

**SUPPORTING STATEMENT
DEEP SEABED MINING EXPLORATION LICENSES
OMB CONTROL NO. 0648-0145**

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

This request is for extension of a currently approved information collection.

[The Deep Seabed Hard Mineral Resources Act](#) (Act) (P.L. 96-283) and its implementing regulations ([15 CFR Part 970](#)) authorize the Administrator of NOAA to issue, to eligible United States citizens, licenses for exploration of deep seabed hard mineral resources beyond the continental shelf. The statutory requirements for the collection of information are contained in sections 102,105, 113, and 114 of the Act.

The Act and NOAA's regulations require applicants for issuance or transfer of an exploration license to submit financial, technical and environmental information so that NOAA is able to make a determination as to the applicant's eligibility to meet the provisions of the legislation. The legislation also requires a licensee to annually submit a report which describes its exploration activities for the past year and its diligence in following its approved exploration plan.

2. Explain how, by whom, how frequently and for what purpose the information will be used.

The information with the application for a license or transfer of a license will be used by NOAA to determine the financial and technological eligibility of the applicant to meet the requirements of the Act to conduct exploration activities in an environmentally sound manner. The information will also be used in the preparation of the environmental impact statement required by the Act and the National Environmental Policy Act.

The specific requirements in the regulation for a license application, and the provision in the law that requires such information are:

§970.201 – Statement of financial resources. The application must contain information upon which to base a determination that the applicant will have sufficient resources to carry out the exploration plan. The information must include: (1) a description of how the applicant intends to finance the exploration program; (2) the estimated cost of the program; (3) the applicant's most recent audited financial statement, annual report, Form 10-K filed with the Securities and Exchange Commission, and the credit and bond rating of the applicant. [30 U.S.C. 1413(c)(1)]

§970.202 – Statement of technological experience and capabilities. The application must demonstrate that the applicant has the technological capability to carry out the exploration plan. The information must include a description of the exploration and monitoring equipment to be used and a description of the experience upon which the application will rely in using the equipment. [30 U.S.C. 1413(c)(2)]

§970.203 – Exploration plan. Each application must include an exploration plan that describes the projected exploration activities during the license period. The plan must demonstrate that the efforts are likely to lead to the ability to apply for a commercial recovery permit at the end of the license period. The plan must include the following information: (1) the proposed activities to be carried out; (2) a description of the area to be explored; (3) the intended exploration schedule; (4) a description of the methods to be used; (5) a description of the technology to be used and an evaluation of the technology; (6) an estimated schedule of expenditures; (7) measures to protect the environment and monitor the effectiveness of environmental safeguards; and (8) a description of the relevant activity completed prior to the submission of the application. [30. U.S.C. 1413(a)(1)(B)]

§970.204 – Environmental and use conflict analysis. The applicant must furnish information on physical, chemical, biological, and potential use conflict on the exploration area. The information is used in preparing NOAA’s environmental impact statement. [30 U.S.C. 1419]

§970.205 – Vessel safety. The application must contain an affirmation that any U.S. flag vessel used in the exploration activities will possess a currently valid Coast Guard Certificate of Inspection. If a foreign flag vessel is to be used, applicable safety certificates must be obtained (SOLAS 60: International Convention for the Safety of Life at Sea, 1960 and SOLAS 74: International Convention for Safety of Life at Sea, 1974). [30 U.S.C. 1422)]

§970.206 – Statement of ownership. The application must include information to demonstrate that the applicant is a U.S. citizen. The information includes: the name, address, and telephone number of the U.S. citizen responsible for exploration operations; a description of the citizen engaging in the exploration (whether the citizen is an actual person, partnership, corporation, etc.); state of incorporation; name of registered agent and place of business; certificate of incorporation or articles of association; and the name of each member of an association. [30 U.S.C. 1413(a)(1)]

§970.207 – Antitrust information. The application must contain sufficient information for an antitrust review by the Attorney General and the Federal Trade Commission. This may include: a copy of each agreement between participating parties; identity of any affiliate; for any affiliate, the parent or subsidiary engaged in related production, purchase, or sale; annual tonnage and dollar value of minerals and metals purchased, sold, or produced for the two preceding years; copies of annual reports; and copies of documents submitted to the Securities and Exchange Commission. [30 U.S.C. 1413(d)]

§970.208 – Fee. A fee payment of \$100,000 must accompany each application to cover NOAA’s administrative costs for reviewing and processing the application [30 U.S.C 1414]

The information submitted with a request for a revision or extension of an exploration license or exploration plan will be used by NOAA to prepare a written finding that the revision or extension will comply with the requirements of the Act and regulations.

The information submitted with an application for an issuance, transfer, extension or revision of a license is also used by NOAA to fulfill its function under the Act for consultation and cooperation with other Federal agencies in relation to their programs and authorities, in order to reduce the number of separate actions required to satisfy Federal agencies’ responsibilities.

The information submitted in the annual report is used by NOAA to ensure that the licensee is diligent in following its approved exploration plan and to prepare a Biennial Report to Congress (the requirement for NOAA to submit the Biennial Report to Congress has been suspended because of the present low level of activity under the two NOAA-issued licenses.)

The specific information that may be required after issuance of the license is:

§970.510 – Objections to terms, conditions, and restrictions (TCRs). The licensee may file a notice of objection to any TCR within 60 days after a notice of issuance or transfer of a license. Any notice of objection must indicate the legal or factual basis for the objection and must provide information relevant to any underlying factual issues deemed by the licensee as necessary to NOAA’s decision on the objection. [30 U.S.C. 1415(b) (3)]

§970.513 – Revision of a license. During the term of the license the licensee may submit an application for a revision of either the license or the exploration plan associated with it [30 U.S.C. 1415(c)(2)]

§970.516 – Approval of license transfers. A licensee may submit a request for a license transfer. The proposed transferee will be deemed an applicant for a license and will be subject to the requirements and procedures of an original license application. [30 U.S.C. 1413(a)]

§970.522 – Monitoring requirements. Each exploration license requires the licensee to monitor the environmental effects of its activities in accordance with NOAA’s guidelines and to submit data and other information as necessary to permit evaluation of the environmental effects. [30 U.S.C. 1424]

Some of NOAA’s information requirements are consolidated with NOAA’s regulations for commercial recovery in 15 CFR 971.

§971.801 – Records to be maintained and information to be submitted by licensees. In addition to the other information specified, the licensee must keep such records, consistent with standard accounting principles, as NOAA may specify for each license. Such records must include information which will fully disclose expenditures for exploration for, or commercial recovery of, hard mineral resources in the area under license or permit, and any other information which will facilitate an effective audit of these expenditures. The licensee will be required to submit to the Administrator, upon request, data or other information the Administrator may reasonably need for purposes of: (1) making determinations with respect to the issuance, revocation, modification, or suspension of the license or permit in question; (2) evaluating the effectiveness of license or permit TCRs; (3) compliance with the biennial Congressional report requirements contained in section 309 of the Act; and (4) evaluation of the exploration or commercial recovery activities conducted by the licensee.

At a minimum, licensees must submit an annual written report within 90 days after each anniversary of the license issuance or transfer, discussing exploration or commercial recovery activities and expenditures. The report must address diligence requirements of 970.602 and environmental monitoring to address 970.522) and 970.702(a). [30 U.S.C. 1423, 1418]

§971.802- Request for confidential treatment of documents received by NOAA. A licensee requesting confidential treatment of information considered to be protected under the Trade Secrets Act (18 U.S.C. 1905) or of financial information that is privileged or confidential must submit a written request at the time the information is submitted. Request must state the period of time for which confidential treatment is requested, and must include the name, mailing address, and telephone number of agent of the submitter who is authorized to receive notice of requests for disclosure of the information. [30 U.S.C. 1423(c)]

NOTE: Given that a person interested in obtaining a license now would not have the "security of tenure" to any areas for deep seabed exploration due to the lack of U.S. accession to the Law of the Sea Treaty, and therefore, would have difficulty obtaining financing for the large capital expenditures that exploration would require, we do not expect nor encourage license applications. Therefore, we have not posted instructions for license applications.

NOAA will retain control over the information and safeguard it from improper access, modification, and destruction consistent with NOAA standards for confidentiality, privacy, and electronic information. See response #10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Prior to dissemination, the information will be subjected to quality control measures and pre-dissemination review pursuant to [Section 515 of Public Law 106-554](#).

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

The collection of information to support deep seabed mining exploration licenses could include applying Geographic Information Systems (GIS) data to identify areas where hard mineral resources are likely to exist or be explored, as well as using this technology to consider potential impacts to surrounding resources. In addition, applicants are encouraged to submit those application materials that are readily available in electronic form for NOAA review. Other than those examples, the collection of information does not involve the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

4. Describe efforts to identify duplication.

There are no other collections gathering the same information. All information is required by the Act to be submitted by the license applicant or license holder to NOAA only.

5. If the collection of information involves small business or other small entities, describe the methods used to minimize burden.

Due to the large capital investments required for deep seabed mining, information collection does not involve small businesses or other small entities.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

The Act requires that an application for issuance, extension, revision or transfer of a license contain adequate financial, technical and environmental information in order for NOAA to make a determination as to the applicant's eligibility for these actions and to conduct exploration activities. Fulfilling NOAA's responsibility under the Act is impossible without the timely submission of adequate information.

If a licensee does not submit an annual report which describes exploration activities, it is in violation of the Act and may have its license suspended.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

Section 970.200 of the regulations requires 30 copies of an application for issuance or transfer of a license to be submitted to NOAA. Consultations are required with a number of other agencies, and the number of copies aid in the application's timely review. If an applicant finds this too burdensome, the regulations provide for a waiver of the number of copies. Since no applications have been received in several years, it is currently a moot point.

8. Provide information on the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and record keeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

A Federal Register Notice published on December 17, 2014 (79 FR 75120) solicited comments. No comments were received in response to the FRN.

In addition to soliciting comments through the Federal Register Notice, the hour and cost estimates used in the previous extension were sent to the sole holder of both DSHMRA licenses with a request for comment. Although the license holder did not provide specific estimates, the license holder responded that the labor cost estimates were too low.

“Unfortunately, we will not have anything precise to offer. I like your concept: Although an alternative cost estimate was not provided, the comment received was that the calculation of \$2000 (40 hours x \$50/hr) for preparing and submitting the annual report is likely well below the actual level of costs involved given the various functions required to input into the report.”

Taking into account that the persons responsible for preparation of the annual report and extension requests are executive level employees of the license holder, the estimates of hourly labor costs were substantially increased.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

No payment or gifts are provided.

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

Section 970.902 of the regulations provides a procedure for requesting confidential treatment for any information that the applicant considers to be: 1) protected by the [Trade Secrets Act](#) or 2) a trade secret or commercial or financial information which is privileged or confidential. Other than this option, confidentiality is not assured.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

There is no information required in an application for issuance, transfer, revision or extension of a license, or for annual reporting, that is of a sensitive nature as described above.

12. Provide an estimate in hours of the burden of the collection of information.

An application could take from 2,000 – 4,000 hours, depending on the complexity of the request. This estimate is based on the fact that much of the information required would otherwise be needed by the applicant anyway for management purposes and to obtain funding. NOAA has not received any applications for several years and expects no new applications in the PRA approval period being requested.

NOAA asked the one DSHMRA license holder to review the hour and cost estimates in previous PRA reports. Based on comments from the license holder, the labor estimates have been substantially increased.

Although, there are two active DSHMRA licenses, both are held by a single license holder who submits one annual report and a single license extension request for both licenses. The 2014 annual reports was 17 pages in length including illustrations and tables. Using existing information, it is estimated that a report of this length would typically take a total of 40 hours of staff time to prepare.

The estimated total time to prepare an extension request which includes an exploration plan is 100 hours. Extension requests are required to be submitted every five years. Annualized, this amounts to 20 hours per year.

The annual total time for license holders to prepare paperwork related to meeting the requirements of DSHMRA is 60 hours (40 hours per annual report and 20 hours (on an annualized basis) for extension requests).

The estimated cost in staff time to prepare the annual report and the annualized hourly burden for an extension request is \$6,000, formerly estimated at \$2,000.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection.

The cost of an application would be the \$100,000 fee; however, since no applications are expected, the anticipated application cost is \$0.

The costs of electronic copying and mailing of reports and extension requests are estimated to be negligible.

14. Provide estimates of annualized cost to the Federal government.

The estimated cost for reviewing the annual report is \$200, and annualized estimate for reviewing license extension requests is \$1,250, with a total cost estimate of \$1,450.

15. Explain the reasons for any program changes or adjustments.

After reviewing comments received from the license holder on previous hour and cost estimates, the labor costs were increased.

16. For collections whose results will be published, outline the plans for tabulation and publication.

No collection information will be published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

Not applicable.

18. Explain each exception to the certification statement.

Not applicable.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

The collection does not employ statistical methods.