



**Clean Ocean Action
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March 1, 2023

Georgeann Smale
Office of Regulations
Bureau of Ocean Energy Management
Department of the Interior
45600 Woodland Road, Mailstop: DIR-BOEM
Sterling, VA 20166

RE: OMB Control Number 1010-0176, BOEM-2023-0005 and (RIN) 1010-AE04

Dear Georgeann Smale,

Clean Ocean Action (“COA”) is a regional, broad-based coalition of conservation, environmental, fishing, boating, diving, student, surfing, women’s, business, civic, and community groups with a mission to improve the water quality of the marine waters off the New Jersey/New York coast.

Thank you for speaking with COA staff on Monday, February 27, 2023, to help and try to clarify the purpose of the two comment deadlines described in the January 30, 2023, Federal Register Notice (see attached screenshot of the Notice) regarding OMB Control Number 1010-0176 and BOEM-2023-0005 and (RIN) 1010-AE04. Based on our conversation, COA now understands that there are *actually* two separate actions proposed for public comment related to federal actions on offshore wind energy development. COA submits the following comments regarding the Office of Management and Budget (“OMB”) “information collection” requirement. Also, COA plans to submit separate comments on the Bureau of Ocean Energy Management “BOEM” Modernization Rule (BOEM-2023-0005 and RIN-1010-AE04).

During our conversation, while unsure at first, you explained that the OMB Control Number burden information collection proposal is an action that must be approved every three years. In answering COA’s questions on the call, you also mentioned this was the first time the OMB Control Number proposal was included in combination with another action in a Federal Register Notice. While we appreciate the conversation, nothing in the Federal Register notice suggests or provides the public with information or a clear understanding that there are TWO separate opportunities for public comment. Indeed, in looking at the screen shot (attached), the action presents as ONE opportunity for review. The Agency, Action, and Summary sections do not mention OMB, and do not clearly separate the proposed changes or modifications and their

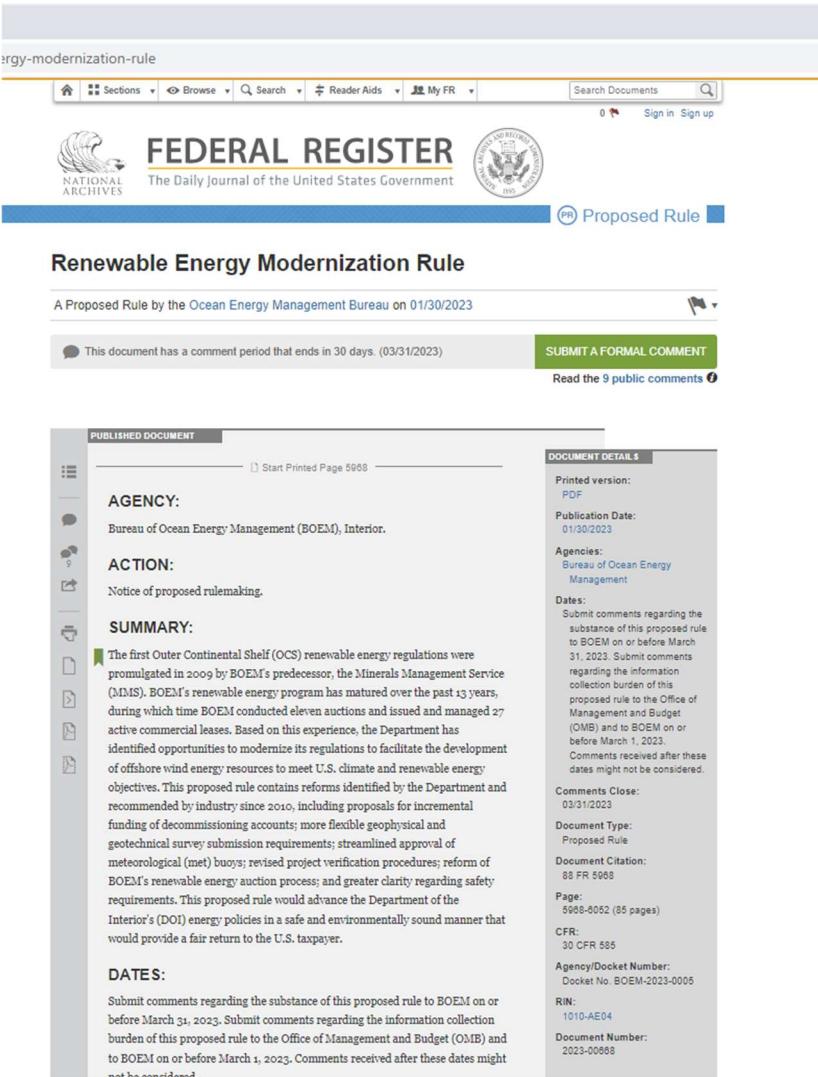
purpose. The dual purpose without clear specificity of how these two actions are for different rules and requirements for OMB and BOEM's management of the offshore wind industry is unacceptable.

As currently written, the Notice is unclear and confusing to the public for many reasons. Two different public comment deadlines (March 1, 2023, and March 31, 2023) are listed with little distinction provided. BOEM and OMB must re-notice to make clear the separate yet linked actions proposed in the Federal Register Notice, as well as make clear that the OMB is proposing changes as well. Again, these two proposed actions must be separated and the changes and the purposes of the two different public comment opportunities must be more clearly described.

Further, according to the Notice, this current OMB Control Number proposal is a revision from years past. Revisions of reportedly routine (e.g., every three years) actions should be clearly proposed and not buried through scattered references throughout a much larger rule proposal. This "information collection burden" notice has been hastily combined with the proposed Modernization rule, which is described in the Federal Register Notice as a "major modernization of the regulations" (emphasis added).

In addition, there were multiple corrections that were subsequently published by BOEM, including numerous corrections to the Docket Number for the Modernization Rule. The correction notice states. Further, having two different actions proposed by two different agencies in the same notice confuses instructions for providing informative comments and affects adequate review by interested parties.

It is concerning that OMB and BOEM are combining public comment opportunities in such a way that confuses the public, skirts transparency, and attempts to further fast-track offshore wind energy development without due process and due diligence. The agencies need to republish the OMB Control Number and BOEM Modernization proposals with all the corrections and organize the Notice into two separate actions to provide clarity and transparency.



The screenshot shows the Federal Register website with the following details:

- Header:** The header includes the "FEDERAL REGISTER" logo, the "NATIONAL ARCHIVES" logo, and the "The Daily Journal of the United States Government" text.
- Section:** The section is titled "Renewable Energy Modernization Rule" with a "PR Proposed Rule" badge.
- Content:**
 - Agency:** Bureau of Ocean Energy Management (BOEM), Interior.
 - Action:** Notice of proposed rulemaking.
 - Summary:** A detailed description of the proposed rule, mentioning the promulgation of regulations in 2009, the maturing of BOEM's renewable energy program, and the proposed reforms to facilitate the development of offshore wind energy resources.
 - Dates:** The comment period ends on 03/31/2023.
 - Document Details:** Includes printed version (PDF), publication date (01/30/2023), agencies (Bureau of Ocean Energy Management), and a note about comments received after the due date.

There are also many errors within the document, suggesting a hasty preparation and publication of a “major” rule proposal. Besides incorrect Docket Numbers being used and needing correction, a majority of the hyperlinks provided for the substance of the Modernization subsections are not operational and should be corrected to foster more efficient and effective public review.

While the process of combining public comment opportunities is unclear, the net result is clearly to expedite and minimize transparency and due diligence for offshore wind, including with respect to financial commitments and obligations. Similarly, we further note specifically there are currently eleven (11) Memorandum of Understandings (“MOUs”), Memorandum of Agreements (“MOAs”), or “Programmatic Agreements” concerning offshore wind or renewable energy development which are in force between the Bureau of Ocean Energy Management (BOEM) and various agencies, foreign governments, companies, and consultants. Of these eleven (11), four (4) aim to fast-track and advance offshore wind energy in the New York/New Jersey Bight and beyond. Likewise, these agreements are causing confusion among the public and deprive the public of due process—namely, timely and transparent review of private interests’ impacts to public resources.

Further, the federal fast-tracking initiative “Fast 41” has created a governance structure, set of procedures, and funding authorities to advance the federal environmental review and authorization process for covered infrastructure projects. All the current proposed offshore wind projects off the NJ coast are listed in the federal “FAST-41” program and have been given the green light for advancement. These federal agreements and initiatives designed to fast-track and streamline large projects, essentially make it easier for private companies to control and develop our public resource: the ocean.

In short, these memorandums, agreements, and initiatives violate the federal government’s obligation to protect offshore resources under the public trust, especially in the form of limiting due process. Racing quickly and carelessly through these processes will prove devastating to marine life, with serious repercussions for onshore communities as well. This current proposed rule(s) will likely have similar effect.

In sum, COA strongly urges OMB and BOEM to republish and restart the public comment period after organizing the notice into two distinct, clear sections to provide clarity and transparency of the two separate public review and comment opportunities, the Control number “information collection” requirement and Modernization Rule, respectively.

Please feel free to contact us regarding these submitted comments.

Respectfully submitted,



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Executive Director



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Advocacy Campaign Manager