



SOCIETY FOR AMERICAN ARCHAEOLOGY

April 17, 2023

Department of the Interior
Bureau of Ocean Energy Management
Office of Regulations
Attention: Peter Meffert
1849 C Street NW, Mailstop DM5238
Washington, DC 20240

RE: BOEM–2023–0012

Dear Mr. Meffert:

The Society for American Archaeology (SAA) submits the following additional comments on the Bureau of Ocean Energy Management's (BOEM) proposed rulemaking concerning the protection of marine archaeological resources. These remarks supplement those submitted by the Advisory Council on Underwater Archaeology (ACUA), which the SAA also endorsed.

The SAA is an international organization that, since its founding in 1934, has been dedicated to research about and interpretation and protection of the archaeological heritage of the Americas. With more than 5,500 members, the SAA represents professional and avocational archaeologists, archaeology students in colleges and universities, and archaeologists working at tribal agencies, museums, government agencies, and the private sector. The SAA has members throughout the United States, as well as in many nations around the world.

The proposed rules go a long way to increasing archaeological resource identification and protection, including ways that further advance the involvement of Tribes and Native Hawaiian organizations in the identification of sites that are culturally important sites. We are concerned that these advances, however, are still insufficient with respect to supporting the interests of Tribes and Native Hawaiian organizations. Both are considered mostly in the preamble, yet are almost entirely absent in the text of the proposed rules, even though Tribal consultation has influenced BOEM's protection of marine archeological resources in past undertakings. Section V in BOEM's proposed rulemaking acknowledges the special expertise of Tribes and Native Hawaiian organizations in assessing the eligibility of historic properties that may possess traditional religious and cultural importance to them, and the need to consult with groups that attach significance to properties encountered during surveys. In revising the rules, however, BOEM appears to overlook Tribes and Native Hawaiian organizations in matters that tend to be important to Native American populations.

In specific, paleo-landscapes as identified in the proposed rulemaking were determined by BOEM on previous offshore undertakings to be historic properties and protected. This was based on evaluation of information and input from consulting Tribes under National Register Criteria A and D, rather than on archaeological input, even though these paleo-landscapes were identified using the techniques specified

by BOEM in the proposed rulemaking. Outside of notification when marine archaeological surveys are to be undertaken, however, the involvement of Tribes and Native Hawaiian organizations is omitted in the rules and their consultation processes thereafter. Other than giving acknowledgement to the special expertise of Indian Tribes and Native Hawaiian organizations in the preamble, the proposed rules do not incorporate how their expertise will be applied by BOEM in decisions concerning the protection of marine archaeological resources. Greater clarity is needed on Tribal and Native Hawaiian organization involvement throughout BOEM's presentation of the actual rules.

These issues matter to archaeologists because expressed knowledge of Tribes and Native Hawaiian organizations of the use of paleo-landscapes furthers the understanding of the offshore archaeological record and has been the basis for BOEM's determination and protection of these paleo-landscapes as historic properties where the archaeological evidence alone has not. The involvement of Tribes and Native Hawaiian organizations with marine archaeological survey is not expressed directly in the proposed rules, whereas it is occurring directly on actual previous and current BOEM undertakings. This oversight should be corrected in the revised proposed rule.

Thank you for your consideration of these important topics.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Sandweiss', with a long horizontal line extending to the right.

Daniel H. Sandweiss, PhD, RPA
President