of those museums and Federal agencies will submit inventory updates each year for three years.

As the size of museum collections vary greatly, we analyzed previously reported inventory data to estimate the time required per response. For each museum, currently available inventory data is organized into separate records, according to a museum’s original inventory submission and previous updates. We assume fewer inventory records will require less time to update. We assume museums previously prepared and submitted inventories in accordance with the existing regulations and an update to that inventory requires less time than submission of a new inventory. We estimate the time per response will range from less than one hour, or 0.50 hours, to 100 hours, depending on the size and complexity of the update, for a median of 50.25 hours.

**Table 20. Collection size in Inventories.**

<b>Collection size</b>	<b># of Museums</b>	<b># of Inventory Records</b>	<b># of human remains</b>
Small	241	Between 1 and 9	4,835
Medium	111	Between 10 and 49	11,235
Large	27	Between 50 and 99	10,568
Largest	35	Between 100 and 937	79,284
<b>Total</b>	<b>414</b>	<b>13,534</b>	<b>105,922</b>

*Submit notices of inventory completion.* The number of museums submitting notices of inventory completion is expected to more than double compared to baseline conditions. We estimate the number of notices of inventory completion by museums (n=274) and Federal agencies (n=86) based on the proposed regulatory action. The proposed regulatory action will require publication of notices of inventory completion within six months and NPS estimates that each museum or Federal agency required to update inventory data will submit, on average, two notices each year. The proposed regulatory action will allow for collections to be combined by geographic location or other defining features for the purpose of public notice in the Federal Register. The information needed for notices of inventory completion are drawn directly from the inventory. NPS provides a simple template to fill in the necessary information. We estimate the time per response will range from less than one hour, or 0.50 hours, to 20 hours, depending on the size and complexity of the notice, for a median of 10.25 hours.

*Submit a request for repatriation.* We estimate the number of lineal descendants (n=5) and Indian Tribes or NHOs (n=320) submitting a request for 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). A request for repatriation ranges from a simple statement in response to a notice to a detailed request with supporting documentation to satisfy the criteria for a request. We estimate the time per response will range from less than one hour, or 0.50 hours, to 10 hours, depending on the size and complexity of the request, for a median of 5.25 hours.

*Document physical transfer.* We estimate the number of museums (n=251) and Federal agencies (n=74) 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). We estimate the time per response will range from less than one hour, or 0.50 hours, to 10 hours, depending on the size and complexity of the transfer, for a median of 5.25 hours.

*Request transfer of human remains and associated funerary objects* (replaces requirement previously under Subpart D). We estimate the number of Indian Tribes or NHOs (n=6) requesting transfer of human remains and associated funerary objects based on changes in the proposed regulatory action and the average number of requests in recent years. Under the proposed regulatory action, the process is simplified and therefore the time per response will range from less than one hour, or 0.50 hours, to 2 hours, depending on the size and complexity of the request, for a median of 1.25 hours.

*Transfer or reinter human remains and associated funerary objects* (replaces requirement previously under Subpart D). We estimate the number of museums (n=6) and Federal agencies (n=0) requesting to transfer or reinter human remains or associated funerary objects based on changes in the proposed regulatory action and the average number of requests in recent years. Under the proposed

regulatory action, the process is simplified and therefore the time per response will range from less than one hour, or 0.50 hours, to 10 hours, depending on the size and complexity of the request, for a median of 5.25 hours.

**New requirements in proposed action:**

*Museum statements describing holdings or collections in its custody.* We estimate the number of museums (n=70) submitting statements is 5% of all museums (n=1,388) that previously submitted information under these existing regulations. A statement is a simple written document describing a holding or collection. We estimate the time per response will range from less than one hour, or 0.50 hours, to 10 hours, depending on the size and complexity of a collection, for a median of 5.25 hours.

*Make a record of consultation.* We estimate the number of museums (n=174) and Federal agencies (n=49) required to make a record of consultation based on the estimated numbers of new and updated inventories (which require consultation) and notices of intent to repatriate (which require consultation). We estimate the time per response will range from less than one hour, or 0.50 hours, to 10 hours, depending on the size and complexity of the consultation, for a median of 5.25 hours.

*Respond to a request for repatriation.* We estimate the number of museums (n=251) and Federal agencies (n=74) responding to requests for repatriation based on the estimated number of requests for repatriation (see above). In the proposed regulatory action, museums and Federal agencies have specific options for responding to a request and responses should be based on information available in previously prepared summaries, inventories, and notices. We estimate the time per response will range from less than one hour, or 0.50 hours, to 10 hours, depending on the complexity of the request, for a median of 5.25 hours.

*Send a repatriation statement.* We estimate the number of museums (n=251) and Federal agencies (n=74) sending repatriation statements based on the estimated number of requests for repatriation (see above). In the proposed regulatory action, a repatriation statement is a simple document that should be based on information available in previously prepared summaries, inventories, notices, and responses to requests. We estimate the time per response will range from less than one hour, or 0.50 hours, to 5 hours, depending on the complexity of the statement, for a median of 2.75 hours.

**Table 21. Estimate for Proposed regulatory action (years 4 +) Subpart C**

Regulatory Requirement	Responsible party	Number of responses	Time per response	Annual Hours	Hourly Rate	Annual Costs
Submit statements describing holdings or collections	Museums	0	5.25	0.00	\$64.26	\$0.00

<b>Regulatory Requirement</b>	<b>Responsible party</b>	<b>Number of responses</b>	<b>Time per response</b>	<b>Annual Hours</b>	<b>Hourly Rate</b>	<b>Annual Costs</b>
Respond to statement describing holdings or collections	Federal Agency	0	5.25	0.00	\$64.26	\$0.00
Submit a new summary	Museums	7	52.50	367.50	\$64.26	\$23,616.00
Submit a new summary	Federal Agency	1	52.50	52.50	\$64.26	\$3,374.00
Initiate consultation and request information	Museums	0	2.75	0.00	\$64.26	\$0.00
Initiate consultation and request information	Federal Agency	0	2.75	0.00	\$64.26	\$0.00
Submit a request to consult	Indian Tribes/NHOs	39	1.25	48.75	\$64.26	\$3,133.00
Submit a request to consult	Lineal descendants	4	1.25	5.00	\$38.61	\$193.00
Conduct consultation	Museums	37	100.25	3709.25	\$64.26	\$238,356.00
Conduct consultation	Federal Agency	6	100.25	601.50	\$64.26	\$38,652.00
Make a record of consultation	Museums	37	5.25	194.25	\$64.26	\$12,483.00
Make a record of consultation	Federal Agency	6	5.25	31.50	\$64.26	\$2,024.00
Submit a new inventory	Museums	5	155.00	775.00	\$64.26	\$49,802.00
Submit a new inventory	Federal Agency	1	155.00	155.00	\$64.26	\$9,960.00
Update summary data	Museums	49	10.25	502.25	\$64.26	\$32,275.00
Update summary data	Federal Agency	2	10.25	20.50	\$64.26	\$1,317.00
Update inventory data	Museums	0	50.25	0.00	\$64.26	\$0.00
Update inventory data	Federal Agency	0	50.25	0.00	\$64.26	\$0.00
Submit notices of intent to repatriate	Museums	32	5.25	168.00	\$64.26	\$10,796.00
Submit notices of inventory completion	Federal Agency	2	10.25	20.50	\$64.26	\$1,317.00
Submit notices of inventory completion	Museums	10	10.25	102.50	\$64.26	\$6,587.00
Submit notices of intent to repatriate	Federal Agency	5	5.25	26.25	\$64.26	\$1,687.00
Submit a request for repatriation	Indian Tribes/NHOs	42	5.25	220.50	\$64.26	\$14,169.00
Submit a request for repatriation	Lineal descendants	5	5.25	26.25	\$38.61	\$1,014.00

<b>Regulatory Requirement</b>	<b>Responsible party</b>	<b>Number of responses</b>	<b>Time per response</b>	<b>Annual Hours</b>	<b>Hourly Rate</b>	<b>Annual Costs</b>
Respond to a request for repatriation	Museums	40	5.25	210.00	\$64.26	\$13,495.00
Respond to a request for repatriation	Federal Agency	7	5.25	36.75	\$64.26	\$2,362.00
Send a repatriation statement	Museums	40	2.75	110.00	\$64.26	\$7,069.00
Send a repatriation statement	Federal Agency	7	2.75	19.25	\$64.26	\$1,237.00
Document physical transfer	Museums	40	5.25	210.00	\$64.26	\$13,495.00
Document physical transfer	Federal Agency	7	5.25	36.75	\$64.26	\$2,362.00
Evaluate competing requests and resolve stays of repatriation	Museums	12	25.25	303.00	\$64.26	\$19,471.00
Evaluate competing requests and resolve stays of repatriation	Federal Agency	2	25.25	50.50	\$64.26	\$3,245.00
Request transfer of human remains or cultural items	Indian Tribes/NHOs	6	1.25	7.50	\$64.26	\$482.00
Transfer or reinter human remains and associated funerary objects	Museums	6	5.25	31.50	\$64.26	\$2,024.00
Transfer or reinter human remains and associated funerary objects	Federal Agency	0	5.25	0.00	\$64.26	\$0.00
File an allegation of failure to comply	Any person	2	1.25	2.50	\$40.90	\$102.00
Respond to a civil penalty action	Museums	4	17.50	70.00	\$64.26	\$4,498.00
<b>Total</b>		<b>463</b>		<b>8,114.75</b>		<b>\$520,597.00</b>

**No change from baseline conditions for:**

*Submit a new summary.*

*Submit a new inventory.*

*Update summary data.*

*Submit notices of intent to repatriate.*

*Evaluate competing requests and resolve stays of repatriation.*

*File an allegation of failure to comply.*

*Respond to a civil penalty action.*

**Revisions from baseline conditions for proposed regulatory action (years 4 +):**

*Initiate consultation and request information.* The number of museums initiating consultation and requesting information is expected to decrease compared to baseline conditions. We estimate the number of museums (n=0) and Federal agencies (n=0) initiating consultation and requesting information based on the proposed regulatory action. The proposed regulatory action will require museums to update inventory data within three years after promulgating of a final rule. After three years, museums and Federal agencies will not be required to initiate consultation and request information to update inventories. Consultation will still be required on for new inventories and notices of intent to repatriate. These costs are estimated under “Conduct consultation.”

*Submit a request to consult.* We estimate the number of lineal descendants (n=4) and Indian Tribes or NHOs (n=39) requesting to consult based on the total number of new inventories (which require consultation) and the total number of notices of intent to repatriate (which require consultation). We estimate the time per response ranges from less than one hour, or 0.50 hours, to 2 hours, depending on the size and complexity of the request, for a median of 1.25 hours.

*Conduct consultation.* We estimate that the number of museums (n=37) and Federal agencies (n=6) initiating and conducting consultation based on the number of new inventories (which require consultation) and the number of notices of intent to repatriate (which require consultation). We estimate the time per response will range from less than one hour, or 0.50 hours, to 200 hours, depending on the size and complexity of the consultation, for a median of 100.25 hours.

*Update inventory data.* We estimate the number of museums (n=0) and Federal agencies (n=0) updating inventory data based on the requirements in the proposed regulatory action. We estimate 414 museums and 19 Federal agencies will be required to update inventories within three years after promulgation of a final rule.

*Submit notices of inventory completion.* The number of museums submitting notices of inventory completion is expected to more than double compared to baseline conditions. We estimate the number of notices of inventory completion by museums (n=10) and Federal agencies (n=2) based on the proposed regulatory action. The proposed regulatory action will require publication of notices of inventory completion within six months and NPS estimates that each museum or Federal agency required to update inventory data will submit, on average, two notices each year. The proposed regulatory action will allow for collections to be combined by geographic location or other defining features for the purpose of public notice in the Federal Register. The information needed for notices of inventory completion are drawn directly from the inventory. NPS provides a simple template to fill in the necessary information. We

estimate the time per response will range from less than one hour, or 0.50 hours, to 20 hours, depending on the size and complexity of the notice, for a median of 10.25 hours.

*Submit a request for repatriation.* We estimate the number of lineal descendants (n=5) and Indian Tribes or NHOs (n=42) submitting a request for 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). A request for repatriation ranges from a simple statement in response to a notice to a detailed request with supporting documentation to satisfy the criteria for a request. We estimate the time per response will range from less than one hour, or 0.50 hours, to 10 hours, depending on the size and complexity of the request, for a median of 5.25 hours.

*Document physical transfer.* We estimate the number of museums (n=40) and Federal agencies (n=7) 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). We estimate the time per response will range from less than one hour, or 0.50 hours, to 10 hours, depending on the size and complexity of the transfer, for a median of 5.25 hours.

*Request transfer of human remains and associated funerary objects* (replaces requirement previously under Subpart D). We estimate the number of Indian Tribes or NHOs (n=6) requesting transfer of human remains and associated funerary objects based on changes in the proposed regulatory action and the average number of requests in recent years. Under the proposed regulatory action, the process is simplified and therefore the time per response will range from less than one hour, or 0.50 hours, to 2 hours, depending on the size and complexity of the request, for a median of 1.25 hours.

*Transfer or reinter human remains and associated funerary objects* (replaces requirement previously under Subpart D). We estimate the number of museums (n=6) and Federal agencies (n=0) requesting to transfer or reinter human remains or associated funerary objects based on changes in the proposed regulatory action and the average number of requests in recent years. Under the proposed regulatory action, the process is simplified and therefore the time per response will range from less than one hour, or 0.50 hours, to 10 hours, depending on the size and complexity of the request, for a median of 5.25 hours.

**New requirements in proposed action (years 4 +):**

*Museum statements describing holdings or collections in its custody.* We estimate the number of museums (n=0) submitting statements based on the requirements in the proposed regulatory action.

*Make a record of consultation.* We estimate the number of museums (n=37) and Federal agencies (n=6) required to make a record of consultation based on the estimated numbers of new inventories (which require consultation) and notices of intent to repatriate (which require consultation). We estimate the time per response will range from less than one hour, or 0.50 hours, to 10 hours, depending on the size and complexity of the consultation, for a median of 5.25 hours.

*Respond to a request for repatriation.* We estimate the number of museums (n=40) and Federal agencies (n=7) responding to requests for repatriation based on the estimated number of requests for repatriation (see above). In the proposed regulatory action, museums and Federal agencies have specific options for responding to a request and responses should be based on information available in previously prepared summaries, inventories, and notices. We estimate the time per response will range from less than one hour, or 0.50 hours, to 10 hours, depending on the complexity of the request, for a median of 5.25 hours.

*Send a repatriation statement.* We estimate the number of museums (n=40) and Federal agencies (n=7) sending repatriation statements based on the estimated number of requests for repatriation (see above). In the proposed regulatory action, a repatriation statement is a simple document that should be based on information available in previously prepared summaries, inventories, notices, and responses to requests. We estimate the time per response will range from less than one hour, or 0.50 hours, to 5 hours, depending on the complexity of the statement, for a median of 2.75 hours.

**Subpart D – Review Committee.**

This estimate relies on the average number of requests or submissions in the last three years.<sup>15</sup>

**Table 22. Estimate for Baseline Conditions Subpart D**

<b>Regulatory Requirement</b>	<b>Responsible party</b>	<b>Number of responses</b>	<b>Time per response</b>	<b>Annual Hours</b>	<b>Hourly Rate</b>	<b>Annual Costs</b>
Request assistance of the Review Committee	Any affected party	3	25.25	75.75	\$64.26	\$4,868.00
Request transfer of human remains or cultural items	Indian Tribes/NHOs	6	55.00	330.00	\$64.26	\$21,206.00
Transfer or reinter human remains and associated funerary objects	Museums	5	55.00	275.00	\$64.26	\$17,672.00
Transfer or reinter human remains	Federal Agency	1	55.00	55.00	\$64.26	\$3,534.00

<sup>15</sup> See NPS, NAGPRA Review Committee Requests and Recommendations, <https://www.nps.gov/subjects/nagpra/requests-and-recommendations.htm> (accessed August 1, 2022).

and associated funerary objects					
<b>Total</b>		<b>15</b>		<b>735.75</b>	<b>\$47,280.00</b>

*Request assistance of the Review Committee.* We estimate the number requests for assistance (n=3) from an affected party based on requests in recent years. The time per response will range from less than one hour, or 0.50 hours, to 50 hours, depending on the complexity of the request, for a median of 25.25 hours.

*Request transfer of human remains and associated funerary objects.* We estimate the number of Indian Tribes or NHOs (n=6) requesting transfer of human remains and associated funerary objects based on the average number of requests in recent years. The time per response will range from ten hours to 100 hours, depending on the complexity of the request, for a median of 55.00 hours.

*Transfer or reinter human remains and associated funerary objects.* We estimate the number of museums (n=5) and Federal agencies (n=1) requesting to transfer or reinter human remains or associated funerary objects based on the average number of requests in recent years. The time per response will range from ten hours to 100 hours, depending on the complexity of the request, for a median of 55.00 hours.

**Table 23. Estimate for Proposed regulatory action Subpart D**

<b>Regulatory Requirement</b>	<b>Responsible party</b>	<b>Number of responses</b>	<b>Time per response</b>	<b>Annual Hours</b>	<b>Hourly Rate</b>	<b>Annual Costs</b>
Request assistance of the Review Committee	Any affected party	3	25.25	75.75	\$64.26	\$4,868.00
Submit nominations to the NAGPRA Review Committee	Any affected party	2	5.25	10.50	\$64.26	\$675.00
<b>Total</b>		<b>5</b>		<b>86.25</b>		<b>\$5,543.00</b>

**No change from baseline conditions for:**

*Request assistance of the Review Committee.*

**New requirements in proposed action:**

*Submit nominations to the NAGPRA Review Committee.* We estimate the number of nominations (n=2) to the NAGPRA Review Committee based on the regular four-year term of the six members nominated by Indian Tribes, NHOs, museum organizations, and

scientific organizations. We estimate the time per response ranges from less than one hour, or 0.50 hours, to 10 hours, depending on the size and complexity of the nomination, for a median of 5.25 hours.