Comments on Deep Seabed Mining: Revisions to Regulations for Exploration License and Commercial Recovery Permit Applications

Docket No. NOAA-NOS-2025-0108

Procedural Clarity

Section 971.214(a) currently folds in Parts 970 and 971 while carving out certain exceptions, leaving applicants unsure which rules govern a combined exploration or recovery application. To resolve this ambiguity, NOAA should redesignate the existing text of paragraph (a) as paragraph (a)(2) and insert a new paragraph (a)(1) at the outset of § 971.214(a) as follows:

"(1) Applicability and Order of Precedence. This section governs all applications that seek both exploration and commercial recovery under the Deep Seabed Hard Mineral Resources Act. Except as expressly modified herein, applicants must comply with any provision of Parts 970 and 971 that is not in conflict with the requirements of this section. In the event of any conflict or inconsistency between any provision of this section and any provision of Parts 970 or 971, the provision of this section shall control."

With that clear hierarchy in place, the remainder of § 971.214(a)—now paragraph (a)(2)—will incorporate Parts 970 and 971 only to the extent they do not conflict with the new, standalone rules in § 971.214.

A second source of confusion stems from multiple generic cross-references to "§ 970.103(b)," which forces readers to scan several subsections to find the precise definition or requirement. NOAA should cure that opacity by replacing each citation that now reads "§ 970.103(b)" with the exact subsection housing the relevant text. For example, any reference to the definition of "deep seabed" would become "§ 970.103(b)(1)(i)," and references relating to financial assurance requirements would become "§ 970.103(b)(2)(ii)." By pointing directly to the correct subparagraph, users can locate the applicable language immediately, reducing burden and avoiding misinterpretation.

Qualification Criteria and Application Standards

Under § 971.214(d), applicants must demonstrate scientific, technical, and financial resources and show the need for further exploration activities…is minimal or not needed," yet the rule provides no objective yardsticks. NOAA should publish illustrative thresholds—for instance, audited net assets of $50 million; completion of an autonomous underwater vehicle survey covering at least 100 km^2; or access to a prototype nodule collector capable of retrieving 100 kg of nodules per day. These benchmarks would act as non-binding guideposts, helping applicants gauge whether their proposals meet NOAA's expectations without imposing rigid cutoffs.

Timelines and Cure-Period Alignment

Under § 971.214(e), NOAA must certify a consolidated application or identify any deficiencies within 100 days of submission. Yet § 970.210 allows a 60-day cure period for "substantial but not full compliance," a window that can extend past the 100-day review deadline and leave stakeholders unsure which clock governs. To eliminate this ambiguity, the rule should state the 100-day review clock is suspended the moment NOAA issues a cure notice and only resumes once all deficiencies are fully resolved.

Environmental Phase Gates and Extraordinary Circumstances

By compressing what were two separate NEPA analyses into a single 100-day review, the rule may undermine deep, stage-specific scrutiny of ecological impacts. NOAA should build in phase-gates for exploration, then for recovery, each with a public-comment period for focused ecosystem review. These gates would also reinforce UNCLOS Article 192 (the obligation to protect and preserve the marine environment) and Article 145 (that recovery activities serve the benefit of mankind as a whole), aligning U.S. practices with marine-stewardship mandates.

Furthermore, the term "extraordinary circumstances" appears under the G7 exclusion but remains undefined, creating uncertainty about when a full EA or EIS is required. NOAA should codify specific triggers—such as hydrothermal-vent fields, areas designated as critical habitat for listed species, or regions of high seafloor biodiversity—where procedural changes trigger case-by-case NEPA analysis.

International Liaison Framework

Because the United States remains outside the United Nations Convention on the Law of the Sea (signed but not ratified) and holds pending claims before the International Seabed Authority, NOAA should formalize notification for permits beyond areas of national jurisdiction. This approach mirrors the "due regard" duty articulated in UNCLOS Article 56(2) and the UNCLOS Part XI provisions (Arts. 138–140) that underlie ISA procedures, demonstrating good-faith adherence to customary obligations under the "common heritage of mankind" principle. By committing to alert both the Department of State and the ISA Secretariat when applications involve the international seabed, NOAA would demonstrate transparency, honor customary "due regard" obligations, and mitigate potential diplomatic friction.

Competition and Access Framework

The proposed consolidated-permit process risks entrenching the largest, best-funded operators at the expense of smaller innovators. NOAA should adopt a sliding-scale or phased fee structure that reduces upfront costs for entities with lower annual revenues or early-stage exploration achievements.

Confidential-Business-Information Procedures

The open-ended requirement to submit proprietary technology details may chill R&D investment or spur excessive redactions. NOAA should clarify the CBI process under 15 CFR Part 4—specifying how to mark sensitive material, how it will be stored and redacted, and guaranteed review timelines.

Deterring Speculative Staking

Priority by receipt date can encourage low-effort filings on prime areas. NOAA should require a modest, refundable reservation bond—released once an applicant delivers a minimum dataset or completes an initial survey—to discourage speculative claims without penalizing serious developers. (This bond would function like security a salvor posts under general-average or salvage rules, guaranteeing performance and limiting frivolous maritime claims.)

These recommendations will deliver clarity, rigor, fairness, and credibility to NOAA's deep-seabed permitting regime.

Thank you for considering these comments.

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