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Bureaus of Ocean Energy Management
Office of Regulatory Affairs
Attention: Nabanita Modak Fischer
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Subject: Comments of the National Ocean Industries Association in response to the notice of proposed rulemaking and request for comment on administrative revisions to regulations related to outer continental shelf minerals other than oil, gas, and sulphur

Bureau of Ocean Energy Management, Office of Regulatory Affairs:

Thank you for the opportunity to provide comments in response to the notice of proposed rulemaking and request for comment on administrative revisions to regulations related to outer continental shelf minerals other than oil, gas, and sulphur. The National Ocean Industries Association represents companies investing in the commercial development and production of critical minerals and rare earth elements from the seabed in U.S. and international waters. There is vast potential to safely secure massive amounts of critical minerals and rare earth elements in offshore areas. We are encouraged by efforts of the U.S. Department of the Interior to move forward, consistent with the President's executive orders, with leasing, permitting, and regulation of offshore mineral development in areas of the U.S. outer continental shelf.

Background

For more than 50 years, NOIA has represented the interests of all segments of the offshore energy industry, including offshore oil and gas, ocean minerals, and offshore carbon sequestration. Our membership includes energy project developers, leaseholders, operators, and companies throughout the entire supply chain that make up an innovative ecosystem contributing to the safe and responsible exploration, development, and production of energy and mineral resources.

Given the economic and national security interests at stake, it is vitally important that we advance policies that enable long-term U.S. leadership in ocean mineral exploration, development, and processing. We encourage the Administration – and the U.S. Trade Representative – to continue to take the steps necessary to enable research, exploration, and production of critical minerals in areas of the U.S. outer continental shelf and international waters. The advancement of the U.S. ocean mineral exploration and production industry will support American prosperity through capital investment, job creation, manufacturing, technology leadership, and economic and national security.



The Trump Administration has maintained a laser focus on promoting U.S. leadership in the procurement of critical minerals, including through offshore mineral exploration. On December 20, 2017, President Trump signed Executive Order 13817, “A Federal Strategy to Ensure Secure and Reliable Supplies of Critical Minerals,” with the goal of reducing the nation’s vulnerability to disruptions in the supply of critical minerals. On September 30, 2020, President Trump signed Executive Order 13953, “Addressing the Threat to the Domestic Supply Chain From Reliance on Critical Minerals From Foreign Adversaries and Supporting the Domestic Mining and Processing Industries,” which makes it the policy of the U.S. to “prioritize the expansion and protection of the domestic supply chain for minerals and the establishment of secure critical minerals supply chains.” This Executive Order further directs federal agencies to allocate their resources to fulfill these purposes.

On January 20, 2025, President Trump signed Executive Order 14156, “Declaring a National Energy Emergency,” directing federal agencies to “facilitate the identification, leasing, siting, production, transportation, refining, and generation of domestic energy resources,” including critical minerals. Finally, on April 24, 2025, President Trump took action specific to offshore mineral exploration, issuing Executive Order 14285, “Unleashing America’s Offshore Critical Minerals and Resources,” framing offshore and seabed critical minerals as vital to U.S. national security, economic strength, and supply chain resilience. This E.O. emphasizes the critical importance of reducing dependence on foreign adversaries – particularly China – for strategic minerals used in defense, technology, and clean energy.

Bureau of Ocean Energy Management Proposal

We support the Bureau of Ocean Energy Management’s (BOEM) proposal to streamline the regulations by eliminating certain redundant and unnecessary sections and to shorten the time for responding to an unsolicited request for a lease sale. And, while the ocean mineral exploration industry is a nascent industry, we encourage Interior to continue to work with the regulated community to ensure that the leasing, permitting, and regulatory framework adheres to the principles outlined below.

Certainty and Predictability

Over time, we have seen certainty and predictability emerge as key features of the offshore oil and gas regulatory framework, helping to drive investment into U.S. projects. While not perfect, elements of the oil and gas program could be considered as Interior moves forward with leasing, permitting, and regulation of offshore mineral development. Interior should continue to work on establishing a process – under regulation, leasing process, and lease terms – that provides certainty and predictability for companies along the entire investment timeline: from analysis of opportunity, to development of lease areas and lease instruments, to the bidding process, to lease acquisition, to prospecting, to project sanctioning, to project development, to mineral



production, to project termination, and finally to lease expiration. We expect Interior will gain important knowledge during the initial mineral lease sales and will be able to work with the regulated community and continue to refine the process for purposes of establishing a high level of certainty and predictability.

Efficiency

Interior should focus on embedding a high level of efficiency across its leasing, permitting, and regulatory timelines. This could include well-defined timelines for approvals and modifications throughout the leasing and regulatory process. This could further include clearly delineated procedures for submitting required documents during leasing, permitting, and regulatory review. The offshore oil and gas program has matured to a point where there is a well-defined cadence in place for both the regulatory and the regulated community, and lessons could be applied to help create efficiencies within the ocean mineral development system. The completion of environmental reviews under the National Environmental Policy Act (NEPA) is an important area of focus for ensuring efficiency in the process. While often time-consuming, NEPA reviews should meet the standards set forth in the recent Seven County Supreme Court decision, which look to a “reasonably close causal relationship” when evaluating environmental impacts. Interior should also ensure that it adheres to the firm parameters established by the Fiscal Responsibility Act, including timelines and page limits, programmatic reviews, and tiering of documents. NEPA reviews have historically delayed approvals and projects. Interior should take every action possible to eliminate NEPA delays while finalizing defensible documents. This will create an overall system of certainty, predictability, and durability that is needed for investment. Finally, from an efficiency standpoint, Interior should create a system – or even a dashboard type of program – for coordination of approvals and reviews across the federal family. As the lead department, Interior has the opportunity now – at the beginning – to lead the entire federal family through a streamlined process with timely reviews and approvals.

Security of Tenure

Companies investing in offshore mineral exploration projects should be assured they will have security of tenure. Security of tenure in deep-sea mining refers to the legal assurance that a company holding exploration or exploitation rights to a seabed area will be able to retain those rights—and ultimately develop and profit from them—under stable, predictable conditions. Security of tenure is the foundation of investment in deep-sea mining. Without it, companies cannot justify the enormous cost, time, and risk required to develop seabed resources. With it, the sector becomes potentially financeable.

Durability

As with any investment, companies must have high confidence that their investments in federal projects will remain durable throughout the entire lease term and period of



mineral production. The regulatory framework and lease terms should promote the sanctity of contracts and ensure companies can follow through with investments from prospecting through production. As contracts, leases should include the right to prospect, develop projects, and produce minerals, so long as those activities are conducted in compliance with applicable regulations. Furthermore, any federal approvals and authorizations should not be subject to arbitrary delays, suspensions, or revocations.

Transparency

All leasing, permitting, and regulatory policies, practices, and procedures should be fully transparent to the regulated community. Transparency will help inject certainty and predictability into the regulatory framework. It will also help promote a high level of competitiveness within the industry.

Flexibility

As we have witnessed in the U.S. offshore oil and gas industry over the past 80 years, technological advancement and innovation are the keys to success in safety, environmental protection, and economic outcomes. An overly prescriptive regulatory framework can stifle research, development, and deployment of more advanced technologies that improve safety and environmental protection while also enhancing overall operational efficiency. Interior should be intentional in its regulatory approach, providing flexibility for companies to innovate and improve technologies for initial and long-term investments in ocean mineral development projects.

Fair and Reasonable Fiscal Terms and Conditions

With such a nascent industry, Interior should seek to establish a fiscal system – whether through bidding, rentals, royalties, or other approaches – that encourages and attracts investment in U.S. projects so the industry can successfully take off here. The President’s directives through his executive orders make clear the intent for the U.S. to lead in offshore mineral exploration, development, production, and processing. In order for that to happen, there needs to be a fiscal system set up at the outset that incentivizes investment in U.S. projects, while recognizing that adjustments can be made over time as the industry matures.

There are a number of ways Interior can seek to establish the above principles, including updates to the regulations, through carefully developed lease terms, conditions, and stipulations, and in notices to lessees and stakeholders, among others. Legislative action is also a potential option. No matter the course, embedding the above principles in the regulatory system will help promote investment in U.S. offshore mineral projects and thus advance the important objectives of the Administration and the country related to economic, mineral, and national security. As we are all aware, many agencies across federal departments play a role in the process of authorizing activities on the U.S. outer continental shelf. Legislative efforts to



consolidate authority within Interior, similar to proposals we have recently seen through permitting reform, could help further improve the certainty needed for investment.

Specific Areas of Consideration for Future Regulatory Updates

In addition to promoting key principles within the regulatory framework, Interior may also consider more specific changes to help streamline the regulatory process for ocean mineral development. Interior could take direction from its oil and gas program or from NOAA's regulations under the Deep Seabed Hard Mineral Resources Act (DSHMRA). For example, Interior could consider eliminating the Delineation Plan requirement in Part 582 by mirroring NOAA's approach in DSHMRA of not requiring exploration licenses for surveys and non-significant sampling. Interior could clarify explicitly that a combined Testing and Mining Plan is acceptable, thereby avoiding repeated and redundant environmental reviews. This would be similar to NOAA's DSHMRA regulations.

In an effort to create a more predictable process, Interior could consider establishing more robust plan review timelines. The oil and gas program has matured to a point where operators have a very clear understanding of the timelines for plan and permit reviews. This builds a more collaborative framework between the government and industry, and generates greater confidence for leaseholders and investors. More robust timelines for the ocean mineral program could result in similar outcomes for the regulator and ocean mineral companies. The result could be a flow chart or diagram, similar to oil and gas, where offshore mineral developers have certainty on the total length of time the process may take. Interior should consider incorporating the expected length of review it will take its agencies for the following phases or steps:

- Proposed Lease Sale to Issuance of Signed Lease
- Prospecting Permit Review
- Environmental Reviews
- Director's Decision on Bid Acceptance
- Director's Response to a Request for Reconsideration
- Agency Review of Delineation, Testing, and Mining Plans

Interior could consider incorporating more specific conditions – or guardrails – for BOEM-initiated plan modifications under 582.25 in order to address the relative ambiguity in the open-ended “[w]hen circumstances warrant” provision. This would create greater clarity, benefitting both the government and industry. The regulations could include more specific information on how Interior plans to evaluate mining plans. A technology-neutral approach that is flexible enough to enable the deployment of various types of technologies that meet relevant and expected performance levels and standards is critical. This can include factors related to safety, environmental protection, and costs.

Interior should consider a minimum lease term of at least 30 years. The International



Seabed Authority (ISA) has a minimum term of 30 years for its licenses. Companies investing in ocean mineral development in the U.S. OCS should not be disadvantaged relative to ISA projects.

In conclusion, the regulatory frameworks that are already in place for other offshore activities, such as oil and gas, or through the NOAA's DSHMRA program could provide good examples for Interior's ocean mineral regulations.

Conclusion

NOIA and its members stand ready to work with the U.S. Department of the Interior and the Administration to advance our common objective of securing critical mineral supplies for the U.S. economy. Please contact Erik Milito (milito@noia.org) with any follow-up questions or to set up a meeting.

Very Respectfully,

A handwritten signature in black ink, appearing to read "Erik Milito".

Erik Milito
President
National Ocean Industries Association