

Supporting Statement A
Final Rule 1010-AD90 - 30 CFR Part 583,
Negotiated Noncompetitive Agreements for the Use of Sand, Gravel and Shell Resources on the
Outer Continental Shelf
OMB Control Number 1010-0191
Current Expiration: NEW

Terms of Clearance: OMB files this comment in accordance with 5 CFR 1320.11(c). This OMB action is not an approval to conduct or sponsor an information collection under the Paperwork Reduction Act of 1995. This action has no effect on any current approvals. If OMB has assigned this ICR a new OMB Control Number, the OMB Control Number will not appear in the active inventory. For future submissions of this information collection, reference the OMB Control Number provided. In accordance with 5 CFR 1320, OMB is withholding approval at this time. Prior to publication of the final rule, the agency must submit to OMB a summary of all comments related to the information collection contained in the proposed rule and the agency response. The agency should clearly indicate any changes made to the information collection as a result of these comments.

Response: With this submittal, BOEM is requesting approval of this ICR as part of the Final Rule being submitted to OMB. All comments received that related to 30 CFR part 583, Negotiated Noncompetitive Agreements for the Use of Sand, Gravel and Shell Resources on the Outer Continental Shelf, have been discussed in the preamble of the final rule and summarized in this supporting statement.

General Instructions

A completed Supporting Statement A must accompany each request for approval of a collection of information. The Supporting Statement must be prepared in the format described below, and must contain the information specified below. If an item is not applicable, provide a brief explanation. When the question, “Does this information collection request (ICR) contain surveys, censuses, or employ statistical methods?” is checked "Yes," then a Supporting Statement B must be completed. The Office of Management and Budget (OMB) reserves the right to require the submission of additional information with respect to any request for approval.

Specific Instructions

A. Justification

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

The Bureau of Ocean Energy Management is publishing a final rule to create a new part 583 in Title 30 of the Code of Federal Regulations to address the use of Outer Continental Shelf (OCS) sand, gravel and shell resources for shore protection, beach restoration, or coastal wetlands restoration projects by Federal, State or local government agencies, for use in construction projects authorized by or funded in whole or in part by the Federal Government. The final rule describes the negotiated noncompetitive agreement process for qualifying projects.

The Outer Continental Shelf Lands Act (OCSLA), as amended (43 U.S.C. 1331-1356), authorizes the Secretary of the Interior to prescribe rules and regulations to administer leasing of mineral resources on the OCS. Such rules and regulations apply to all operations conducted under a lease, right-of-way, or a right-of-use and easement. Section 1337(k)(1) of the OCSLA authorizes the Secretary “. . . to grant to the qualified persons offering the highest cash bonuses on a basis of competitive bidding leases of any

mineral other than oil, gas, and sulphur in any area of the Outer Continental Shelf not then under lease for such mineral upon such royalty, rental, and other terms and conditions as the Secretary may prescribe at the time of offering the area for lease.” An amendment to the OCSLA (Pub. L. 103-426) authorizes the Secretary to negotiate agreements (in lieu of the previously required competitive bidding process) for the use of OCS sand, gravel, and shell resources for certain specified types of public uses. The specified uses will support construction of governmental projects for beach nourishment, shore protection, and wetlands enhancement, or any such project authorized by the Federal Government.

Under the authority delegated by the Secretary of the Interior, the Bureau of Ocean Energy Management (BOEM) is authorized, pursuant to section 8(k)(2) of the Outer Continental Shelf (OCS) Lands Act (43 U.S.C. 1337(k)(2)), to convey rights to OCS sand, gravel, and shell resources by negotiated noncompetitive agreement (NNA) for use in shore protection and beach and coastal restoration, or for use in construction projects funded in whole or part by or authorized by the Federal Government.

BOEM, and its predecessor agencies, the Minerals Management Service and the Bureau of Ocean Energy Management, Regulation and Enforcement, through the Marine Minerals Program, have been exercising statutory authority since 1994 regarding OCS sand, gravel and shell resources under the Act pursuant to written guidelines, without the benefit of implementing regulations. It has completed nearly 50 negotiated agreements, providing for the use of more than 109 million cubic yards of OCS sand, gravel and shell resources for shore protection, beach restoration, or coastal wetlands restoration undertaken by a Federal, State or local government agency, and Federally authorized or funded construction projects. BOEM believes that the promulgation of regulations at this time is advisable. Regulations will provide additional clarity and certainty and help ensure continuity of the Program.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection. Be specific. If this collection is a form or a questionnaire, every question needs to be justified.

The OCSLA requires BOEM enter into a negotiated agreement when the use of OCS sand, gravel and shell resources is authorized for use in qualifying projects. This negotiated agreement may take the form of a lease or a Memorandum of Agreement (MOA), depending on the applicant(s) requesting use of OCS sand, gravel and shell resources. If a non-Federal entity requests the use of OCS sand, gravel and shell resources, the negotiated agreement required by the OCSLA would generally take the form of a lease. If a Federal agency requests the use of OCS sand, gravel and shell resources, BOEM and the Federal agency, as well as their Federal, State or local government agency counterparts on the project, would enter into a MOA. For example, when a Federal agency partially or wholly funds a non-Federal entity in a project that is otherwise eligible for OCS sand, gravel and shell resources, the negotiated agreement may take the form of a three-party MOA. As warranted, the Federal applicant(s) and BOEM would designate a lead agency and enter into a cooperating agency agreement for the environmental analysis and review. The negotiated agreement in each of these situations would describe the project and procedures that would be followed and identify environmental and administrative requirements that must be met.

Generally, shore protection and beach and coastal restoration projects are initiated to rebuild eroding shoreline segments such as beaches and dunes, barrier islands, and wetlands. In sensitive wetland areas, these projects are intended to forestall further erosion, restore habitat and/or to provide protection from hurricanes, storms, and coastal erosion. These projects are typically accomplished by placing sand directly on the beach, in open water areas that are the former location of an eroded beach, and/or within

breaches in the shoreline that compromise integrity of the beach or barrier island system (or updrift from the beach, allowing longshore processes to redistribute the sand, gravel and shell resources along the beach) to form, and subsequently maintain, a beach.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden and specifically how this collection meets GPEA requirements.

BOEM will accept all electronic format by email. Based on past experience with these types of projects, we expect 95 percent of all information will be submitted electronically.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

The information collected is unique to BOEM and is project specific, it is not available from other sources. The executed project-specific agreements define the responsibilities of the applicant(s) and BOEM to avoid duplication of regulations and reporting requirements.

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

This collection of information does not have a significant economic effect on small businesses or small entities, as defined by the Small Business Administration. We do not feel the amount of information requested will have a significant impact as businesses will be providing the minimum amount of information needed.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

If BOEM did not collect the information, we could not determine appropriate future resource allocation, identify potential conflicts of use, conduct environmental analyses, develop NNAs, and meet all necessary environmental and legal requirements.

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

(a) requiring respondents to report information to the agency more often than quarterly.

Not applicable in this collection.

(b) requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it.

All applications for reconsideration by the Director must be submitted within 15 days of being notified of disqualification, or disapproval of an agreement, or modification, accompanied by a statement of reasons, with one copy to the program office whose decision is the subject of the reconsideration (§ 583.125).

(c) requiring respondents to submit more than an original and two copies of any document.

(d) requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than 3 years.

(e) in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study.

(f) requiring the use of statistical data classification that has been reviewed and approved by OMB.

(g) that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or

(h) requiring respondents to submit proprietary trade secrets or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

Not applicable to this collection.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and in response to the PRA statement associated with the collection over the past 3 years and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years – even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

As required in 5 CFR 1320.11, BOEM provided a 60-day review and comment process through the preamble of the proposed rulemaking published in the *Federal Register* on March 22, 2016 (81 *FR* 15190). The comment period for the proposed regulations ended on May 23, 2016; and for the proposed information collection on April 21, 2016. On April 26, 2016, OMB issued a Notice of Action, in which it assigned a new control number (1010-0191) without approving or disapproving of the proposed collection of information at that time. OMB also instructed BOEM to submit a summary of all comments related to the proposed collection, and BOEM's responses, before publication of the final rule.

No individual respondents were contacted due to the proposed rulemaking's nature of the collection. However, BOEM based many of its estimates on the latest data and information available from BOEM's subject matter experts for the new requirements. In the future, these estimates will be re-evaluated based on consultation with respondents and actual experience.

BOEM received eight comments on the proposed rule from individuals, local governments and agencies, interest groups, and industry representatives. Two commenters commented on the information collection.

One commenter suggested that the information required for submission with their permit application is duplicative with the information submitted in Clean Water Act applications. In cases where the information is duplicative in nature, BOEM will allow submission of the information in the Clean Water Act permit application to be applicable. However, BOEM did not change the burden hours for this requirement, because BOEM needs the required information to make a determination in issuing the negotiated noncompetitive agreement. This comment is addressed in detail in the preamble of this final rule. Another commenter focused on consultations with the fishing industry regarding renewable energy projects. This comment was outside the scope of the rulemaking. The information collection burdens were not changed from the proposed rule.

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

BOEM will not provide payment or gifts to respondents in this collection.

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

BOEM will protect proprietary information according to 30 CFR 550.197, "Data and information to be made available to the public or for limited inspection," and the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR 2).

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

The collection does not include sensitive or private questions.

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

(a) Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.

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

Potential respondents include Federal, State, or local governments; corporations; and individual entities. It should be noted that not all of the potential respondents will submit information in any given year and some may submit multiple times. The burden estimates include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Responses are required to retain or obtain a benefit and are submitted on occasion. The annual burdens for the final rule remain the same as the proposed rule. We

estimate a total reporting and recordkeeping annual burden of 243 hours. Refer to the following table for a breakdown of the burden hours.

BURDEN TABLE

Citation 30 CFR 583 Subpart A	Reporting and Recordkeeping Requirement	Hour Burden	Average No. of Annual Responses	Annual Burden Hours
Subpart A – General – Federal, State, & local governments				
125	Apply for reconsideration to the BOEM Director within 15 days of notification; include statement of reasons; 1 copy to program office.	2	1	2
Subpart A – General – Corporations				
125	Apply for reconsideration to the BOEM Director within 15 days of notification; include statement of reasons; 1 copy to program office.	2	1	2
Subpart A – General – Individuals				
125	Apply for reconsideration to the BOEM Director within 15 days of notification; include statement of reasons; 1 copy to program office.	2	1	2
Total Subpart A			3 Response	6 Hours
Citation 30 CFR 583 Subpart C	Reporting and Recordkeeping Requirement	Hour Burden	Average No. of Annual Responses	Annual Burden Hours
Subpart C – OCS Sand, Gravel, & Shell Resources Negotiated Agreements - State & local governments				
300	Submit to BOEM a written request to obtain agreement; including, but not limited to: detailed description of project; maps (geographic coordinates); G&G data; description/documentation of environmental evaluations; target dates; description of parties involved; required permits (status of/potential conflicts); points of contact info. of all parties involved; statement of funding.	10	4	40
305; 310(d)	Submit additional information as requested by BOEM.	5	1	5
315(b);	Request BOEM Director for reconsideration of a disapproved agreement;	Burden covered under 30 CFR 583 Subpart A		2
315(c)-(e)	Review and comment on draft agreement; sign and return copies for execution by BOEM.	8	3	24
335(a)	Submit written notification to BOEM once resources authorized are obtained.	1	1	1
340	Verify that all contractors comply with 2 CFR 180 & 2 CFR 1400 in contract/transaction.	2	1	2
345	Submit written request to extend, modify, or change agreement to BOEM w/in 180 days before expiration; any other documentation requested by BOEM; sign and return amendment; request BOEM Director for reconsideration.	2	2	4
345(b)	Submit written request for letter amendment.	1	1	1
Subpart C – OCS Sand, Gravel, & Shell Resources Negotiated Agreements - Corporations				
300	Submit to BOEM a written request to obtain agreement; including, but not limited to: detailed description of project; maps (geographic coordinates); G&G data; description/documentation of	10	4	40

	environmental evaluations; target dates; description of parties involved; required permits (status of/potential conflicts); points of contact info. of all parties involved; statement of funding.			
305; 310(d)	Submit additional information as requested by BOEM.	5	1	5
315(b);	Request BOEM Director for reconsideration of a disapproved agreement;	Burden covered under 30 CFR 583 Subpart A		2
315(c)-(e)	Review and comment on draft agreement; sign and return copies for execution by BOEM.	8	3	24
335(a)	Submit written notification to BOEM once resources authorized are obtained.	1	1	1
340	Verify that all contractors comply with 2 CFR 180 & 2 CFR 1400 in contract/transaction.	2	1	2
345	Submit written request to extend, modify, or change agreement to BOEM w/in 180 days before expiration; any other documentation requested by BOEM; sign and return amendment; request BOEM Director for reconsideration.	2	2	4
345(b)	Submit written request for letter amendment.	1	1	1
Subpart C – OCS Sand, Gravel, & Shell Resources Negotiated Agreements - Individuals				
300	Submit to BOEM a written request to obtain agreement; including, but not limited to: detailed description of project; maps (geographic coordinates); G&G data; description/documentation of environmental evaluations; target dates; description of parties involved; required permits (status of/potential conflicts); points of contact info. of all parties involved; statement of funding.	10	4	40
305; 310(d)	Submit additional information as requested by BOEM.	5	1	5
315(b);	Request BOEM Director for reconsideration of a disapproved agreement;	Burden covered under 30 CFR 583 Subpart A		2
315(c)-(e)	Review and comment on draft agreement; sign and return copies for execution by BOEM.	8	3	24
335(a)	Submit written notification to BOEM once resources authorized are obtained.	1	1	1
340	Verify all contractors comply with 2 CFR 180 & 2 CFR 1400 in contract/transaction.	2	1	2
345	Submit written request to extend, modify, or change agreement to BOEM w/in 180 days before expiration; any other documentation requested by BOEM; sign and return amendment; request BOEM Director for reconsideration.	2	2	4
345(b)	Submit written request for letter amendment.	1	1	1
Total Subpart C			39 Responses	237 Hours
Grand Total			42 Responses	243 Hours

(c) Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included under “Annual Cost to the Federal Government.”

The average respondent cost is \$51/hour (rounded). This cost is broken out in the below table using the Bureau of Labor Statistics data for the Jacksonville, FL area*. See BLS website: <http://www.bls.gov/bls/wages.htm>.

Position	Hourly Pay rate (\$/hour estimate)	Hourly rate including benefits (1.4** x \$/hour)	Percent of time spent on collection	Weighted Average (\$/hour)
Secretary/Administrative (43-6014)	\$16	\$22	15%	\$3
County Project Mgr (19-3051)	\$37	\$52	30%	\$16
County Environmental & Resource Mgr (19-3051)	\$37	\$52	35%	\$18
County Lawyer/Solicitor (23-1011)	\$54	\$76	10%	\$8
Environmental Supervisor (17-2081)	\$42	\$59	5%	\$3
Planning Supervisor (19-3051)	\$37	\$52	5%	\$3
Weighted Average (\$/hour) rounded				\$51

*Note that this BLS source reflects their last update from May 2016.

**A multiplier of 1.4 (as implied by BLS news release USDL-17-1222, September 2017 (see <http://www.bls.gov/news.release/ecec.nr0.htm>)) was added for benefits.

Based on a cost factor of \$51 per hour, we estimate the hour burden as a dollar equivalent is \$12,393 (\$51 x 243 hours = \$12,393).

13. Provide an estimate of the total annual non-hour cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected in Item 12).

(a) The cost estimate should be split into two components: (1) a total capital and start-up cost component (annualized over its expected useful life) and (2) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information (including filing fees paid). Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.

(b) If cost estimates are expected to vary widely, agencies should present ranges of cost burden and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.

(c) Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements

not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

There are no non-hour cost burdens associated with this collection of information.

14. Provide estimates of annualized cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.

The average cost to the Federal government is \$71/hour. This cost is broken out in the below table using the Office of Personnel Management pay schedule for the Washington, DC area (https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/17Tables/html/DCB_h.aspx)

Position	Grade	Hourly Pay rate (\$/hour estimate)	Hourly rate including benefits (1.6* x \$/hour)	Percent of time spent on collection	Weighted Average** (\$/hour)
Sr. Program Coordinator	14/5	\$61	\$98	1%	\$1
Division Chief(s)	15/5	\$72	\$115	1%	\$1
Branch Chief(s)	14/5	\$61	\$98	5%	\$5
Physical Scientist	13/5	\$51	\$82	25%	\$21
Physical Scientist	11/5	\$36	\$58	40%	\$23
Biologist	12/5	\$43	\$69	10%	\$7
Archeologist	12/5	\$43	\$69	3%	\$2
Env. Protection Specialist	12/5	\$43	\$69	3%	\$2
GIS Analyst/Database Admin	12/5	\$43	\$69	5%	\$3
Public Affairs Specialist	11/5	\$36	\$58	1%	\$1
Solicitor(s)	14/5	\$61	\$98	5%	\$5
Administrative Assistant	9/5	\$30	\$48	1%	\$0
Weighted Average (\$/hour) rounded					\$71

*A multiplier of 1.6 (as implied by BLS news release USDL-17-1222, September 2017, (see <http://www.bls.gov/news.release/ecec.nr0.htm>)) was added for benefits.

** Rounded.

To analyze and review the information required by this ICR, we estimate the Government will spend 1,500 hours per year on reviewing a request for OCS material and executing a negotiated agreement. Based on a cost factor of \$71 per hour, the annual cost to the Government is \$106,500 (1,500 hours x \$71= \$106,500).

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

As this is a new collection for a rulemaking, we request a program change of 243 burden hours, and no non-hour cost burdens.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule

for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

BOEM may tabulate the across-project data, provided by applicants and scientifically analyze the data through the use of environmental studies and analysis, and resource availability research. This type of research is completed periodically for the end use of developing relevant agreement stipulations and for planning purposes. BOEM publishes all ongoing projects, completed studies and research on the website at <http://www.boem.gov/Non-Energy-Minerals/>.

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

We will display the OMB control number and expiration date on the Call for Information.

18. Explain each exception to the topics of the certification statement identified in, “Certification for Paperwork Reduction Act Submission.”

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