

SAMPLE CRE ICR VICTORIES

I. ICR Victories: First Example--

OMB requires BOEM to submit a new ICR for Any Longterm Monitoring Plan and to meet with CRE on upcoming monitoring Requirements for G&G activities in the Gulf of Mexico.

OMB recently acted on BOEM's request for an extended ICR for 30 CFR 550, Subpart B – Plans and Information, BOEM Forms 0137, 0138, 0139, 0141, 0142, and NTLs, OMB Control Number 1010-0151. In response to CRE's comments and advocacy, OMB approved this ICR with the following Terms of Clearance:

"This information collection request is approved for only current G&G monitoring and mitigation requirements. This approval does not include the Long Term Monitoring Plan in the Gulf of Mexico, as discussed at 79 FR 66402."

For this ICR, OMB also made BOEM submit a new Supporting Statement that respond to CRE's comments.

This is what the new Supporting Statement says:

"In response to the 30-day notice for the renewal of this collection, the Center for Regulatory Excellence (CRE) submitted comments.

CRE supports the renewal of OMB Control No.1010-0151, stating that the collection only covers and authorizes current, time-tested monitoring and reporting requirements.

CRE stated that it was making these comments to inform OMB/OIRA that BOEM is planning an information collection that would significantly increase the burden of BOEM's monitoring requirements for G&G activities, including seismic, in the Gulf of Mexico. CRE opposed the long-term management plan (LTMP), stated that BOEM would need OMB approval for LTMP, and stated that the public would need an opportunity to comment. CRE made the following recommendations:

- BOEM and NMFS should not proceed with the LTMP. Current monitoring requirements are less burdensome and all that's necessary to protect marine mammals.
- If BOEM and NMFS do proceed with the LTMP, then they should request new ICRs that cover the LTMP. Those new ICRs should be subject to public comment. BOEM and NMFS should not try to implement the LTMP until and unless the new ICRs have been reviewed and approved by OMB/OIRA.
- If BOEM and NMFS do proceed with the LTMP, then they should perform predissemination review of compliance with the IQA Guidelines and the PRA's

practical utility requirements. The public should be allowed to comment on this pre-dissemination review before it is final.

- If BOEM and NMFS do proceed with the LTMP, then they should perform a cost benefit analysis, as required by Executive Order 13563, to determine whether the benefits of the LTMP, if any, justify its costs.

BOEM is in the early planning stages for LTMP and no decisions have been made. We issued a Federal Register notice on November 7, 2014 (79 FR 66402) requesting information to aid in the development of LTMP for the Gulf of Mexico. Comments were due on December 8. BOEM will seek OMB approval for all information collected by either revising a currently approved collection or requesting approval for a new collection. At a minimum, the public will have opportunities to comment through the Paperwork Reduction Act process.

In addition, BOEM will arrange a meeting with CRE and appropriate BOEM offices to discuss the upcoming monitoring requirements for G&G activities in the Gulf.”

OMB's ICR page is at http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201403-1010-001.

The ICR Supporting Statement is at http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201403-1010-001

II. ICR Victories: Second Example—NOAA agrees with CRE that NOAA Take rules for the Gulf of Mexico, and NOAA’s new Acoustic Guidance, must be reviewed and approved by OMB.

CRE filed comments with NOAA and OMB, on NMFS’ Draft Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammals-Acoustic Threshold Levels for Onset of Permanent (“PTS”) and Temporary (“TTS”) Threshold Shifts.

NOAA responds to CRE’s comments at pages 7-10 of NOAA’s Supporting Statement, which accompanies the ICR sent to OMB for review.

NOAA’s response in its Supporting Statement generally agrees with CRE’s comments. For example,

- NOAA agrees with CRE that NOAA will have to conduct a new PRA /ICR burden analysis and review if and when NOAA proposes rules for MMPA takes by oil and gas seismic in the Gulf of Mexico (“GoM”).

- NOAA agrees with CRE that NOAA will have to conduct a new PRA/ICR burden analysis and review if and when the agency requires companies to comply with NOAA’s Acoustic Guidance, if and when the Guidance is final.

- NOAA agrees with CRE that NOAA has to comply with Information Quality Act (“IQA”) Guidelines in its development of new Acoustic Guidance. See page 5 of NOAA’s Supporting Statement for a discussion of IQA Guidelines compliance.

CRE’s comments to on the NOAA draft Acoustic Guidance are at <http://thecre.com/pdf/mmguidancecomments.pdf> .

CRE’s comments to NOAA on this ICR are at <http://thecre.com/pdf/CRE-ICR.0648-0515.pdf> .

The supporting statement for this ICR is at http://www.cio.noaa.gov/services_programs/prasubs.html .
Control Number OMB CONTROL NUMBER: 0648-0151.

III. ICR Victories: Third Example-- OMB Review of any significant change in seismic regulation in the Gulf of Mexico.

In response to CRE’s comments and advocacy, OMB/OIRA’s approval of BSEE ICR 1010-0151 states:

“Terms of Clearance: The public will be given the opportunity to comment on substantive modifications made to any information collections as a result of changes to NTL 2007-G02 and 30 CFR 250, subpart B regulations.”

This means that any U.S. federal agency seeking to change existing regulation of seismic in the GOM will probably have to justify that change to OMB/OIRA during review of the agency’s proposed new ICR for the change.

This ICR victory is discussed in detail in pages 6-8 of the CRE document at http://www.thecre.com/forum13/wp-content/uploads/2013/03/State_of_Marine_Sound_Regulation1.pdf .