DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Parts 970 and 971

[Docket No. 260113-0029]

RIN 0648-BN96

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

AGENCY: Office for Coastal Management, National Ocean Service, National Oceanic Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Final rule.

SUMMARY: The Deep Seabed Hard Mineral Resources Act (DSHMRA or the Act) charges NOAA with the responsibility for issuing licenses for exploration and permits for commercial recovery of hard mineral resources, as defined in the Act, from the deep seabed in areas beyond national jurisdiction and promulgating regulations necessary to carry out the provisions of the Act. Some provisions of the regulations require updating to reflect significant technological and information changes since promulgation of the initial regulations in the 1980s. NOAA has included a consolidated license and permit application process in a section of the regulations reserved for this purpose and has made other clarifying and conforming changes.

DATES: Effective Date: This rule is effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGSITER].**

ADDRESSES: The public docket for this rulemaking is available using the Federal eRulemaking Portal at *https://www.regulations.gov/docket/NOAA-NOS-2025-0108*.

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SUPPLEMENTARY INFORMATION:

I. Background

DSHMRA (30 U.S.C. 1401-1473) charges the NOAA Administrator with the responsibility for issuing to U.S. citizens licenses for exploration and permits for commercial recovery of hard mineral resources from the deep seabed in areas beyond national jurisdiction. U.S. citizens must obtain licenses and permits from NOAA before undertaking deep seabed mining exploration or commercial recovery activities.[1] The Act and the DSHMRA regulations define "hard mineral resources" as any deposit or accretion on, or just below, the surface of the deep seabed of nodules which include one or more minerals, at least one of which contains manganese, nickel, cobalt, or copper. Therefore, for purposes of the Act, the regulations, and this final rule, "hard mineral resources" refers to polymetallic nodules and the regulations and this final rule refer to both "hard mineral resources" and "nodules." A broader interpretation of the phrase "hard mineral resources" could suggest that DSHMRA covers sulphides and crusts, which it does not.

NOAA, under U.S. law, regulates deep seabed mining in areas beyond national jurisdiction for US citizens and companies. The International Seabed Authority (ISA) regulates deep seabed mining in areas beyond national jurisdiction for countries that are parties to the Law of the Sea Convention (LOSC). The United States is not a party to the LOSC. Under U.S. law, NOAA may issue licenses and permits to U.S. citizens in areas beyond national jurisdiction under DSHMRA, provided all statutory and regulatory requirements are met.

On April 24, 2025, the President signed Executive Order (E.O.) 14285, "Unleashing America's Offshore Critical Minerals and Resources," (90 FR 17735) establishing policies to advance U.S. leadership in seabed mineral exploration and responsible commercial recovery.

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[1] Mining activities within the U.S. outer continental shelf are governed by the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1356c), which is administered by the Bureau of Ocean Energy Management and Bureau of Safety and Environmental Enforcement within the Department of the Interior. The term "U.S. outer continental shelf" includes the extended continental shelf in areas adjacent to the U.S. States and is limited to the exclusive economic zone in areas adjacent to any territory of the United States.

DSHMRA, signed into law in 1980, required the NOAA Administrator, no later than 270 days after June 28, 1980, to issue proposed regulations that were necessary and appropriate to implement the Act. NOAA published its final DSHMRA exploration license regulations (15 CFR part 970) in 1981, and its final commercial recovery permit regulations (15 CFR part 971) in 1989. As required by the Act, the regulations state that priority of right is established through the licensing process. The regulations further provide that a permittee must be the holder of a valid exploration license to apply for and receive a commercial recovery permit (§ 971.200). At that time, the sequential nature of the licensing and permitting processes was dictated by the developmental state of deep seabed mining technology and the information required to prepare an application for commercial recovery. But NOAA acknowledged even then, when it reserved § 971.214, that once the industry matured and gained experience from activities undertaken during site-specific exploration, circumstances may evolve that might allow later entrants to capitalize on work completed by previous explorers or significant technological advances and lessen the need for further exploration. See 51 Fed. Reg. 26794, 26796 (July 25, 1986). In such cases, there may be a need for a consolidated license and permit application process in which applicants could meet both exploration license requirements, to establish priority of right, and permit requirements simultaneously. In the 1980s, consolidation of the two procedures may have been premature. NOAA, however, understood the potential and included a reserved section (§ 971.214) precisely for such later development. See *id.*

NOAA is now issuing this final rule revising the regulations under 30 U.S.C. 1413(a)(2)(A) and 30 U.S.C. 1426. Under 30 U.S.C. 1413(a)(2)(A), exploration license and commercial recovery permit applications "shall be made in such form and manner as the Administrator shall prescribe in general and uniform regulations." The same provision authorizes the Administrator to require by regulation, as being necessary and appropriate for carrying out DSHMRA, "such relevant financial, technical, and environmental information" that applicants must provide. Under 30 U.S.C. 1426, NOAA is authorized to "issue regulations to carry out [the

Act] . . . only after public notice and opportunity for comment" in accordance with the procedures outlined in that section.

As the agency anticipated, over the past decades there has been a vast improvement in the technological capability for deep seabed mining, and the industry has obtained a substantial amount of information from deep seabed exploration activities and demonstrated a readiness for commercial recovery.

For example, the development of autonomous underwater vehicles (AUVs), deep-sea sensors, machine learning, artificial intelligence, and other technology has substantially improved the ability to more efficiently map and explore the sea floor.

At the same time, knowledge of the sea floor has also increased. Unlike when the regulations were first promulgated, today NOAA and many other entities operating under regimes other than DSHMRA have undertaken detailed mapping of areas of the seabed both within countries' national jurisdiction and in areas beyond national jurisdiction. For example, all deep-sea mineral-related data that is collected during NOAA-funded expeditions is made publicly available and accessible according to FAIR data practices. This data can be found at the NOAA National Centers of Environmental Information (NCEI) at *https://www.ncei.noaa.gov/maps/bathymetry/?layers=multibeam* and *https://www.ncei.noaa.gov/products/seafloor-mapping*. In addition, industry has conducted scientific testing on hard mineral resources, developed and tested new deep-sea mining-relevant technology, and gained scientific and technical expertise and experience in deep seabed mining exploration. And many of these organizations contribute their data to the international seabed mapping effort Seabed 2030, and that data can be found at *https://www.gebco.net/data-products*.This knowledge, experience, and expertise may now be leveraged by U.S. citizens operating under DSHMRA who are interested in pursuing commercial recovery of hard mineral resources of the deep seabed in areas beyond national jurisdiction.

The need for regulatory changes were foreseen by NOAA in the 1980s when it published

its proposed and final rules for the DSHMRA commercial recovery permits by reserving a section for a consolidated license and permit application process in which applicants could meet necessary exploration license requirements to establish priority of right and permit requirements simultaneously. See 15 CFR § 971.214; 51 Fed. Reg. at 26796. For the reasons set forth above and throughout this preamble, NOAA has concluded that establishing this consolidated application process and specifying the financial, technical, and environmental information that shall be submitted as part of a consolidated application is necessary and appropriate for carrying out the provisions of DSHMRA. See 30 U.S.C. 1413(a)(2)(A). This approach is consistent with DSHMRA, which does not require a sequential process to first hold a license before applying for a permit, and is in keeping with the Act's finding that "the present and future national interest of the United States requires the availability of hard mineral resources which is independent of the export policies of foreign nations," 30 U.S.C. 1401(a)(3). The consolidated application process is an alternative application method and does not supplant existing regulations allowing for the sequential application of licenses and permits. Therefore, an applicant could still opt to apply for only a license initially.

NOAA has also made technical, clarifying, and conforming changes to other obsolete sections of the license and permit regulations. These changes do not alter the substantive standards to which applications are held.

Finally, this final rule is effective on the date of publication because it relieves a restriction under the Administrative Procedure Act (APA). The APA generally requires that substantive rules incorporate a minimum 30-day delay of effective date following publication. 5 U.S.C. 553(d). Delayed effective dates give the public reasonable time to prepare to comply with a rule. But the APA provides an exception to the 30-day delayed effective date for rules which grant or recognize an exemption or relieve a restriction. 5 U.S.C. 553(d)(1). This final rule relieves a restriction on the regulated community (applicants for exploration licenses and commercial recovery permits under DSHMRA) in the form of sequential license and permit

applications - a requirement that is not present in DSHMRA but that was established by NOAA's regulations. NOAA received no public comments, from existing applicants or otherwise, expressing a need for additional time to comply with this rule. Because the final rule relieves a restriction, it is exempt from the 30-day delay in effective date and is effective immediately under 5 U.S.C. 553(d)(1).

NOAA has created a new DSHMRA website where NOAA will post application information as it becomes publicly available.

II. Changes from Proposed to Final Rule.

Following publication of the proposed rule, in consideration of public comments, interagency comments, and further review, NOAA has made changes to the regulatory text that were in the proposed rule, which are described in detail in section IV of this final rule. These changes include: in §§ 970.200, 971.200, and 971.214, adding a clarifying sentence regarding computation of time for purposes of the Administrator's required response time; in §§ 970.208, 971.208, and 971.214, revising how the fee payment is to be described in the application, in light of electronic submission of applications; revising § 971.214(a) to better clarify the applicability of other sections of parts 970 and 971 to the consolidated application process; making clarifying edits to the provisions of § 971.214(b) regarding environmental impact statements; adding minor clarifications to § 971.214(c); correcting an internal reference in § 971.214(d) and making minor clarifying and formatting edits, typographical corrections to the subsections within § 971.214(d); in § 971.214(d)(1), and in corresponding language in § 971.214(e)(1), clarifying language regarding demonstrating that an applicant can pursue commercial recovery activities in an expeditious and diligent manner; in § 971.214(d)(2), adding text directing submission of an estimated schedule of expenditures, as required in DSHMRA, and clarifying that an applicant may submit other types of economic analysis; revising § 971.214(d)(3) to clarify the information regarding technological capability that must be submitted; in § 971.214(d)(4), correcting internal citations and clarifying that applicants may provide an explanation as to why designing and

testing system components or mining systems is not necessary; in § 971.214(d)(5), clarifying that environmental safeguards and monitoring systems may evolve over time and that the resource assessment may be preliminary at the time of the consolidated application; in § 971.214(d)(6), clarifying that a monitoring plan may be preliminary at the time of application and making conforming edits to refer consistently to any environmental impact statements that may be prepared on the proposed activities in a consolidated license and permit application; in § 971.214(d)(9), clarifying that "affiliate" has the same definition as in § 970.101(d); in § 971.214(e), adding internal citations that were inadvertently omitted from the proposed rule and clarifying the statutory requirements for approval of the size and location of an exploration and commercial recovery area; and in 971.214(g), clarifying the procedure for processing of an amended application. In section IV of this preamble, NOAA explains why these changes constitute minor technical, clarifying, and/or conforming edits that are consistent with the purpose, scope, and NOAA's intent of the proposed rule and do not alter substantive rights or obligations.

In addition to the changes described in detail in section IV of the final rule, NOAA has made some clarifying or conforming edits to sections throughout parts 970 and 971 to reference the consolidated application process established in § 971.214, where applicable and necessary. These edits, which were inadvertently omitted from the proposed rule, do not result in any substantive changes and constitute technical conforming amendments. These conforming amendments made to reference the consolidated application process are in the following regulatory sections: Section 970.303, Procedures for new entrants; Section 970.500, General; Section 970.513, Revision of a license; Section 971.101, Definitions; Section 971.400, General; Section 971.407, Safety at sea; Section 971.412, Changes in permits and permit terms, conditions, and restrictions; Section 971.413, Revision of permit; Section 971.503, Diligent commercial recovery; Section 971.701, Criteria for safety of life and property at sea; and Section 971.900, Public disclosure of documents received by NOAA.

III. Response to General Comments on the Proposed Rule, and Comments on the Regulatory Impact Analysis and Initial Regulatory Flexibility Analysis, Paperwork Reduction Act analysis, and implementation of Executive Order 14294.

On July 7, 2025, NOAA published the proposed rule, (90 FR 29806), and comments were due by September 5, 2025. NOAA held two virtual public hearings on September 3 and 4, 2025, to receive oral comments. Public comments and transcripts of the virtual public hearings, including the oral comments, are available on the Federal e-Rulemaking Portal, *https://www.regulations.gov/docket/NOAA-NOS-2025-0108*.

In this section, NOAA summarizes the general comments that do not relate to a specific regulatory section and provides responses. NOAA also summarizes and responds to comments on the Regulatory Impact Analysis (RIA)/Initial Regulatory Flexibility Analysis (IRFA), Paperwork Reduction Act (PRA) analysis, and the virtual public hearings. NOAA has included comments that relate to specific regulatory sections and responses to those comments after each applicable regulatory section in section IV.

NOAA received a total of 24,441 written and oral comments in response to the Proposed Rule; of these, 24,384 are general comments, in opposition and support, that are addressed in this section. There were 1,736 individual written submissions, with 22,660 attached duplicate or similar comments to several commenters: one commenter attached an Excel spreadsheet with 17,581 entries, and another commenter attached to its comment an additional comment signed by 3,537 of its U.S.-based supporters. Of the 1,736 individual written submissions, 1,477 opposed deep seabed mining and/or NOAA's rulemaking and 203 supported deep seabed mining and NOAA's rulemaking. Of the total number of written and oral comments, 24,156 were the same or similar comments in opposition to deep seabed mining or general opposition to the proposed changes to the DSHMRA regulations. Of the total written and oral comments received, 228 were the same or similar comments in support of deep seabed mining or general support for NOAA's proposed changes to the DSHMRA regulations.

Some of the comments pertaining to specific issues or sections of the regulations are addressed in section IV. Comments can be viewed at the Federal e-Rulemaking Portal for the Proposed Rule, *https://www.regulations.gov/docket/NOAA-NOS-2025-0108.* Comments containing profane or abusive language or foreign language comments without an English language translation were not posted.

NOAA considered the written and oral comments and appreciates the information provided. The comment summaries present the significant issues raised in public comments and are illustrative of the comments and arguments opposing and supporting deep seabed mining and/or NOAA's rulemaking.

1. General Objections to Deep Seabed Mining or NOAA's Rulemaking

Comment 1. General opposition to deep seabed mining was expressed for a variety of stated reasons, including, but not limited to the following assertions: effects on the environment; effects on seabed habitat and to marine species including undiscovered species especially in the Clarion-Clipperton Fracture Zone; harm to cultural resources and Pacific Islander livelihoods and beliefs; inadequate scientific research and information; inadequate resource protection measures and regulations; uncertainties regarding environmental impacts and a nascent industry; significant technical challenges to deep seabed mining; opposition to deep seabed mining from many U.S. states, countries, and global companies; that deep seabed mining is contrary to international agreements and efforts; the need for moratoria; that deep seabed minerals are not needed to meet U.S. demand for critical minerals and domestic sources and recycling of such minerals should be used instead; the U.S. needs to focus on building domestic refineries; using renewable and alternative resources rather than deep-sea minerals; and jeopardizing vital carbon sinks. Commenters argued that deep-sea minerals are not necessary to address national security issues and that the real problem is foreign dominance in processing critical minerals, not in extracting critical minerals. General opposition was also expressed on the asserted grounds that the regulations inadequately address biodiversity loss, sediment dispersion, sediment plume, and

combined mining effects. Commenters also expressed that urgent improvements are needed to strengthen impact assessments, start ongoing monitoring, enhance public consultations, prioritize precaution, and explore sustainable alternatives to mining. Commenters also expressed opposition to deep seabed mining in terms of environmental stewardship, national sovereignty, economic responsibility, constitutional government oversight, and that stewardship over God's creation is a biblical and moral responsibility and deep seabed mining poses a serious and irreversible threat to some of the planet's most mysterious and fragile ecosystems. One commenter argued that a single agency should not be responsible for both exploration licenses and commercial recovery.

Commenters stated that deep-sea ecosystems are important for protecting biodiversity and that the deep sea is the largest biome on Earth, with a unique set of characteristics that make it distinct from all other marine and terrestrial ecosystems. Commenters argued that baseline information regarding the deep sea is limited and that seabed mining could have lasting damage where the deep ocean remains one of Earth's least explored environments, with vast regions never sampled biologically. Commenters stated that deep-sea species are vulnerable to impacts, being often highly specialized, slow-growing, and long-lived. Commenters argued that impacts of deep-sea mining include the direct physical destruction of benthic habitat; diminishment of deep-sea oxygen production; release of methane and sequestered carbon; generation of sediment plumes and the subsequent burial of benthic habitats; toxic releases and geochemical alteration from deep-sea mining operations; and noise, light, and vibration impacts from deep-sea mining. Commenters stated that there could be ocean-wide and cascading effects and that the knowledge gaps and uncertainty demand caution.

Response. NOAA's proposed rule, and this final rule, are for the purpose of updating the DSHMRA regulations to reflect significant technological and information changes since the initial regulations were promulgated in the 1980s and to include a consolidated license and permit application process in a section of the regulations that was reserved for this purpose.

NOAA's rulemaking did not pose the policy question of whether NOAA should authorize deep seabed mining under DSHMRA. The statute itself and implementing regulations not being revised in this rulemaking authorize deep seabed mining in areas beyond national jurisdiction and contain standards that address the issues raised in this comment. No changes to those standards are made via this rulemaking, which is procedural in nature. In addition, DSHMRA designates NOAA as the agency with the authority to issue exploration licenses and commercial recovery permits.

DSHMRA and NOAA's regulations contain substantial requirements for applicants and NOAA to address protection of the environment, conservation of natural resources, and monitoring requirements. See 30 U.S.C. 1419, 1420, and 1424. These requirements include producing an environmental impact statement (EIS) pursuant to the National Environmental Policy Act (NEPA) for the issuance of an exploration license and a commercial recovery permit (or both). 30 U.S.C. 1419(d). As part of a license or permit NOAA also includes terms, conditions, and restrictions (TCRs) that include environmental considerations. 30 U.S.C. 1419(b). NOAA can also, after the issuance or transfer of a license or permit, modify any TCR if required to protect the quality of the environment. 30 U.S.C. 1415(c)(1)(B). See also numerous sections of the DSHMRA regulations regarding environmental, conservation, and monitoring requirements, 15 CFR §§ 970.204, 970.506, 970.518, 970.519, 970.522, 970.700, 970.701, 970.702, and 971.204, 971.406, 971.419, 971.420, 971.424, and 971.600-606.

Moreover, the President can determine by Executive Order that an immediate suspension of a license or permit, or immediate suspension or modification of particular activities under such a license or permit, is necessary for the reasons set forth in 30 U.S.C. 1416(a)(2)(B), or the Administrator determines that an immediate suspension of such a license or permit, or immediate suspension or modification of particular activities under such a license or permit, "is necessary to prevent a significant adverse effect on the environment or to preserve the safety of life and property at sea, and the Administrator issues an emergency order requiring such immediate

suspension." 30 U.S.C. 1416(c). See also 15 CFR §§ 970.511 and 971.417. No changes to those standards are made via this rulemaking, which is procedural in nature.

One commenter attached to its comments numerous scientific papers, pamphlets, articles, webpages, testimony, etc., about deep seabed mining, asserted impacts and use conflicts related to deep seabed mining, DSHMRA, the ISA, and NEPA. NOAA has considered these attachments as supplemental information.

Comment 2. Commenters expressed general opposition to NOAA's rulemaking to establish a consolidated license and permit application process and argued that NOAA should withdraw the consolidated application process from its final regulations and refrain from issuing any commercial recovery permits under DSHMRA. Commenters argued that the proposed regulations violate DSHMRA, stating that Congress structured DSHMRA to create two distinct legal instruments—an exploration license and a commercial recovery permit—each with its own application, plan, review, and decision. Commenters argued that Congress intended for a sequenced process in which exploration was a prerequisite for commercial recovery. In support, a commenter quoted Section 1412(b)(3) of the Act, which provides: "A valid existing license shall entitle the holder, if otherwise eligible under the provisions of this chapter and regulations issued under this chapter, to a permit for commercial recovery." The commenter also pointed to Section 1413, which the commenter stated distinguishes the content and review of an "exploration plan" for a license from the "recovery plan" for a permit, and which establishes priority of right based on the filing date of license applications in substantial compliance with statutory requirements. The commenter also argued that the Act contemplates EISs linked to each separate license or permit decision. Finally, the commenter argued that the consolidated application process would compress what Congress designed as two distinct notice and comment opportunities into one.

Response. Section 1412(b)(3) of DSHMRA does not preclude a single consolidated application, as described in the proposed rule and this final rule. Rather, Section 1412 is simply a

protective measure for the applicant: it assures the applicant that, if it was willing to spend the time and expense in obtaining an exploration license and completing exploration work, and if the applicant was otherwise eligible for a commercial recovery permit under DSHMRA and the implementing regulations, NOAA could not arbitrarily deny a license-holder a permit for commercial recovery. As exploration work by definition will not generate income, and the first opportunity for income-generation will occur only at commercial recovery, this provision helps to encourage investment in deep-sea mining by responsible private companies, in keeping with one of the stated purposes of DSHMRA. See 30 U.S.C. 1401(b)(5).

The opportunity to submit a consolidated application is not at odds with Section 1412(b)(3). First, this final rule only modifies the application process. If the applicant is otherwise eligible, NOAA will issue both a license and a permit to the applicant. Second, the final rule establishes an alternative consolidated method to submit a license and permit application; the final rule does not supplant existing regulations allowing for the sequential application of licenses and permits. Therefore, an applicant can still opt to apply for only a license initially. Such an applicant would therefore still rely upon the protections of Section 1412(b)(3) when making investment decisions and when choosing whether to apply for a commercial recovery permit.

Likewise, Section 1413 does not prohibit a consolidated license and permit application. Section 1413 describes the requirements for an exploration plan and a commercial recovery plan. 30 U.S.C. 1413(a)(2)(B), (C). It also states that "priority of right for the issuance of licenses to applicants shall be established on the basis of the chronological order in which [substantially compliant] license applications . . . are filed." The final rule requires a consolidated application to seek both a license and a permit and to contain both an exploration plan and a commercial recovery plan, and the regulations are consistent with the requirements for the exploration plan and commercial recovery plan in 30 U.S.C. 1413(a)(2)(A) and (B). Contrary to the comment, the Act does not require that these plans be delivered sequentially–just that the applicant must have

the plans for each category of activities, depending on if the applicant is seeking a license, a permit, or both. As to the establishment of priority of right, the final rule is consistent with 30 U.S.C. 1413(b). The Act specifically keys priority of right to the application for a license, but it does not require a license to be obtained prior to the application for a permit.

The commenter also argues that it is impermissible to collapse two applications into a single public hearing or single opportunity for public comment. NOAA respectfully disagrees. DSHMRA clarifies that "[a]ll time periods for the review of an application for issuance or transfer of a license or permit . . . shall, to the maximum extent practicable, run concurrently." 30 U.S.C. 1413(f). Thus, the statute actually encourages holding concurrent public review opportunities where practicable. Further, throughout the application process NOAA will continue to ensure ample opportunity for public comment, in keeping with both statutory and regulatory requirements. NOAA retains discretion to hold multiple public hearings, for example, if it deems there is sufficient public interest. Nothing in the proposed rule impermissibly infringes on the public's right to comment on the applications.

Finally, the commenter argues NOAA should refrain from issuing any commercial recovery permits under DSHMRA. However, this suggestion is beyond the scope of this rulemaking. Further, as to license-holders, as noted above, the statute explicitly states that a "valid existing license shall entitle the holder, if otherwise eligible . . . , to a permit for commercial recovery." 30 U.S.C. 1413(b)(3). So under the statute, NOAA does not have discretion to refuse to issue commercial recovery permits to otherwise eligible applicants. As to applicants seeking to use the consolidated process, NOAA is not precluded from issuing commercial recovery permits subject to satisfaction of all statutory and regulatory requirements, including requirements of the consolidated application process as applicable.

Comment 3. Commenters asserted that proceeding according to the proposed regulations would violate NEPA since NOAA's proposed rule attempts to collapse what Congress designed as two distinct phases—exploration and commercial recovery—into a single, consolidated

licensing process. Commenters argued that a primary purpose of exploration is to generate baseline data to better evaluate reasonably foreseeable impacts of commercial recovery, the environmental baseline for these actions remains incomplete, there is still a significant amount of the seafloor left to be mapped at high resolution, impacts of commercial recovery cannot meaningfully be analyzed in the absence of exploration, and authorizing exploration and commercial recovery simultaneously would undermine NEPA obligations. A commenter argued that NOAA's existing DSHMRA regulations contemplate using information gathered under an exploration license to ensure that commercial recovery operations cannot reasonably be expected to result in a significant adverse effect on the quality of the environment. A commenter also argued that consolidation would foreclose the development and consideration of NEPA alternatives for commercial recovery as informed by the baseline data from exploration. Commenters argued that NOAA must ensure reasonable timeframes for review and input by all relevant agencies implementing statutes related to the coastal and marine environment, including the Endangered Species Act (ESA), Marine Mammal Protection Act (MMPA), Magnuson-Stevens Fishery Conservation and Management Act (MSA), Coastal Zone Management Act (CZMA), and National Historic Preservation Act (NHPA). Finally, a commenter argued that under NEPA, NOAA would be required to issue a supplemental EIS after exploration and before commercial recovery even if both proposed actions were initially evaluated in a single EIS.

Response. The final rule ensures that NOAA will comply with its NEPA responsibilities for a thorough environmental review including the development of an environmental baseline and a reasonable range of alternatives to meaningfully analyze the impacts of exploration and commercial recovery. As explained in the preamble to the proposed and final rule, over the past decades NOAA and the industry have obtained a substantial amount of information from deep seabed exploration activities, including detailed mapping of areas of the seabed, scientific testing on polymetallic nodules, and expertise and experience in deep seabed mining exploration. NOAA, for example, conducted the Deep Ocean Mining Environmental Study (DOMES),

drafted the Deep Seabed Mining Technical Guidance Document, and prepared a Deep Seabed Mining Programmatic EIS. These studies, along with more recent developments, establish a foundation for considering potential environmental impacts of exploration and commercial recovery, and will ensure that an EIS for a consolidated license and permit application is informed by a robust environmental baseline. NOAA is also required to hold consultations to assure compliance with, as applicable, the ESA, the MMPA, the CZMA, and the MSA, among other statutes. See 15 CFR §§ 970.502 and 971.402. These consultations will also enhance environmental baseline information in furtherance of NEPA compliance.

Indeed, NOAA's final rule requires consolidated applications to demonstrate that the applicant can proceed to commercial recovery in an expeditious and diligent manner, including by describing any exploration activities undertaken prior to application submission, and to include any relevant environmental baseline information obtained during past exploration activities. Therefore, NOAA expects to have the necessary information from prior studies (*e.g.,* the DOMES study, Deep Seabed Mining Technical Guidance, Deep Seabed Mining Programmatic EIS), recent developments, and applicant exploration activities to develop and consider a reasonable range of alternatives for commercial recovery in the EIS. Moreover, as stated in the proposed rule, there may be situations in which two EISs are appropriate, and NOAA will base any determination that a second or supplemental EIS is needed on the record for any specific application and circumstance.

In addition, NOAA is updating its DSHMRA technical guidance in a process that is separate from this rulemaking. Updating the technical guidance is critical for having data acquisition standards for monitoring potential impacts. NOAA expects to release a draft of the revised technical guidance for public review later this year.

The commenter also asserts that Section 1415(b), which requires that an environmental impact statement be prepared before either a license or permit is issued, requires a sequential process and that a "consolidated process that attempts to resolve both exploration and

commercial recovery with a single, front-end EIS would frustrate [DSHMRA's] framework." But again, nothing in Section 1415(b) requires a sequential process. And while it is true that NOAA's previously-issued DSHMRA regulations provide for a sequential process, NOAA has explained in the proposed rule and final rule preambles why a consolidated application option is now appropriate for some applicants given the more mature state of the industry. As noted above, the consolidated application process is an alternative application method and does not supplant existing regulations allowing for the sequential application of licenses and permits. Therefore, an applicant could still opt to apply for only a license initially.

Moreover, the Administrator sets enforceable terms, conditions, and restrictions for, among other things, the protection of the environment on each license and/or permit issued under the Act and its implementing regulations. See 30 U.S.C. 1419(b). Other environmental safeguards include the applicant's required environmental monitoring plan, TCRs that the Administrator imposes related to the environmental monitoring plan and protection of the environment, and enforcement and license suspension actions that the Administrator can take if there are significant adverse environmental effects. The Act and the DSHMRA regulations describe NOAA's enforcement authority under this regulatory framework and contain several provisions for monitoring compliance with legal requirements and pursuing appropriate enforcement action when necessary. See, e.g., 30 U.S.C. 1424, 1461-1468; 15 CFR part 971, subpart J.

Comment 4. Commenters stated that NOAA cannot finalize the proposed regulations without first complying with NEPA and ESA and that the act of promulgating these regulations is itself a "major federal action" under NEPA requiring an EIS and an "agency action" under ESA § 7, each of which requires advance environmental review. A commenter argued that an EIS is required for this rulemaking because it constitutes a regulatory change with significant consequences for how and when environmental review occurs, and it will make environmental impacts of deep seabed mining more likely. A commenter argued that the term "extraordinary

circumstances" appears under the G7 categorical exclusion but remains undefined, creating uncertainty about when a full EA or EIS is required. Commenters argued that NOAA should codify specific triggers—such as impacts on hydrothermal-vent fields, areas designated as critical habitat for listed species, or regions of high seafloor biodiversity—for case-by-case NEPA analysis. Finally, a commenter also argued that issuing these regulations "may affect" numerous ESA-listed species, and NOAA cannot defer consultation to a later stage.

Response. This rulemaking includes only technical and/or procedural changes to the regulatory text and does not change the substantive standards to which applications will be held. NOAA has determined that the rulemaking falls within a category of actions that NOAA has determined normally does not significantly affect the quality of the human environment and therefore may be categorically excluded from the need to prepare a further NEPA analysis. NOAA has also not identified any extraordinary circumstances under NOAA's Companion Manual, Policy and Procedures for Compliance with the National Environmental Policy Act and Related Authorities (effective June 30, 2025) that would preclude this categorical exclusion. The Companion Manual provides examples of extraordinary circumstances under which NOAA has determined further NEPA analysis may be required. Moreover, the use of the NEPA G7 categorical exclusion is only for purposes of this rulemaking, not for DSHMRA applications for exploration or commercial recovery, which require the preparation of an EIS. As required by DSHMRA, NOAA would prepare an EIS before issuing any license or permit.

With respect to ESA § 7, NOAA has determined that the administrative action of a rulemaking that includes only technical and/or procedural changes will have no effect on ESA-listed species. Before the issuance of any license or permit, NOAA is required to hold consultations to assure compliance with, as applicable, the ESA, the MMPA, and the MSA, among other statutes. See 15 CFR §§ 970.502 and 971.402.

Comment 5. A commenter opposed the proposed consolidation of exploration and commercial recovery licensing under DSHMRA on grounds rooted in indigenous values. The

commenter supported efforts to modernize outdated 1980s-era regulations and improve administrative efficiency but opposed the push to fast-track licensing and permitting for deep-sea mining activities for a number of reasons related to religious, spiritual, and/or cultural beliefs and ecological wisdom. The commenter stated that NOAA should uphold its trust responsibilities to indigenous peoples and should reject the proposed consolidation of exploration and commercial recovery licenses; maintain a two-step licensing process to ensure accountability; include Native Hawaiian and Pacific Islander cultural practitioners in any future regulatory review process, consistent with executive orders on indigenous consultation; and support only those regulatory updates that improve clarity and fairness without sacrificing oversight or enabling hasty extraction.

Response. NOAA appreciates and respects the commenter's statements regarding Native Hawaiian and Pacific Islander cultural beliefs and concerns. As noted in NOAA's response to Comment 1, and as described in this rule's background section, DSHMRA establishes a process for NOAA to issue to U.S. citizens licenses and permits for deep seabed mining of hard mineral resources as defined in the Act. Moreover, as stated in E.O. 14285, there is a critical need for the U.S. to obtain critical minerals from the deep seabed.

The consolidated license and permit process will not erode any environmental, scientific, or cultural considerations. As stated in NOAA's explanation of § 971.214 and in the response to Comment 1, the Act and regulations contain substantial provisions for the protection of the environment and conservation of resources.

Consistent with E.O. 13175, NOAA engages in government-to-government consultation with federally-recognized tribes in the development of federal policies that have tribal implications. NOAA has not identified tribal implications associated with this rule, which is a procedural update to the DSHMRA regulations to establish a consolidated application process in a section previously reserved for that purpose. However, NOAA will fulfill any applicable tribal consultation obligations in future regulatory actions that may have tribal implications under E.O.

13175 for federally recognized tribes.

Comment 6. Commenters argued that this rulemaking did not follow procedures required in DSHMRA, 30 U.S.C. 1468, because NOAA did not undergo formal rulemaking and did not make a determination that the proposed rule was necessary and appropriate to provide for the conservation of natural resources, protection of the environment, and the safety of life and property at sea. A commenter argued that NOAA should rescind its existing seabed mining regulations and prior determinations, which are likewise invalid because they rest on informal rulemaking procedures inconsistent with DSHMRA and the APA.

Response. In proposing and then finalizing this rulemaking, NOAA has followed all applicable procedures required under DSHMRA and the APA. NOAA published a Federal Register notice of the proposed rule, afforded a 60-day comment period for members of the public to provide written comments, held two virtual public hearings to accept oral comments, has considered comments received, prepared a response to comments, and is now issuing a Federal Register notice of the final rule.

The applicable sections of DSHMRA that authorize NOAA to undertake this rulemaking are 30 U.S.C. 1413(a)(2)(A) (License and permit applications, review, and certification) and 30 U.S.C. 1426(a) (Public notice and hearings; Required procedures). Section 1413(a)(2)(A) provides in relevant part that exploration license and commercial recovery permit applications "shall be made in such form and manner as the Administrator shall prescribe in general and uniform regulations and shall contain such relevant financial, technical, and environmental information as the Administrator may by regulations require as being necessary and appropriate for carrying out the provisions of [DSHMRA]." Section 1426(a) provides that the NOAA Administrator "may issue regulations to carry out this chapter . . . only after public notice and opportunity for comment and hearings in accordance with the following: (1) The Administrator shall publish in the Federal Register notice of . . . all regulations implementing this chapter . . . . Interested person shall be permitted to examine the materials relevant to any of these actions, and

shall have at least 60 days after publication of such notice to submit written comments to the Administrator. (2) The Administrator shall hold a public hearing in an appropriate location and may employ such additional methods as the Administrator deems appropriate to inform interested persons about each action specified in paragraph (1) and to invite their comments thereon." NOAA has implemented each of these steps, as noted above.

This rulemaking process also follows the procedures required by the applicable section of the APA, 5 U.S.C. 553 (Rule making). NOAA issued a general notice of proposed rulemaking in the Federal Register with the information required in 5 U.S.C. 553(b); NOAA offered an opportunity for public comment consistent with 5 U.S.C. 553(c); and NOAA has explained why this rule, which "relieves a restriction," is effective immediately, consistent with 5 U.S.C. 553(d)(1).

The section of DSHMRA cited by the commenter, 30 U.S.C. 1468(c), which requires rulemaking on the record after an opportunity for an agency hearing, is not applicable to this rule. Section 1468(c) applies to amending regulations under DSHMRA "as the Administrator determines necessary and appropriate in order to provide for the conservation of natural resources within the meaning of Section 1420 of this title, protection of the environment, and safety of life and property at sea." This rulemaking does not constitute a regulatory amendment within the scope of 30 U.S.C. 1468(c). Rather, this rulemaking implements procedural changes to the DSHMRA application process as authorized by 30 U.S.C. 1413(a)(2)(A) and 30 U.S.C. 1426(a).

Nor was formal rulemaking required for the initial regulations promulgated by NOAA. NOAA published its DSHMRA exploration license regulations (15 CFR part 970) in 1981 and its commercial recovery permit regulations (15 CFR part 971) in 1989 pursuant to Section 1468(a) and (b), which required that the NOAA Administrator propose and finalize such regulations as are required by or necessary and appropriate to implement DSHMRA, "*in accordance with section 553 of title 5*." See 30 U.S.C. 1468(a) and (b) (emphasis added). Section

553 of title 5 is the section of the APA governing informal rulemaking, which is the process that NOAA followed to issue the original DSHMRA regulations and which it is following for this rulemaking. As such, NOAA has complied with the requirements of DSHMRA and the APA and the existing regulations need not be rescinded.

Comment 7. Commenters argued that the proposed rule is arbitrary and capricious because the administrative record mostly repeats the agency's rationale from 1986 without evidence that the statements are true. Commenters argued that the deep seabed mining industry has not matured and that a single business does not demonstrate a high technology readiness level, nor is there a high market readiness level. Commenters argued that the industry is nascent and no commercial deep-sea mining has yet occurred. Several commenters argued that the administrative record fails to discuss environmental impacts. Commenters further argued that advancing the deep seabed mining industry will result in advancement of industry's impacts to the marine environment, but the proposed rule ignores advancements in environmental science.

Response. When NOAA, in 1986, reserved § 971.214 for potential later development, it anticipated that as the deep seabed mining industry matured and gained experience from exploration activities, implementing a consolidated license and permit application process may be appropriate. NOAA has explained the developments over the last several decades that demonstrate that the industry has indeed matured and gained both technological capability and information, such that implementing a consolidated process is timely. For example, a significant amount of mapping work has already occurred, and is ongoing, in areas where hard mineral resources are known to be concentrated–such as in the Clarion-Clipperton Zone. Many entities have performed substantial deep-sea mining exploration- and development-type work over the last decade, gaining and developing information, technology, and experience which has helped to mature the industry and which means that many eligible entities may now be ready to move to commercial recovery. Additionally, modern technology, such as autonomous underwater vehicles, has increased the speed in which areas can be explored as well as increased the quality

of the data that can be collected efficiently. Technologies that could be applied to deep-sea resource recovery have also developed considerably since the promulgation of the original regulations, with at least two companies promoting prototype recovery equipment. Altogether, it is evident that the industry has matured since the 1980s and it is now appropriate to allow for a single consolidated application. NOAA is not relying on the readiness level of any single business but rather the maturation of the industry as a whole.

Comment 8. Several commenters made general comments in opposition based on international considerations and offered specific recommendations. Commenters argued that DSHMRA requires that U.S. seabed mining activities conform to international obligations, including LOSC Articles 192 and 194, and the precautionary principle. Commenters stated that acting unilaterally on deep seabed mining undermines the ISA process, international norms, global stability, and the rule of law, and that it could result in harm to protected areas, such as Areas of Particular Environmental Interest designated by the ISA. One commenter recommended that NOAA revise its regulations to require all exploration and/or commercial recovery permit applicants planning activity in areas beyond national jurisdiction to provide a plan for how the material recovered, knowledge gained, and general outcomes of their operations will "be carried out for the benefit of all mankind" and adhere to LOSC Article 140 and the policies in Article 150 on Development of Resources of the Area. The commenter also stated that NOAA should also notify the ISA Secretariat of applications for activities in areas beyond national jurisdiction.

One commenter argued that NOAA failed to engage with Regional Fishery Management Organizations (RFMOs) in this rulemaking process, including the Inter-American Tropical Tuna Commission under the Tuna Conventions Act.

Another commenter stated that U.S. deep-sea mining poses an international offshore disconnection with the ISA and the LOSC and that the U.S. has not aligned with growing international consensus on a deep seabed mining moratorium. The commenter asserted that the Biodiversity Beyond National Jurisdiction Agreement, adopted in 2023 under the framework of

the LOSC, is the first global treaty to address the conservation and sustainable use of marine biological diversity in the high seas and if the U.S. pursues seabed mining without engaging this institutional architecture, it may lack necessary levers to influence emerging conservation and resource regulation frameworks. The commenter stated that geopolitical consequences of not ratifying the LOSC and of acting unilaterally on deep seabed mining would be far-reaching. The commenter argued proceeding under E.O. 14285 risks isolating the U.S. diplomatically, especially from key trading partners and global industries moving toward higher environmental standards.

Another commenter argued that the international legal landscape governing the exploration and exploitation of mineral resources in areas of the sea floor that lie beyond any nation's jurisdiction has changed substantially since NOAA published its DSHMRA exploration license regulations in 1981 and 1989 and it is essential that any updates to U.S. regulations take these changes into account. The commenter asserted that the current legal regime has eliminated the "reciprocating states" regime that existed on an interim basis in the 1980s, to which DSHMRA and the regulations refer, but on which licensees and permittees today may no longer rely and reduces to a small group the potential partner corporations on which a DSHMRA licensee or permittee may rely due to potential conflicts with contracts issued by the ISA. The commenter argued that licenses and permits issued under DSHMRA that conflict with exploration and exploitation contracts issued by the ISA could increase the likelihood of creating "a situation which may reasonably be expected to lead to a breach of international peace and security involving armed conflict," 30 U.S.C. 1415(a)(3). The commenter then asserted that an applicant working outside the ISA regime cannot demonstrate that it possesses the scientific, technical, and financial resources to pursue commercial recovery activities in an expeditious and diligent manner as required in the new § 971.214(b). The commenter then, based on these international considerations, recommended that NOAA acknowledge in its regulations the substantial changes in the legal landscape since the 1980s, the incompatibility of DSHMRA and

its associated regulations with the international legal framework now in place in the Area, and decline to entertain any applications for DSHMRA licenses and permits. If, however, NOAA intends to review applications, the commenter recommended that the agency maintain the current separation between the application processes for exploration licenses and commercial recovery permits. Lastly, the commenter provided suggested changes that NOAA should make to various paragraphs of § 971.214 and throughout 15 CFR part 971. Under the commenter's suggested changes, an applicant would not be required to provide information in its application that involves partnerships with Nations or work performed as part of those partnerships that were done under the LOSC and the ISA regulatory regime.

Response. Under DSHMRA, NOAA may issue licenses and permits to U.S. citizens in areas beyond national jurisdiction, provided all domestic statutory and regulatory requirements are met. The United States is not a party to the LOSC. While the United States views the LOSC provisions relating to traditional uses of the oceans as reflecting customary international law binding on all States, the United States does not consider Part XI of the LOSC or the 1994 agreement relating to Part XI to reflect customary international law. In 1980, the United States enacted DSHMRA, which states "exploration for and commercial recovery of hard mineral resources of the deep seabed are freedoms of the high seas subject to a duty of reasonable regard to the interests of other states in their exercise of those and other freedoms recognized by general principles of international law." DSHMRA dictates that the U.S. private sector's deep-sea exploration and commercial recovery activities in areas beyond national jurisdiction must be undertaken with strong standards and environmental impact statements, and those activities must not unreasonably interfere with the interests of other states in their exercise of high seas freedoms. The international considerations raised by these comments are not implicated by the changes made in this rulemaking, which consolidate and expedite existing regulatory processes under DSHMRA. Accordingly, no modifications to the regulations are necessary. Regarding notifying the ISA, NOAA notifies the public and provides an opportunity to comment -

worldwide via the Federal Register and *regulations.gov* - on applications that are in full compliance, and NOAA considers public comments on such applications before NOAA makes final decisions on whether to issue DSHMRA licenses or permits.

Regarding engaging with RFMOs for this rulemaking, these organizations were aware of the rulemaking via the proposed rule Federal Register notice and had the opportunity to submit comments through the public *regulations.gov* process. As applicable, NOAA and the State Department will work through the appropriate process established in each RFMO to address potential impacts of specific U.S.-authorized deep-sea mining projects on internationally-managed fisheries.

2. General Support for Deep Seabed Mining or NOAA's Rulemaking.

Comment 9. Commenters voiced support for deep seabed mining and asserted the need for critical minerals, strengthening the independence and reliability of U.S. supply chains by advancing U.S. leadership in seabed mineral exploration and responsible commercial recovery, the need for reduced reliance on China and other foreign sources of critical minerals, the need (on environmental and other grounds) to pursue alternatives to land-based mining for critical minerals, and the nature of updated deep seabed mining technology. Some commenters expressed particular support for polymetallic nodule collection from the Clarion-Clipperton Zone. Commenters also supported technological developments for selective harvesting with reduced environmental impacts.

Response: NOAA appreciates the supportive comment.

Comment 10. Commenters supported NOAA's efforts to modernize the DSHMRA regulations to streamline the permitting and licensing process and endorsed NOAA's efforts to consolidate the exploration license and commercial recovery permit into a single, unified application process. Commenters considered that the shift from dual-track reviews to an integrated permitting pathway is a substantial improvement that reduces redundancy, shortens regulatory timelines, and aligns with best practices in modern governance. Commenters also

supported NOAA's move to digital applications and stated that it eliminates outdated paper-based requirements, saving applicants time and money while improving transparency and efficiency. A commenter stated that these reforms are particularly beneficial for small businesses, which often struggle with compliance costs and process complexity, and which benefit from regulatory certainty and efficiency. Commenters commended NOAA for advancing a system that enhances predictability, accelerates access to critical minerals, lowers the cost of capital and unlocks innovation, and promotes fairer participation in offshore economic opportunities and stated that the regulatory changes directly align with national objectives around critical mineral independence, economic competitiveness, and responsible deregulation. Another commenter argued that NOAA should expedite commercial/exploratory applications for two key reasons: current terrestrial mining methods are devastating to the environment, and the biggest threat to the maritime ecosystem is China's unrestricted and unreported fishing.

Response. NOAA appreciates the supportive comment.

3. Other Comments

Comment 11. A commenter asked how NOAA's current regulatory framework both supports responsible innovation in deep-sea mining and ensures that environmental protections are effectively enforced.

Response. This comment is beyond the scope of this rulemaking. NOAA notes that DSHMRA authorizes NOAA to issue licenses and permits, but does not currently provide NOAA with funding for deep seabed mining technology development and innovation. In reviewing applications for exploration licenses and commercial recovery permits, NOAA considers information presented regarding effectiveness of technology and environmental effects. In addition, the Administrator sets enforceable terms, conditions, and restrictions for, among other things, the protection of the environment on each license and/or permit issued under the Act and its implementing regulations. See 30 U.S.C. 1419(b). The Act and the DSHMRA regulations describe NOAA's enforcement authority under this regulatory framework and

contain several provisions for monitoring compliance with legal requirements and pursuing appropriate enforcement action when necessary. See, e.g., 30 U.S.C. 1424, 1461-1468; 15 CFR part 971, subpart J.

Comment 12. One commenter noted many published articles regarding the occurrence of various metals in polymetallic nodules. The commenter asked whether given the slow, cold, and high-pressure environment in which the metal deposition occurs, there is the potential for depletion / enrichment of a lower or higher mass isotopes. The commenter stated that the following additional elements have two or more stable isotopes that are naturally occurring: Fe(4), Si(3), Mg(3), Ti(5), K(2), V(2), Cu(2), Ni(5), Zn(5), and Ba(7). The commenter also recommended that there should be consideration to updated analyses of the heterogeneity of several NORM analytes (e.g., 238U, 235U, 234U, 232Th, 231Pa, 230Th, 226Ra, 214Bi, 214Pb, and 210Pb) in a representative collection of polymetallic nodules. The commenter stated there is an open question whether the concentrations of uranium, thorium, and radium may be sufficient to specifically extract and market.

Response. Pursuing the recommended research is beyond the scope of this rulemaking action. It may be that DSHMRA licensees and permittees may be able to obtain this information as they proceed with their exploration and commercial recovery operations.

Comment 13. A commenter noted that NOAA is analyzing this proposed rule in accordance with NEPA (42 U.S.C. 4321 *et seq*.), the NOAA Administrative Order 216–6A, and the NOAA Companion Manual, Policy and Procedures for Compliance with the National Environmental Policy Act and Related Authorities (effective January 13, 2017). The commenter asked if, given EO 14154, "Unleashing American Energy," which directed the Council on Environmental Quality to propose rescinding its NEPA regulations and to provide guidance on implementing NEPA, the referenced NOAA manuals contain the appropriate and updated content.

Response. During the publication of the proposed rule, NOAA finalized revisions to the

agency's procedures for implementing NEPA in the NOAA Companion Manual, Policy and Procedures for Compliance with the National Environmental Policy Act and Related Authorities (effective June 30, 2025). This final rule reflects the agency's revised procedures.

Comment 14. Commenters encouraged NOAA to ensure that the process for transferring and/or revising existing licenses and permits is streamlined to at least the same extent as the proposed consolidated license and permit application process. A commenter also expressed concern over NOAA's retention of open-ended discretion across key regulatory touchpoints, including fee adjustments, review timelines, and EIS requirements. The commenter urged NOAA to adopt defined timelines, appeals processes, and transparent criteria to ensure fairness and accountability. The commenter argued that NOAA should establish clear thresholds and procedures in the final rule for determining when separate EIS processes would be required, ensuring predictability and compliance with NEPA requirements. The commenter also stated that NOAA should create a formal mechanism for applicants to challenge or appeal agency actions.

Response. Regarding streamlining the process for the transfer or revision of an existing license, NOAA notes that under § 971.214(g), an existing applicant may submit an amended application in compliance with the consolidated application process. NOAA has not otherwise proposed changes regarding existing licenses as such changes are outside the scope of this rulemaking. Regarding NOAA's discretion at various steps in the regulatory process, the Act and the DSHMRA regulations provide clear and sufficient standards regarding timelines and criteria to provide applicants with a reasonable and expedited path toward completion of NOAA's review. As NOAA gains further experience with processing new DSHMRA license and permit applications as well as the consolidated license and permit applications, NOAA will determine whether to propose further refinements to regulatory procedures, which may include further refinement to EIS processes if necessary and appropriate. Regarding appeal procedures, the Act and regulations contain administrative and judicial appeal procedures. See 30 U.S.C. 1416(b) and (d), and 15 CFR part 971, subpart I.

Comment 15. Some commenters requested that NOAA establish a public dashboard showing where each application stands in the process and making supporting information, such as environmental data, public in real time.

Response. NOAA publishes in the Federal Register notice of all applications for licenses and permits that are in full compliance and the materials relevant to such actions, and will publish the draft and final EISs with the accompanying TCRs. See 30 U.S.C. 1419(d), 1426(a).

Comment 16. A commenter argued that NOAA should provide for more Deep Ocean Mining Environmental Study (DOMES) funds to allow the U.S. to collect necessary data.

Response. The comment is outside the scope of this rulemaking.

Comment 17. A commenter requested that NOAA update § 970.100 to reference the LOSC and E.O. 14285 and to establish a clear strategy for "securing reliable supplies of critical minerals independent of foreign adversary control."

Response. NOAA did not propose changes to § 970.100 as this section reiterates the Act's stated purposes and provides the flexibility for NOAA to make changes to the regulations based on changes in the industry over time. See 30 U.S.C. 1401(b).

Comment 18. A commenter argued that the regulations, 15 CFR § 971.801, should require collecting, preserving, and making available deep seabed mining data.

Response. The regulations already require licensees and permittees to maintain, make available, and submit specified data and records to NOAA, and NOAA will continue to make these records available to the public in accordance with the applicable regulations. As part of this final rule, NOAA has updated the procedures for the public disclosure of documents received by NOAA, to remove outdated procedures and cross-references for handling records and instead replace the section with a cross-reference to the current regulations which govern public disclosure of documents received by NOAA.

Comment 19. Some commenters provided recommendations on NOAA's environmental review of proposed exploration license or commercial recovery permit activities. Some

commenters expressed concern that retaining the possibility of two separate EISs—one for exploration and one for recovery—could lead to duplicative efforts, costly delays, and regulatory uncertainty without delivering additional environmental benefits. A commenter recommended clearer guidelines to avoid unnecessary procedural repetition and to prioritize streamlined, single-track environmental assessments when feasible. Another commenter requested that NOAA establish best available technology requirements in regulation, with independent monitoring and third-party audits.

Response. As stated in § 971.214(b), NOAA may issue a single EIS for a consolidated license and permit application, but there may be instances when other NEPA reviews may be necessary or a supplemental EIS is needed. At this time NOAA is not developing guidelines for when NOAA will prepare one or two EISs, or supplemental EISs, as these are case-specific determinations based on each application, how an applicant amends its application over time, and whether evolving information indicates the potential for significant impacts to the human environment not previously evaluated.

The Act and the regulations contain sufficient monitoring and reporting provisions for NOAA to evaluate environmental impacts. NOAA is not determining through this rulemaking what technology a company should use; rather, the technologies should be developed and selected by each applicant and then NOAA, in the application review process, will consider whether the proposed technologies and other components of the applications meet the requirements in the Act and regulations. The Act and regulations contain sufficient provisions for monitoring, including potentially, observers. As for scaling up a project, the scope of exploration and commercial recovery activities is included in the DSHMRA applications.

Comment 20. One comment pertained to the environmental problem of the great Pacific garbage patch, which the commenter said no one is doing anything about. The commenter stated that if deep seabed mining is commercially successful, resources or profits could be used to deal with the great Pacific garbage patch.

Response: This comment is beyond the scope of the current rulemaking.

Comment 21. One commenter stated that even with digital reforms, NOAA estimates over 4,000 annual burden hours and nearly $478,000 in wage costs per applicant. The commenter viewed this as excessive and a potential deterrent to participation, particularly for small and mid-sized enterprises, and argued that NOAA should do more to reduce these costs through smarter form design, pre-filled templates, and elimination of duplicative information requests.

Response. The burden hours and wage costs are an estimate and NOAA will adjust these as necessary in future actions for this PRA information collection. See the PRA section herein, which describes how NOAA estimated the hours and costs for applicants and NOAA. In addition, NOAA has developed a DSHMRA webpage that serves, in part, as a small business compliance guide for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). With respect to the request for pre-filled templates or other streamlining forms, NOAA may determine, after reviewing several applications, whether to propose additional guidance. More information on costs is also provided in Responses to Comments 33 and 34 regarding the fee for the consolidated application process.

Comment 22. Several commenters provided comments on NOAA's RIA. One commenter argued that the RIA shows only meager administrative cost savings from the proposed process consolidation. The commenter argued that this minimal amount does not justify expansion of speedy pathways for an untested, high-risk new industry and that the amendments are not about cost savings for the American people – they are about cost savings and shortcuts benefiting only private commercial entities.

Another commenter pointed to the economic analysis in the RIA and considered that the efficiency gains are expected to accelerate America's offshore mineral development capabilities, potentially unlock billions of dollars in untapped seabed resources, and help establish U.S. leadership in the global critical minerals supply chain, particularly for rare earth elements and

strategic metals essential for clean energy and defense technologies. Another commenter asserted that the 100-day time savings is non-trivial in commercial cycles and could substantially affect economic viability.

Commenters stated that the consolidated license process and cost savings for small businesses will boost innovation and competitiveness. NOAA's IRFA estimates cost savings of $5,099 for small businesses transitioning to electronic applications and a 100-day reduction in review time for consolidated applications, enabling faster market entry. A commenter stated that these efficiencies will attract additional U.S. companies to the sector, fostering a competitive and innovative industry ecosystem. Other commenters expressed concern that the consolidated application fee was too high and risks entrenching the largest operators at the expense of small businesses.

Response. The RIA is an objective evaluation of the information to which NOAA has access to evaluate the economic impacts of a rulemaking. NOAA uses the RIA to comply with E.O. 12866 (Regulatory Planning and Review) and the RFA. As a result of the public comments and additional public data available, NOAA has revised the RIA as follows.

First, NOAA has partially monetized the benefit of 100 days saved through the consolidated license and permit application process. NOAA has monetized the cost savings for the applicant's administrative labor overhead that would be incurred during this waiting period and has found an annual cost-savings benefit of $2,411,192. Second, NOAA revised the applicant's wage burden benefit calculated using the PRA Supporting Statement OMB Control # 0648-0145, Section 12 to find a cost savings benefit of $43,125 for transitioning from a sequential to a consolidated permit application. NOAA has also included the calculation of the government's reduced wage burden using the PRA Supporting Statement OMB Control # 0648-0145, Section 14, by reviewing a single consolidated instead of a sequential exploration and commercial recovery application, showed a benefit to NOAA of $119,803 in cost savings per year. Third, NOAA updated the Final RIA benefit calculations including the 100-day cost

savings and reduced government wage burden. NOAA also updated the FRFA to include the 100-day cost savings only.

For additional information, please refer to the Final RIA and FRFA, available at the Federal eRulemaking Portal at *https://www.regulations.gov/docket/NOAA-NOS-2025-0108,* as well as the summary pertaining to the RFA in Section V, Miscellaneous Rulemaking Requirements, below. See also NOAA's Responses to Comments 33 and 34 below, regarding the fee for the consolidated application process.

Comment 23. One commenter stated that on September 3, 2025, the virtual public hearing platform failed to load and would not allow members of the commenter's coalition to join the virtual public hearing. The commenter argued the lack of reliable access effectively denied them the opportunity to participate in the hearing and share their input in real time. The commenter asserted that public hearings are a crucial part of the democratic process, especially when it comes to federal regulations that impact communities, stakeholders, and the environment and that it is essential that all interested members of the public have a fair and functional opportunity to engage in the regulatory process. The commenter requested that NOAA schedule an additional public hearing using a more accessible and reliable platform.

Response. On September 3, 2025, NOAA experienced technical difficulties with the virtual public hearing platform, which was scheduled to commence at 3:00 p.m. eastern time (ET) and run through 7:00 p.m. ET. At the outset of the hearing, many members of the public as well as NOAA staff were unable to access the hearing. NOAA staff immediately contacted the platform provider to troubleshoot the issue and sent the following message to all registered hearing participants at approximately 4:50 p.m. ET, informing them of the technical issues: "Dear Hearing Registrant - NOAA is aware of the technical difficulties with today's hearing. We are working to resolve this issue and we will follow up with additional information within the next hour. We apologize for any inconvenience." Soon after that, the problem was resolved, and NOAA decided to hold the hearing from 5:45-7:30 p.m. ET. At 5:30 p.m. ET, NOAA sent an

updated message to all registered participants with that information and a working virtual public hearing room link. The message also reminded participants of the second hearing on September 4 and encouraged them to register for that one, if preferred. The September 3 hearing began at 5:45 p.m. ET and proceeded without incident until there were no additional oral comment requests, ending at approximately 7:15 p.m. ET. All participants who joined the hearing and who requested to speak had the opportunity to do so. About 99 of the 268 registrants attended at least part of the hearing. On September 4, NOAA conducted the second virtual public hearing, as scheduled, from 3:00 p.m. ET until there were no additional oral comment requests, at approximately 5:10 p.m. ET. All participants who attended and requested to speak had the opportunity to do so. All comments shared during both hearings were transcribed and posted to the *regulations.gov* e-Portal docket for the proposed rulemaking. Members from the group making this comment spoke at the September 3, 2025, virtual public hearing. No additional virtual public hearing is necessary.

Comment 24. A commenter requested an extension to the 60-day public comment period and stated that there was insufficient publicity on this critical matter.

Response. NOAA declines to extend the public comment period because there was ample publicity and opportunity for public comment in this rulemaking process. As required by DSHMRA, 30 U.S.C. 1426, and consistent with the APA, 5 U.S.C. 553, NOAA provided notice in the Federal Register of the proposed rule, afforded a 60-day period for public comments, and has considered comments received. DSHMRA requires that the Administrator shall hold a public hearing on proposed regulations, 30 U.S.C. 1426; NOAA conducted two virtual public hearings. NOAA also published a Federal Register notice of the virtual public hearings (90 FR 36425, Aug. 4, 2025) in addition to the notice regarding the proposed rule (90 FR 29806), and NOAA's DSHMRA website (*https://oceanservice.noaa.gov/deep-seabed-mining/*) discusses the rulemaking.

IV. Summary of Final Regulations and Response to Comments on Specific Sections of

the Regulations.

In this section, NOAA explains the changes to the DSHMRA regulations implemented by this final rule. Some of the changes are in response to comments on the proposed rule. NOAA has included public comments on specific sections of the proposed rule and NOAA's responses at the end of each applicable section. For a summary of other conforming changes that are necessary to reference the consolidated application process, as applicable, throughout parts 970 and 971, see section II. Changes from Proposed to Final Rule.

§ 970.200(b) Place, form and copies.

NOAA revises paragraph (b) to remove the requirement for mailing 30 hard copies, replace it with a requirement to submit electronically only, and remove addresses that are no longer valid. NOAA also adds a requirement that applications must be formatted according to regulatory sections and topics, which will help ensure that an application contains the required information and will allow NOAA to complete its review of an application in an expeditious manner. At this final rule stage, NOAA has also added a clarifying sentence to paragraph (b) stating: "For applications received electronically after the close of business, for purposes of computing the Administrator's required response time, the application shall be deemed to be received at 8 a.m. ET on the next business day." This change is consistent with the proposed rule language transitioning to electronic submission of applications and with existing language in the DSHMRA regulations on computation of time (15 CFR § 971.805). This change pertains to the Administrator's response time computation only and does not alter substantive rights or obligations of applicants. As such, this is a clarifying change.

§ 970.208(b) Fee.

NOAA made corresponding changes to the required application description of the fee payment in §§ 970.208, 971.208, and 971.214(d)(1), in light of the new electronic submission requirements for applications (described above). Since there will no longer be a physical application that can be "accompanied" by a physical payment (such as a check), NOAA is

simply requiring the fee payment to be made prior to or concurrent with the submission of the electronic application and explaining that the application should contain a description of when and in what manner the fee was paid. Other provisions of § 970.208, such as the amount of the fee, were left unchanged. This is a clarifying change that does not alter substantive rights.

Related Comments.

Comment 25. A commenter supported the proposed changes to the text at § 970.200(b) to remove the requirement for applicants to mail hard copies of exploration license applications to NOAA and to replace it with a requirement for electronic submission of applications only. The commenter asserted that this change would considerably increase efficiency in the application process and reduce the resource burden on both applicants and NOAA. The commenter requested further clarity on what NOAA means by "The application format shall be organized according to the specific regulatory topics and sections" and invited NOAA to consider developing a template or guidelines for exploration license applications for applicants to use in future.

Response. NOAA is specifying that applications must be formatted so that they follow the specific regulatory topics and sections included in the part 970 and 971 regulations, which describe the application requirements. If applications are otherwise organized into headings of the applicant's own design, then it is difficult for the applicant and NOAA to determine that the application contains the required information addressing each applicable section of the regulations. NOAA has also developed a DSHMRA webpage that serves, in part, as a small business compliance guide for SBREFA purposes. NOAA may determine, after reviewing several applications, whether to propose additional guidance or regulatory changes.

§ 970.209 Substantial compliance with application requirements.

NOAA revises § 970.209 by making clarifying changes regarding substantial compliance and to reference the § 971.214 consolidated license and permit procedure. NOAA notes that this section applies to "new entrants," which is defined in § 970.101(m) as any applicant with respect

to any application or amendment that has not been accorded a pre-enactment explorer priority of right. A holder of an exploration license who then applies for an exploration license or consolidated license and permit for a new area would be considered a "new entrant" with respect to the application for a new area. NOAA is not changing how to determine priority of right; the submission date of the exploration license application that is found to be in substantial compliance (rather than payment of the administrative fee) determines priority of right under the terms of § 970.200(e), which also describes how priority of right may be lost during the application process. NOAA is also not changing the 30-day and 60-day time periods for determining substantial and full compliance as these time periods facilitate expedited review.

§ 970.210 Reasonable time for full compliance.

NOAA revises § 970.210 to reference the new § 971.214 consolidated license and permit procedure.

Related Comments.

Comment 26. A commenter supported the proposed revision to the text at § 970.210 to expressly include reference to consolidated license and permit applications filed under § 971.214.

Response. NOAA appreciates the supportive comment.

§ 971.200(b) Place, form and copies.

NOAA revises paragraph (b) to remove the requirement for mailing 25 hard copies, replace it with a requirement to submit electronically, and remove addresses that are no longer valid. NOAA also adds a sentence that applications must be formatted according to regulatory sections and topics. Formatting an application by the regulatory sections and topics will help ensure that an application contains the required information and will allow NOAA to complete its review of an application in an expeditious manner. At this final rule stage, NOAA has also added a clarifying sentence to paragraph (b) stating: "For applications received electronically after the close of business, for purposes of computing the Administrator's required response

time, the application shall be deemed to be received at 8 a.m. ET on the next business day." This change is consistent with the proposed rule language transitioning to electronic submission of applications and with existing language in the DSHMRA regulations on computation of time (15 CFR § 971.805). This change pertains to the Administrator's response time computation only and does not alter substantive rights or obligations of applicants. As such, this is a clarifying change.

§ 971.208(b) Fee.

NOAA made corresponding changes to the description of the required application fee payment in §§ 970.208, 971.208, and 971.214(d)(1) in light of the new electronic submission requirements for applications (described above). Since there will no longer be a physical application that can be "accompanied" by a physical payment (such as a check), NOAA is requiring the fee payment to be made prior to or concurrent to the submission of the electronic application and explaining that the application should contain a description of when and in what manner the fee was paid. Other provisions of § 971.208, such as the amount of the fee, were left unchanged. This is a clarifying change that does not alter substantive rights.

Related Comments.

Comment 27. A commenter requested further clarity on what NOAA intends to mean by "The application format shall be organized according to the specific regulatory topics and sections" and invited NOAA to consider developing a template or guidelines for CRP applications for applicants to use in future.

Response. NOAA is specifying that applications must be formatted so that they follow the specific regulatory topics and sections included in the part 970 and 971 regulations. If applications are otherwise organized into headings of the applicant's own design, then it is difficult for the applicant and NOAA to determine that the application contains the required information for each section of the regulations. NOAA has also developed a DSHMRA webpage that serves, in part, as a small business compliance guide for SBREFA purposes,

https://oceanservice.noaa.gov/deep-seabed-mining/. NOAA may determine, after reviewing several applications, whether to propose additional guidance or regulatory changes.

§ 971.214 Consolidated license and permit procedures.

NOAA is using this reserved section to add a process whereby U.S. citizens who are qualified for these consolidated procedures may concurrently apply for an exploration license and a commercial recovery permit. A U.S. citizen is qualified to use these consolidated procedures if it can demonstrate that the applicant possesses the scientific, technical, and financial resources to pursue commercial recovery activities in an expeditious and diligent manner.

Under the consolidated license and permit process, a qualified applicant does not submit two, sequential applications (one for the exploration license and one for the commercial recovery permit) but, rather, submits one application for both the exploration license and commercial recovery permit at the same time that meets the requirements of the new § 970.214. The Administrator then conducts a consolidated review through one process, not two separate reviews, and, where necessary, publishes separate proposals to issue a license and permit; TCRs on the licenses and permits; and the licenses and permits.[2] The Administrator provides an opportunity for public comment and will hold a public hearing on the consolidated license and permit application. NOAA expects that the Administrator will likely prepare a single EIS that would evaluate the impacts of both exploration activities and commercial recovery activities as opposed to separate EISs. However, there may be situations in which two EISs are appropriate. See 30 U.S.C. 1419(d).

While paragraph (g) will require that an applicant with a pending license application file an amended consolidated application if the applicant seeks to use the consolidated license and

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[2] As under the existing regulations, and pursuant to DSHMRA, priority of right shall be based on "the chronological order in which license applications which are in substantial compliance with the requirements established under subsection (a)(2) of this section are filed with the Administrator." 30 U.S.C. 1413(b).

permit procedure, it would not be a new application and would not negate work completed to date. To the contrary, NOAA would apply whatever work has been done to date, and then continue under § 971.214, supplementing already-completed steps as necessary to account for changes and additions in the consolidated application, including for example, substantial changes (if any) to the exploration plan as well as new plans and information regarding a commercial recovery permit. If any existing applicant wishes to take advantage of the consolidated application process, that applicant would be directed to submit an amended application consistent with §§ 970.213 and 971.213. And under § 970.213, priority of right established by the filing of the original application would generally not be affected by the filing of the amended application unless the amended application proposes new coordinates outside of the area of the proposed exploration area of the original application. If the amended application proposes new coordinates, the applicant would maintain priority of right over any proposed area in the original application that is also in the amended application, and, if there are no conflicts with the new proposed areas in the amended application, the applicant would obtain priority of right over new areas as of the date of submission of the amended application, as long as the amended application is determined to be in substantial compliance. NOAA has added to paragraph (g) a clause at the end of the last sentence that states, "except that any work, actions or decisions by NOAA, including required findings at various stages of the application process, shall continue to apply to the extent still applicable."

The Administrator may issue the exploration license and commercial recovery permit at the same time, thereby confirming the priority of right required that would otherwise be established through the licensing process and the ability of the permit holder to proceed to commercial recovery. The Administrator would issue the license and permit when the TCRs are finalized and if the requirements of 15 CFR part 970, subpart E, part 971, subpart D, and §§ 970.509 and 971.410 are satisfied and the applicant is otherwise eligible for a license and permit. That priority of right continues through the commercial recovery permit. The length of the terms

for an exploration license (10 years) and commercial recovery permit (20 years) does not change nor does the ability to extend these terms as described in the regulations and the Act. Once the Administrator issues the license and permit under the consolidated process, the applicant may immediately proceed to commercial recovery of hard mineral resources, if it wishes, but in any event must begin to diligently pursue its commercial recovery plan. See 30 U.S.C. 1417(b), 1418. Similarly, the applicant must diligently pursue its exploration plan. 30 U.S.C. 1418. However, if an applicant determined that it no longer needed to conduct further exploration, it could decide to not extend its exploration license or it could opt to relinquish its license early without penalty. See 30 U.S.C. 1425(a).

NOAA recognizes that there may be instances where an applicant for a consolidated license and permit is found to qualify for a license only. In such instances, NOAA may issue an exploration license while withholding the granting of a permit.

The fee for the consolidated application has been set at $350,000, which partially accounts for inflation that has occurred in the time since the fee was set at $100,000 for a license application and $100,000 for a permit application. Additionally, NOAA has clarified that, given the electronic submission of the application, the fee payment must be made prior to or concurrent with the submission of a consolidated application and that the application should describe when the payment was made and the method of payment.

NOAA has made some technical and clarifying changes to § 971.214 based on comments on the proposed rule, and these changes are addressed in the responses to comments below.

Related Comments.

Comment 28. A commenter expressed confusion as to which provisions of Parts 970 and 971 apply to a consolidated exploration license and commercial recovery permit application. The commenter requested that NOAA 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 DSHMRA. 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."

Response. To accommodate the concerns expressed in the comment, NOAA has added some of the suggested text to paragraph (a) and changed the title of paragraph (a). NOAA has also made some minor conforming edits to this text to further clarify the applicability of the referenced sections. NOAA agrees that adding some of the proposed text provides clarification regarding the meaning of this section, and it does not alter substantive obligations.

Comment 29. A commenter requested that NOAA replace 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)."

Response. It is not clear what the commenter is referring to. In the proposed regulatory text for § 971.214, there are only two references to § 970.103(b), and one of these is a duplicate that NOAA has removed (proposed paragraph (e)(5)). The one use of § 970.103(b) is meant to cover all the restrictions in that section.

Comment 30. Commenters stated that under § 971.214(d), there are no objective thresholds for how applicants can demonstrate scientific, technical, and financial resources and show the need for further exploration activities is minimal or not needed. Commenters requested that NOAA provide clear guidance on documentation expectations, such as publishing illustrative thresholds.

Response. The Act and NOAA's regulations contain substantial guidance for the information needed to support the issuance of an exploration license and commercial recovery permit. The information required will be the same under the consolidated license and permit procedure. To the extent an interested party has additional questions, under existing regulations,

applicants are encouraged (and in some cases required) to engage in pre-application consultations. The scientific, technical, and financial resources necessary and the types of documentation required will necessarily depend on the applicant's chosen exploration and commercial recovery plan, and through the pre-application consultation process NOAA can work with applicants to clarify requirements given an interested party's specific situation. In addition, NOAA is updating its DSHMRA technical guidance in a process that is separate from this rulemaking. Updating the technical guidance is critical for having data acquisition standards for monitoring potential impacts. NOAA expects to release a draft of the revised technical guidance for public review later this year. As NOAA gains experience with new DSHMRA applications, NOAA may provide additional guidance regarding thresholds for net financial resources or technological capabilities.

NOAA is not pre-determining, even by providing non-binding examples, what information a prospective applicant for the consolidated license and permit might propose to NOAA to demonstrate that it is eligible for a consolidated license and permit application and that the applicant could proceed to commercial recovery in an expeditious and diligent manner. As described in greater detail below, however, NOAA has removed the reference to "the need for further exploration activities" in order to clarify the required qualifications for using the consolidated application process.

Comment 31. A commenter stated that under § 971.214(e), NOAA must certify a consolidated application or identify any deficiencies within 100 days of submission. The commenter expressed confusion about how this provision relates to § 970.210, which 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. The commenter argued that the rule should state the 100-day review clock is suspended when NOAA issues a cure notice and resumes only once all deficiencies are fully resolved.

Response. The 60-day period for an application to meet full compliance in § 970.210

serves a different purpose than the 100-day certification period in 30 U.S.C. 1413(g), § 970.400(c), and the new § 971.214(e). The 100-day period begins after the 60-day period. The 60-day period begins when NOAA finds an application to be in substantial compliance, but not full compliance, and the applicant then has 60 days to provide the information NOAA has identified that is needed for full compliance. The 60-day period in § 970.210 applies to exploration license applications submitted as part of a consolidated license and permit application under § 971.214. The 100-day period begins once NOAA finds an application to be in full compliance; NOAA then has 100 days to certify the application. This has been NOAA's long-standing interpretation of the Act and the regulations regarding the 100-day period for certification of an application for an exploration license. NOAA interprets the phrase "submission of the application which is in full compliance" as the date of the submission of the amended application that is in full compliance. Therefore, NOAA interprets references to a license "application" in both the Act and Part 970 to refer to a fully compliant, and not substantially compliant, application for purposes of starting the certification 100-day period. Similarly, NOAA interprets references to permit applications in both the Act and Part 971 to refer to fully complete applications, and not incomplete applications, for purposes of starting the 100-day certification period. See 15 CFR § 971.300(c).

Comment 32. A commenter argued that NOAA should formalize notification for permits beyond areas of national jurisdiction. The commenter stated this approach mirrors the "due regard" duty articulated in LOSC Article 56(2) and the LOSC Part XI provisions (Arts. 138–140) that underlie ISA procedures, demonstrating good-faith adherence to customary obligations under the "common heritage of mankind" principle.

Response. The Act and NOAA's regulations contain provisions for interagency coordination, including coordination with the Department of State, and NOAA complies with this requirement. The Act and regulations also provide for public notification of and comment on applications that are in full compliance. In keeping with this requirement, NOAA notifies the

public and provides an opportunity to comment - worldwide via the Federal Register and *regulations.gov* - to applications that are in full compliance, and NOAA considers public comments on such applications before NOAA makes final decisions on whether to issue DSHMRA licenses or permits. In addition, the Act and the regulations contain provisions that are sufficient for NOAA and the public to evaluate whether there are any potential use conflicts in a proposed area of the ocean beyond national jurisdiction. If any potential use conflicts exist, NOAA can develop appropriate TCRs for DSHMRA licenses or permits to address such conflicts. In addition, informal dialogue and consultation or formal negotiation can be used to address potential use conflicts that may remain or may later arise.

Comment 33. Some commenters argued that the consolidated application fee is too high. Commenters argued that the proposed consolidated-permit process risks entrenching the largest, best-funded operators at the expense of smaller innovators and is potentially exclusionary and disadvantages smaller entrants to the market and diversified competition. For startups and small marine tech firms, commenters thought this fee may present a prohibitive barrier to market entry. Commenters argued NOAA should adopt a sliding-scale, tiered, or phased fee structure that reduces upfront costs for entities with lower annual revenues or early-stage exploration achievements. A commenter argued that NOAA has not shown that the increased fee aligns with the actual costs incurred per application. Commenters also requested that NOAA implement a grandfather provision whereby applications submitted prior to the effective date of the new rule would be subject to the fee schedule in effect at the time of submission under the existing rule prior to the proposals.

Response. The Act, 30 U.S.C. 1414, requires that NOAA establish a "reasonable administrative fee" that "shall reflect the reasonable administrative costs incurred in reviewing and processing the application" for a license or permit. NOAA has set a $350,000 fee for the consolidated license and permit application, which partially accounts for inflation that has

occurred in the time since the fee was set at $100,000.[3] While an inflation adjustment alone would result in an amount greater than $350,000, the $350,000 amount is a reasonable initial fee for the consolidated license and permit process, given technological improvements that may increase the efficiency of application processing. In addition, under §§ 970.208, 971.208, and 971.214, regardless of the initial fee ($100,000 or $350,000), NOAA may adjust the fee up or down for each application, depending on the administrative costs incurred. If, after further experience processing consolidated applications, NOAA determines that the reasonable cost of processing these applications is higher or lower than the estimated $350,000, NOAA may promulgate new rules further adjusting the initial application fee.

Given the estimated costs of exploration and commercial recovery programs that an applicant must be financially responsible for carrying out, see 30 U.S.C. 1413(c)(1), NOAA does not expect this initial fee to pose an undue barrier to entry to smaller businesses who wish to submit consolidated applications. See the Final RIA for more information.

After this rule becomes effective, in the instances where an applicant has a pending exploration license application and then submits a consolidated license and permit application, NOAA will determine the additional fee amount, if any, that an applicant will need to pay for the consolidated application.

NOAA also made technical changes to how the fee is described in the application and similar edits to the corresponding sections for §§ 970.208 and 971.208. Instead of requiring that the fee payment "accompany" the application, in light of the new electronic submission requirement NOAA now requires an applicant to submit the fee payment to NOAA prior to or concurrent with the submission of the application and to include in the application a description of when the fee was paid and the manner of payment. This is a technical, clarifying change.

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[3] Using the Office of Management and Budget (OMB) recommended Gross Domestic Product (GDP) deflator, adjusting $200,000 ($100,000 each for an exploration license application and a commercial recovery permit application) from 1989 to 2024 would be $438,144, substantially more than the $350,000.

Comment 34. Some commenters argued that the consolidated application fee is too low. One commenter stated that priority by receipt date can encourage low-effort filings on prime areas and argued that 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. Another commenter argued that the consolidated application fee is grossly insufficient to reflect the harm that deep-sea mining activities cause to the oceans and for costs of restoration and remediation activities along with the loss of ecosystems. The commenter argued that the fee for each of the licensing and permitting phases should be separate and use a fee schedule based on the size of the geographic area to be mined, the present value of the ecosystem, the value of each impacted species, and the gross cost of restoring the area to a pre-mined state, with a minimum fee of $10,000,000 for each of the licensing and permitting phases.

Response. As stated in the Act, the "administrative fee imposed by the Administrator on any applicant shall reflect the reasonable administrative costs incurred in reviewing and processing the application." 30 U.S.C. 1414. So, NOAA is not adjusting the fee structure to establish by rulemaking a new "reservation bond" nor impose separate fees for each application to account for restoration and remediation. Such bonds or fees are outside the limited scope of this rulemaking and the Act.

In addition, the fee structure (an initial $100,000 or $350,000, with adjustment upwards or downwards to reflect the actual administrative cost of an application), the findings NOAA must make under the Act and the regulations, and the diligence requirements under the Act and the regulations, provide sufficient authority to address speculative claims. For example, under the DSHMRA reporting requirements, license and permit holders are required to show diligent progress in the execution of their exploration and commercial recovery plans in order to maintain those licenses and permits.

Comment 35. Commenters argued that the regulations are of general applicability to all

deep seabed mining which may include all sorts of geological formations, and it is not appropriate to single out one type of mining by referring to polymetallic nodules, but rather to refer to minerals, or mineral deposits. Although the DSHMRA resource definition may be read narrowly to apply only to polymetallic nodules, the commenters asserted that the President's Executive Order is much broader in scope and nothing in DSHMRA would appear to limit NOAA's authority to address this broader scope. Commenters suggested elimination of language which would suggest that licenses and permits cannot address the full range of minerals in application areas.

Response. The Act and the DSHMRA regulations define "hard mineral resources" as "any deposit or accretion on, or just below, the surface of the deep seabed of nodules which include one or more minerals, at least one of which contains manganese, nickel, cobalt, or copper." 30 U.S.C. 1403(6); 15 CFR § 970.101(j); 15 CFR § 971.101(k). Therefore, for purposes of the Act, the regulations, and this final rule, the term "hard mineral resources" refers to polymetallic nodules. As such, and because "nodules" is used elsewhere in the DSHMRA regulations, NOAA has not made changes to the use of "nodules" in the regulatory text. A broader interpretation of hard mineral resources could suggest that DSHMRA covers sulphides and crusts, which it does not. As this definition is in the Act, NOAA cannot by regulation change the definition.

Comment 36. A commenter argued that many sections provide redundant information and stated that it is important to determine an overall structure and then allocate the information to these sections.

Response. In creating the new § 971.214 consolidated license and permit process, NOAA has mirrored some corollary sections within 15 CFR parts 970 and 971 in § 971.214. NOAA has taken this approach for greater clarity and specificity as to the requirements of the consolidated application process and to ensure that, where applicable, there are consistent application requirements between applicants using the consolidated application process and those opting to

pursue sequential licenses and permits.

Comment 37. A commenter stated that it is important to the Applicant to understand what is required, early on in the document such as the: Application Form, Statement of Financial Resources, Exploration Plan, Commercial Recovery Plan, Environmental Impact Statement, Economic Feasibility Analysis, Technical Feasibility Study, Legal Feasibility Study, Monitoring Plan, Hearings (Processing Outside the US), and Schedule of Commercial Recovery.

Response. The current regulatory structure in 15 CFR part 970 and part 971, and now also in § 971.214, contain information on the sections needed for an application.

Comment 38. A commenter argued that in § 971.214(b), the word "separate" creates confusion and requested that NOAA replace it with an "Exploration License and a Commercial Recovery Permit."

Response. For clarity, NOAA has replaced the first instance of "separate" with "an exploration license and a commercial recovery permit." This is a clarifying change that does not alter the meaning of this section.

Comment 39. A commenter stated that, given that public hearings have not yet been mentioned, § 971.214(b) should be reserved for a section on hearings.

Response. Regulations regarding public hearings can be found in the existing regulations and are also included in the new § 971.214. See also §§ 970.212, 971.212.

Comment 40. A commenter argued that in § 971.214(b) the word "may" is confusing as it allows the possibility that NOAA will not prepare the EIS and requested that NOAA reserve a section especially for this part of the process.

Response. NOAA's intent for this section is to explain that NOAA may prepare a single EIS rather than one EIS for the exploration license and another EIS for the commercial recovery permit. To clarify this intent, NOAA has deleted "also" from the sentence and added at the end of the sentence the clause "rather than one environmental impact statement for the exploration license and another environmental impact statement for the commercial recovery permit." This is

a clarifying edit that does not alter the consolidated application process.

Comment 41. A commenter stated that in the last sentence of § 971.214(b), the word "proposal" indicates that there is a process that needs to be explained in its own section.

Response. NOAA has added some clarifying text in response to this comment. Under the Act, NOAA will publish "proposals to issue or transfer licenses and permits" in the Federal Register. 30 U.S.C. 1426(a)(1). The language in the proposed rule for § 971.214(b) refers to proposals to issue licenses under §§ 970.500(a) and 970.401. NOAA has added text to clarify this point; this text is consistent with the proposed rule and does not change the process or requirements.

Comment 42. A commenter stated that in § 971.214(c), the first sentence is confusing and should say "the information required in each of the following sub-sections of paragraph (d), in the order they appear."

Response. NOAA agrees and has referenced paragraph (d) as suggested. This is a clarifying change. NOAA has also added a clarifying sentence to paragraph (c) stating: "For applications received electronically after the close of business, for purposes of computing the Administrator's required response time, the application shall be deemed to be received at 8 a.m. ET on the next business day." This change is consistent with the proposed rule language transitioning to electronic submission of applications and with existing language in the DSHMRA regulations on computation of time (15 CFR § 971.805). This change pertains to the Administrator's response time computation only and does not alter substantive rights or obligations of applicants. As such, this is a clarifying change.

Comment 43. A commenter requested that NOAA delete the following from § 971.214(d): "information sufficient to enable the Administrator to make the findings set forth in 30 U.S.C. 1415(a) and 15 CFR 970.500(c), 971.214(f), and 971.400(c), including the following items:"

Response. The specified sections of regulations that the commenter requested be deleted

are the findings that the Administrator must make before approving or denying the issuance or transfer of a license or permit and must remain. However, NOAA has made a clarifying edit to § 971.214(d) to correct an inadvertent typographical error in the proposed rule: the reference in this section to § 971.214(f) has been replaced with a reference to the correct section, § 971.214(e).

Comment 44. A commenter stated that § 971.214(d)(1) provides the same information as paragraph (4) describing the exploration plan.

Response. Paragraph (d)(1) is distinct from paragraph (d)(4). The information required in paragraph (d)(1) is to allow NOAA to assess whether the applicant is currently qualified to use the consolidated license and permit application and seek information on any pre-application exploration work. The information required in paragraph (d)(4) is for any exploration activities the applicant proposes to undertake under the license for which it is applying via the consolidated process. However, NOAA has made clarifying changes in response to this and other comments expressing confusion about this language. The purpose of the clarified regulatory text in sections 971.214(d)(1) and e(1) is to establish the applicant's qualifications to use the consolidated license and permit application instead of requiring the applicant to first apply for, and obtain, an exploration license before seeking a commercial recovery permit. In order to qualify for the consolidated application, and in keeping with DSHMRA, an applicant to a commercial recovery permit must be able to "pursue diligently the activities described in the recovery plan." 30 U.S.C. 1417(b), 1418(a). NOAA further modified the text of § 971(d)(1) to clarify that information on exploration work (if any) performed by either the applicant or by entities affiliated with the applicant may be relevant to determining whether the applicant can demonstrate it possesses the scientific, technical, and financial resources to pursue commercial recovery activities in an expeditious and diligent manner. NOAA removed text that could imply that past exploration is required to make such a demonstration. See also response to Comment 48.

Comment 45. A commenter requested that, in § 971.214(d)(1)(i), NOAA replace "This" with "Each section," delete "the applicant's access to," and delete "including the following items."

Response. NOAA has not included "Each section" as § 971.214(d)(1)(i) refers to the information in this paragraph only and not other sections of the regulations. However, NOAA has made a clarifying change to replace "This" with "The description of past exploration activities . . . ." NOAA has deleted "the applicant's access to." NOAA notes that there may be instances when an applicant does not have access to all information resulting from previous exploration activities. NOAA has retained "including the following items," as this text is needed to refer to § 971.214(d)(1)(i)(A)-(F).

Comment 46. A commenter argued that § 971.214(d)(1)(i)(A) should include the specific location and size of the deposit and area requested for the exploration license and recovery permit.

Response. Section 971.214(d)(1) describes past exploration activities – not the activities or location proposed under the consolidated license and permit application. Therefore, for § 971.214(d)(1)(i)(A), the survey cruises are from past exploration activities that could be for the area proposed in the DSHMRA application or other areas, but which are relevant to the issue of whether the applicant will be able to proceed to commercial recovery in an expeditious and diligent manner. NOAA is not pre-determining what past exploration activities, if any, an applicant may use to meet the requirements for a consolidated license and permit. Section 971.214(d)(4) contains the information requirements for the consolidated license and permit application.

Comment 47. A commenter argued that in § 971.214(d)(1)(i)(F), economic feasibility ought to be shown by an Internal Rate of Return (IRR) analysis of the first 10 years of commercial operations using likely, high and low scenarios. This should include estimates of capital costs up until date of first commercial recovery and during recovery; amount of mineral

recovered, cost of extraction, refining, and transport, other costs, amount of metal recovered going to the applicant, price of metal, and profits before taxes. The commenter also stated that this paragraph should be divided into several parts: Economic feasibility, Technical Feasibility, Legal Feasibility, and Environmental Considerations.

Response. Section 971.214(d)(1), including paragraphs (d)(1)(i)(A)-(F), pertains to past exploration activities not the activities proposed under the consolidated license and permit application. NOAA is not pre-determining what types of analysis an applicant may provide to describe work that was performed to evaluate the feasibility of commercial scale operations. NOAA does not believe that paragraph (F) should be broken out into separate paragraphs as there is no need to delineate each of the items in further detail.

Comment 48. A commenter argues that in § 971.214(d)(1)(ii), the clause "and the applicant possesses the scientific, technical, and financial resources to pursue commercial recovery activities in an expeditious and diligent manner" is redundant and should be deleted.

Response. NOAA disagrees that this language is redundant. The items specified in this subparagraph inform the explanation of why the applicant qualifies to use the consolidated license and permit procedures and that the applicant can pursue commercial recovery activities in an expeditious and diligent manner. However, on review, NOAA has made a formatting change to this paragraph, and to corresponding language in §§ 971.214(d)(1) and 971.214(e)(1), to clarify how an applicant may demonstrate that the applicant can pursue commercial recovery activities in an expeditious and diligent manner. NOAA has further clarified, with examples, the types of information that may be used by the applicant to demonstrate that it is qualified to use the consolidated application process. These examples are illustrative only, however, and are not intended to require additional information or limit the information or explanation that an applicant may provide in response to this requirement, nor do they necessarily reflect NOAA's views as to how much weight should be accorded to the types of information an applicant may provide. These are clarifying changes that do not change substantive rights or obligations.

Comment 49. A commenter argued that § 971.214(d)(2) must mention that the plans referenced are requirements detailed below in paragraph 4 for the exploration plan, and in paragraph 5 for the commercial recovery plan. The commenter argued the general estimated costs should not be included here but in paragraph (d)(1)(i)(F). The commenter argued that instead of the financial statements and Form 10-K referenced in this regulation, the applicant should do an IRR analysis based on data generated by exploration and market metal prices. Regarding the description of those entities upon which the applicant will rely to finance the exploration, the commenter stated that small exploration companies will often trade future production for cash during the exploration phase and argued that it is essential that these deals are monetized before doing the IRR analysis as the applicant may have pre-sold future production.

Response. NOAA agrees in part with the suggested changes. NOAA has added a clarifying reference to the requirements in paragraphs (4) and (5) for the exploration plan and commercial recovery plan.

Paragraph (2) is the appropriate place to describe general estimated costs and not in paragraph (d)(1)(i)(F), as (d)(1) is for past exploration activities.

If available, a company's financial statements and Form 10-K are useful documents for evaluating a company's financial resources. There may be other useful documents and analyses, including an IRR, which evaluates the expected annualized rate of return an investment is expected to generate over its lifetime. NOAA has added a sentence to note that applicants may also provide other economic analyses. These technical and procedural revisions are consistent with the scope and NOAA's intent that the applicant provide information sufficient to demonstrate that it is capable of committing or raising sufficient resources for the proposed exploration and commercial recovery activities.

Comment 50. A commenter argued that § 971.214(d)(3) is redundant and should be divided between exploration and recovery and put in subparagraphs (4) and (5). With respect to §

971.214(d)(3), the commenter also argued that: subparagraph (3)(ii) is where the requirement for an EIS should appear; the description of environmental monitoring equipment in paragraph 3(ii) should be moved to subparagraph (d)(4); subparagraph (3)(iii)(A)-(D) should be incorporated in § 971.214(d)(5); in subparagraph (3)(iii), the phrase "mining process" should be replaced with "mineral extraction" and the phrase "for persons operating its equipment" in subparagraph (3)(iii)(D) should be replaced with "during the mineral recovery stage."

Response. Section 971.214(d)(3) requires that an applicant provide a statement of the technology, equipment, and capabilities that will be used during exploration and commercial recovery, not the actual exploration and commercial recovery plans of work contained in paragraphs (4) and (5). Paragraph (3)(ii) is a description of the environmental monitoring equipment that will be used separate from the EIS requirements referenced elsewhere in the regulations. "Mining process" is an appropriate term, and the term is used in the existing regulations. See § 971.202(b)(1). Finally, paragraph (D) refers to the qualifications of personnel operating the equipment, not just regarding resource recovery.

Comment 51. A commenter argued that in § 971.214(d)(4), the enforcement of TCRs needs to be defined.

Response. 15 CFR § 971.214 sets forth procedures governing consolidated exploration license and commercial recovery permit applications. Paragraph (d) of this section identifies the information required for the Administrator to make necessary findings under the Act and parts 970 and 971. This information includes a description of the applicant's proposed exploration activities sufficient for, among other things, the development and enforcement of TCRs. NOAA disagrees that the enforcement of TCRs needs to be defined in this section. The Act and the DSHMRA regulations already contain various provisions describing NOAA's enforcement authorities, which may be applied to the enforcement of TCRs. See, e.g., 30 U.S.C. 1424, 1461-1468; 15 CFR part 971, subpart J.

Comment 52. A commenter argued that subparagraph 971.214(d)(4)(iii) is a repetition of

sub-sections of paragraph (d)(1) and should be deleted and replaced with a reference to paragraph (d)(1).

Response. Paragraph (d)(1) refers to a description of past exploration activities. Paragraph (4) pertains to the exploration plan, which shall include the intended exploration schedule as further delineated in parts of paragraph (d)(4)(iii).

Comment 53. A commenter stated that in § 971.214(d)(9)(iii), "copper, nickel, cobalt or manganese minerals or any metals refined from these minerals" is particular to polymetallic nodules mining. The commenter suggested that the regulations should apply a broader definition.

Response. These minerals are specifically mentioned in the definition of "hard mineral resource" in Section 1403(6) of DSHMRA.

Comment 54. A commenter inquired what the process is for getting the determination under § 971.214(d)(11) that the "President or his designee does not determine that this restriction contravenes the overriding national interests of the United States."

Response. Section 971.408 mirrors the requirements of the Act, which describes when and how the Administrator may authorize processing outside of the United States. See 30 U.S.C. 1412(c)(5). It is unnecessarily detailed to include in the regulations the intra-governmental process necessary to reach the determination.

Comment 55. A commenter argued that this rulemaking will delay the processing of existing applications for commercial recovery permits. The commenter stated that NOAA should apply the new amended rules retroactively and/or grandfather in existing applications so that the commercial recovery permit decision can be expedited.

Response. Paragraph 971.214(g) establishes that applicants who have pending applications for exploration licenses may notify the Administrator of their intent to proceed under the consolidated procedures. While paragraph (g) would require that the existing applicant file an amended consolidated application, it would not be a new application and would not negate work completed to date. NOAA has added to paragraph (g) a clause at the end of the last

sentence that states, “except that any work, actions or decisions by NOAA, including required findings at various stages of the application process, shall continue to apply to the extent still applicable.” NOAA has added further explanation to the preamble. This regulation will not impact the processing of any pending applications for commercial recovery for any applicant that already holds an existing exploration license.

Comment 56. A commenter argued that § 971.214(d)(7)(ii), regarding foreign flag vessels, disregards the April 9, 2025, E.O. 14269, “Restoring America’s Maritime Dominance.” The commenter requested that the regulations be revised to allow only the use of United States-built and flagged vessels.

Response. Section 971.214(d)(7) does not change the statutory and regulatory requirements for U.S. Flag and foreign flag vessels; rather, paragraph (d)(7) is describing the U.S. Coast Guard and other safety information and certifications required for all vessels used in exploration or commercial recovery. The regulatory provisions for when U.S. Flag vessels must be used remain unchanged and these provisions are based on the Act’s requirements that commercial recovery vessels be U.S. Flag vessels and that at least one commercial recovery transportation vessel be a U.S. Flag vessel. See 30 U.S.C. 1412(c)(2) and (3). The regulations contemplate the very limited number of vessels that could undertake deep seabed mining exploration and commercial recovery, and revising the requirements for U.S. Flag and foreign flag vessels are beyond the scope of this regulatory action.

Comment 57. For § 971.214(b) (Who may apply; how), a commenter supported the proposed consolidation of public hearings and other proceedings related to the issuance or transfer of an exploration license and a commercial recovery permit in a consolidated application process and asserted that this approach would promote efficiency and reduce duplication of hearings while maintaining transparency. The commenter also supported the proposal to allow NOAA to prepare a single EIS covering both exploration and commercial recovery activities.

Response. NOAA appreciates the supportive comment.

Comment 58. For § 971.214(d)(1) Past exploration description and affirmation, a commenter supported the proposed provision to allow a consolidated exploration license and commercial recovery permit applicant to refer to the exploration activities of "other entities" outside of the work of the applicant or the proposed transferor to demonstrate that the applicant will be able to proceed to commercial recovery with limited or no additional exploration.

Response. NOAA appreciates the supportive comment.

Comment 59. For § 971.214(d)(1)(i)(F) Past exploration description and affirmation, a commenter requested that NOAA remove the term "continued" in "Evaluating the continued feasibility of commercial scale operations …." The commenter asserted that the feasibility of commercial operations should be assessed based on current and projected conditions at the time of the consolidated application. A second commenter requested that NOAA retain the term "continued" in this provision and recommended that NOAA conduct a rigorous review of applications with respect to this criterion, including requiring that financial projections be prepared by independent consultants. The second commenter also argued that NOAA should conduct a legal feasibility review for DSHMRA applicants and their foreign partners, especially those foreign partners who are signatories to the LOSC. A third commenter argued that NOAA should consider whether it could approve an application if the U.S.-based company would rely on foreign processing, and NOAA would have no authority or NEPA review over that foreign source.

Response. Paragraph (d)(1)(i)(F) of § 971.214 directs that an applicant who is using the consolidated license and permit application process shall provide a description of past exploration activities that includes an evaluation of the feasibility of commercial scale operations, and lessons learned from past exploration activities for the continued feasibility of commercial recovery activities are relevant to NOAA's evaluation of a consolidated license or permit application. Moreover, § 971.214(d)(1)(i)(F) mirrors the existing language of § 970.203(b)(3)(vi).

Regarding NOAA's evaluation of the feasibility of commercial recovery activities based on an applicant's past exploration and commercial recovery activities, NOAA understands that there is inherent risk in deep seabed mining and that past successes and failures can inform an applicant's decision to proceed with new deep seabed mining proposals and NOAA's review of a DSHMRA application. NOAA acknowledges, however, that as of the date of application commercial recovery may not have occurred; the use of the word "continued" is not meant to imply (or require) that the applicant, any affiliate of the applicant, or any other entity has already become engaged in commercial recovery prior to the submission of a consolidated application.

As to processing, NOAA will determine whether to authorize proposals to use foreign sources for processing recovered hard mineral resources pursuant to §§ 971.209 and 971.408, which allow for foreign processing under certain circumstances.

Applicants must adhere to the provisions of the Act and the regulations. As such, regarding NOAA's review of the legal feasibility not only for a DSHMRA applicant, but also for its foreign partners, to the extent an applicant is relying on financial or other support from domestic or foreign partners, NOAA evaluates those arrangements as part of its DSHMRA application review.

Comment 60. For § 971.214(d)(1)(ii) Past exploration description and affirmation, a commenter supports the proposed text at § 971.214, paragraph (d)(1)(ii).

Response. NOAA appreciates the supportive comment.

Comment 61. For § 971.214(d)(2) Statement of financial resources, a commenter supported the proposed text at § 971.214, paragraph (d)(2) which would allow applicants to include information in their consolidated application that demonstrates their capability to commit "or raise" sufficient financial resources to cover the estimated costs of their proposed exploration and commercial recovery programs.

Response. NOAA appreciates the supportive comment.

Comment 62. For § 971.214(d)(3) Statement of technological experience and capabilities,

a commenter requested that NOAA make the following change (in strikeout/underlined text) to § 971.214, paragraph (d)(3):

"Statement of technological experience and capabilities. Information sufficient to demonstrate that the applicant ~~has~~ possesses or has access to the technological capability to carry out the exploration program contained in the exploration plan and the commercial recovery program contained in the commercial recovery plan.…"

The commenter considered that the above amendment was necessary because an applicant may not always directly possess or own the technological capability to carry out the proposed exploration and commercial recovery activities; rather, the applicant may partner with or subcontract to other entities that own or possess the technological capability to execute the proposed activities on behalf of the applicant.

Response. NOAA agrees with this comment and has made the change to the text in § 971.214(d)(3). Paragraph (d)(3) does not require that an applicant have possession of the technology required at the time an application is filed or NOAA issues its approval. Rather, an applicant needs to show what technology is needed and demonstrate that it will have access to such technology (which may be, for example, through agreements, partnerships, or contracts). This is a clarifying comment that is consistent with the initial DSHMRA regulations as well as § 971.214(e)(4)(ii).

Comment 63. For § 971.214(d)(3)(ii) Statement of technological experience and capabilities, a commenter noted that there may be cases where a consolidated license and commercial recovery permit application may include an exploration plan that covers only exploration activities that fall within the scope of § 970.701(a)(1-10) (listing activities have no potential for significant environmental impact and will require no further environmental assessment). The commenter requested that NOAA revise § 971.214(d)(3)(ii) as follows (proposed change in strikeout/underlined text):

"(ii) Where the exploration plan contains exploration activities which fall outside the

scope of § 970.701(a), paragraphs 1-10, a ~~A~~ description of the environmental monitoring equipment to be used by the applicant in monitoring the environmental effects of the exploration program;"

Response. In reviewing a consolidated application, NOAA needs the full suite of information available so that it can assess in the first instance the scope of the proposed exploration activities, potential for significant environmental impacts, and any applicable monitoring equipment. Relatedly, and as relevant to § 971.214(d)(3)(ii), it is critical that the applicant provide a description of the environmental monitoring equipment so that NOAA may assess the applicant's technological experience and capabilities.

Comment 64. For § 971.214(d)(4)(iii) Exploration plan, a commenter requested that NOAA adopt the existing text at § 970.203(b)(3) for § 971.214(d)(4)(iii):

"The intended exploration schedule which must be responsive to the diligence requirements in § 970.602. Taking into account that different applicants may have different concepts and chronologies with respect to the types of activities described, the schedule should include an approximate projection for the exploration activities planned. Although the details in each schedule may vary to reflect the applicant's particular approach, it should address in some respect approximately when each of the following types of activities is projected to occur."

Response. NOAA has modified the proposed text in § 971.214(d)(4)(iii) but these changes have not changed the meaning of § 970.203(b)(3). The text in § 971.214(d)(4)(iii) that states the "intended exploration schedule addressing which of the following exploration activities the applicant intends to conduct after the issuance of the license and when each of these proposed activities will occur" is a clearer statement and still provides flexibility for the applicants regarding "intended" schedules. However, in order to better mirror the language of §§ 970.203(b)(6) and 971.201(b), NOAA has added additional language to § 971.214(d)(2) to make clear that the applicants are still expected to provide a schedule of expenditures and that the schedule of expenditures must be responsive to both the exploration plan and the commercial

recovery plan. This is a technical and clarifying change in response to public comment that is consistent with the proposed rule.

Comment 65. For § 971.214(d)(4)(iii)(C) and (D) Exploration plan, a commenter requested that NOAA revise § 971.214(d)(4)(iii)(C) and (D) as follows (proposed text underlined):

"(C) Designing and testing system components onshore and at sea (if required);

(D) Designing and testing mining systems which simulate commercial recovery (if required);"

The commenter argued that the deep-sea mining industry has significantly advanced since DSHMRA came into force, and some technology (such as those related to onshore and at sea mining systems) has already been designed and tested.

Response. NOAA agrees with the comment that designing and testing these components and systems may not be needed for all applicants or technologies that have already been sufficiently designed and tested and has added clarifying language "or an explanation as to why this is not necessary" to § 971.214(d)(4)(iii)(C) and (D). This is a technical and clarifying change in response to public comment that is consistent with the proposed rule.

Comment 66. For § 971.214(d)(4)(iv)(C) Exploration plan, a commenter noted that there may be cases where a consolidated license and commercial recovery permit application may include an exploration plan that covers only exploration activities which fall within the scope of § 970.701(a)(1-10) (listing activities that have no potential for significant environmental impact and will require no further environmental assessment). The commenter requested that NOAA revise § 971.214(d)(4)(iv)(C) as follows (proposed change in strikeout/underlined text): "(ii) Where the exploration plan contains exploration activities which fall outside the scope of § 970.701(a), paragraphs 1-10, m~~M~~easures to protect the environment and to monitor the effectiveness of environmental safeguards and monitoring systems. These measures must take into account the provisions in §§ 970.506, 970.518, 970.522 and subpart G of this part."

Response. In reviewing a consolidated application, NOAA needs the full suite of information available so that it can assess in the first instance the scope of the proposed exploration activities, potential for significant environmental impacts, and any applicable monitoring equipment. However, NOAA has made a revision to correct an inadvertent typographical error in this section of the proposed rule: the reference to "subpart G of this part" has been replaced with "subpart G of part 970."

Comment 67. For § 971.214(d)(5)(iii) Commercial recovery plan, a commenter requested that NOAA revise § 971.214(d)(5)(iii) as follows (underlined text):

"(iii) Environmental safeguards and monitoring systems, which <u>may evolve over time in light of the findings of the Environmental Impact Statement and as required for project development phases and</u> must take into account requirements under subpart F of this part, including best available technologies (BAT) (§ 971.604) and monitoring (§ 971.603);"

The commenter asserted that it is standard practice for environmental monitoring and management plans to be refined following the completion of preliminary assessments.

Response. NOAA agrees with the comment, has made this change with a modification to ensure consistency in referring to environmental impact statements throughout these regulations, and notes that it is the inherent nature of the Act, regulations, monitoring plan, and monitoring plan TCRs that the plan may be refined and evolve over time based on any EISs and subsequent deep-sea mining activities. See, e.g., 30 U.S.C. 1424(3), 15 CFR § 971.603(g). As such, this is a technical change, consistent with the Act and regulations, to provide clarification in response to public comment. NOAA made a further technical change to the text of § 971.214(d)(5)(v), clarifying that the resource assessment is required to address the requirements of § 971.501 only to the extent practicable and that the resource assessment may be preliminary at the time of the application. The requirements of § 971.501 were structured for applicants using a sequential application process, but these requirements may not make full sense in the case of some applicants using the consolidated process. The additional language is intended to clarify that the

resource assessment may be more preliminary for some applicants using the consolidated application process. This is a clarifying change that does not change the substance of the regulation.

Comment 68. For § 971.214(d)(6)(ii) Environmental and use conflict analysis, a commenter requested that NOAA revise § 971.214(d)(6)(ii) as follows (underlined text):

"(ii) A monitoring plan for any proposed but not yet completed exploration activities, including test mining, and any at-sea commercial recovery activities that meets the objectives and requirements of § 971.603. <u>The monitoring plan may be preliminary at the time of application and shall be finalized following completion of the EIS and in coordination with the development of the TCRs, incorporating relevant environmental data, impact modeling, and assessment outcomes;</u>"

Response. NOAA agrees with the comment, has made this change, and notes that it is the inherent nature of the Act, regulations, monitoring plan, and monitoring plan TCRs that the plan may be refined and evolve over time based on any EISs and subsequent deep-sea mining activities. See, e.g., 16 U.S.C. 1424(3), 15 CFR § 971.603(g). As such, this is a technical change, consistent with the Act and regulations, to provide clarification in response to public comment. NOAA has also made conforming and clarifying edits throughout § 971.214(d)(6) to consistently refer to any EISs that may be prepared on the proposed activities in the consolidated license and permit application.

Comment 69. For 15 CFR § 971.214(d)(8)(ii)(D) Statement of Ownership, a commenter requested that NOAA revise § 971.214(d)(8)(ii)(D) as follows (strikeout text):

"Sufficient information to demonstrate that the applicant is a U.S. citizen, including:

[…]

~~(D) Certification of essential and nonproprietary provisions in articles of incorporation, charter or articles of association~~;"

The commenter expressed concern as to a certification requirement, including the

mechanism by which certification would operate and who would be responsible to certify.

Response. NOAA agrees in part with the comment and has changed § 971.214(d)(8)(ii)(D) to require "copies" and not "certification" of all essential and nonproprietary information. This edit is consistent with § 971.206(b)(2)(iv) and § 970.206(b)(4), which is asking for copies of certificates of incorporation and copies of essential and nonproprietary information and not certification of the information. Therefore, NOAA has retained paragraph (D) and replaced "certification" with "copies." NOAA has also made a revision to §§ 971.214(d)(8)(i) and (ii) to correct an inadvertent omission in the proposed rule, by adding "and commercial recovery" after "exploration." Finally, in § 971.214(d)(9)(i) and (ii), NOAA has corrected an inadvertent omission in the proposed rule by adding references to commercial recovery permits. These are technical changes to clarify the scope of the rule, and they are consistent with the purpose of the proposed rule and NOAA's intent in promulgating this section.

Comment 70. For 15 CFR § 971.214(e) Certification, a commenter supported the proposed language of § 971.214(e), regarding certification of applications which are in full compliance.

Response. NOAA appreciates the supportive comment and has made a technical and clarifying edit to § 971.214(e)(1) to correct an inadvertent omission in the proposed rule. NOAA has added "and 971.211" after the reference to § 970.211, to reference the corresponding provisions regarding consultation in both part 970 and part 971.

Comment 71. For § 971.214(e)(2) Certification, a commenter requested that NOAA revise § 971.214(e)(2) as follows (underline text):

"(2) The issuance or transfer of the license and the permit would not violate any of the restrictions of 15 CFR § 970.103(b) and 15 CFR § 971.103(b)."

The commenter proposed that the regulation also explicitly reference § 971.103(b) to ensure comprehensive coverage of restrictions applicable to commercial recovery permits, not

just exploration licenses.

Response. NOAA agrees with the comment that § 971.214(e)(2) applies to both licenses and permits and has added the reference to § 971.103(b). This is a technical clarification to the text of the proposed rule to correct an inadvertent omission. NOAA has also made a clarifying change to § 971.214(e)(3) to address an inadvertent omission in the proposed rule; the clarification, which is consistent with NOAA's intent for, and scope of, the proposed rule, aligns the language of § 971.214(e)(3) with the statutory language in 30 U.S.C. 1413(a)(2)(D) regarding approval of the size and location of an area selected by an applicant.

Comment 72. For § 971.214(e)(5) Certification, a commenter requested that NOAA revise § 971.214(e)(5) as follows (strikeout text):

"~~(5) Issuing the exploration license and the commercial recovery permit described in the application would not violate any of the restrictions in § 970.103(b).~~"

The commenter asserted that this provision was redundant of § 971.214(e)(2).

Response. NOAA agrees with the comment and has removed paragraph (e)(5).

Comment 73. For § 971.214(f)(C) Denial of Certification, a commenter requested that NOAA revise § 971.214(f)(1)(ii)(C) as follows (strikeout text):

"(C) The number of days from receipt of the amended application in which the Administrator will certify or deny certification of the amended application in accordance with 15 CFR § 970.400. The Administrator shall ~~endeavor to~~ complete certification of an amended application within 50 days of receipt."

Response. The term "endeavor" is from the Act when referring to the 100-day deadline to certify an application. See 30 U.S.C. 1413(g). This term is then mirrored in the regulations. For § 971.214(f)(1)(ii)(C), rather than endeavoring to complete a review in 100 days, 50 days is a reasonable period to endeavor to complete review of the amended application, given NOAA's experience to date in processing DSHMRA exploration applications.

Comment 74. For § 971.214(g) Effect of this section on pending applications, a

commenter requested that NOAA revise § 971.214(g) as follows (underline text):

"(g) Effect of this section on pending applications. Within 60 days of this rule becoming final, an applicant who has an application for a license pending before the Administrator may notify the Administrator in writing of its intention to proceed under these consolidated procedures. Such applicants shall submit an amended application that complies with this subpart, and the amended application shall be processed in accordance with this subpart. In reviewing amended applications submitted under this section, the Administrator shall take into account prior review work completed under the previous procedures and avoid unnecessary duplication."

Response. NOAA agrees with the comment in principle and addresses the comment above in the preamble explanation for paragraph (g). NOAA added a clause to the end of the paragraph that states that "except that any work, actions or decisions by NOAA, including required findings at various stages of the application process, shall continue to apply to the extent still applicable." This change is a technical and procedural clarification that reflects NOAA's original intent in proposing § 971.214(g) and that is consistent with the purpose and scope of the proposed rule. It does not establish or alter substantive rights.

Comment 75. One commenter urged NOAA to modify the DSHMRA regulations, including proposed 15 CFR § 971.214(d)(6)(iii), to alert applicants to the need to coordinate with submarine cable companies and regulators in the proposed consolidated license and permit area and to require due diligence and specific identification of existing and planned submarine cables. More generally, the commenter urged NOAA to develop comprehensive cable protection regulations and guidance for deep seabed mining that ensures submarine cable protection and coordination between submarine cables and mining at the earliest stages of mining project proposals and planning. The commenter also urged NOAA to consult and coordinate with those agencies with licensing and policy responsibilities for submarine cables and telecommunications sector critical infrastructure, including the Federal Communications Commission, the Department of Commerce's National Telecommunications and Information Administration, the

Department of Homeland Security, and the Department of State.

Response. NOAA is aware of the potential for use conflicts between deep seabed mining and submarine cables. However, the changes proposed by the commenter to establish comprehensive cable regulations and guidance for deep seabed mining are outside the scope of the present rulemaking and NOAA did not propose, or request public comment on, these issues, including the suggested guidance and further regulations related to submarine cables. Moreover, it is unnecessary to revise § 971.214(d)(6)(iii) as proposed by the commenter, as that provision is broad enough as written for applicants and NOAA to address submarine cables, including TCRs specific to submarine cables. NOAA declines to include a requirement for applicants to conduct additional due diligence steps regarding use conflicts and notes that under the regulations, the Administrator may require the applicant to submit additional data if the basis for determining appropriate TCRs is not available. In the future, NOAA could choose to consider revising the regulations to expressly address submarine cables via a separate action. Under the Act and the DSHMRA regulations there are substantial opportunities for both interagency consultation during the application review process, including with the Federal Trade Commission, Coast Guard, State Department, other Department of Commerce offices, and other federal agencies including the Federal Communications Commission if appropriate, and accepting comments from the public, including the opportunity for private companies and trade groups to give advice on specific TCRs to be attached to a given license or permit. See 30 U.S.C. 1426.

Comment 76. One commenter requested clarification that, under the proposed consolidated procedures, both the timeline for review set forth in current § 971.400 and the consultations required under § 971.402 would occur concurrently with the Administrator's review of a consolidated application. The commenter supported NOAA's 100-day timeline to certify consolidated applications (as referenced in new § 971.214(e)) and requested clarification that this timeline encompasses the full review, consultation, and issuance or transfer process, thereby avoiding sequential delays.

Response. NOAA begins its interagency consultations early in the application review process under §§ 970.211 and 971.211, before certification of such application under § 971.214(e). However, interagency consultations will continue, as necessary and appropriate, throughout the application process even after certification has been completed. Section 971.402 simply describes the need to conclude these ongoing interagency consultations prior to the issuance or transfer of a commercial recovery permit; § 971.402 does not create a new, separate time period during the application process. The timeline for the development of TCRs for commercial recovery permits falls under § 971.400(b). The 100-day timeline is the period during which NOAA will endeavor to certify the consolidated application, but the issuance or transfer of the application would occur after the 100-day period.

Comment 77. A commenter recommended that NOAA explicitly include the imposition and content of TCRs for new, transferred, or modified licenses or permits under the provisions of § 971.214(e).

Response. As noted in § 971.214(a), all requirements set forth in 15 CFR parts 970 and 971, *except* those sections that § 971.214(a) states are inapplicable or those sections that are in conflict with the requirements of § 971.214, continue to apply. Section 971.214(e) applies to the certification stage of an application; TCRs are drafted and finalized after certification and before issuance. The provisions governing TCRs for licenses or permits that were applied for under the consolidated process would continue to be 15 CFR part 970 subpart E and part 971 subpart D. However, one of the changes to the proposed rule text that NOAA has made regarding § 971.214 addresses this comment by modifying §§ 970.500(a) and 971.400(a) to say, "After certification of an application pursuant to subpart C of this part or § 971.214, the Administrator will proceed with a proposal to issue or transfer a permit for the commercial recovery activities described in the application." For the consolidated license and permit application process, certification occurs under § 971.214(e) and not subpart C. By making a conforming change to reference § 971.214 in §§ 970.500(a) and 971.400(a), the connection to the TCR process is made explicit. These are

conforming and clarifying edits that are consistent with the proposed rule and that do not alter any substantive rights.

Comment 78. Commenters supported an efficient and scientifically grounded approach to data submissions under § 971.214(d)(1) and suggested that NOAA allow the use of environmental, geological, and operational data required by this section from an adjacent, similarly situated area with the same, or substantially similar, deep-sea characteristics, such as habitat and fauna, as the area that is the subject of an application for a license or permit.

Response. Section 971.214(d)(1) describes past exploration activities that could be in the area proposed in the DSHMRA application or other areas and that are relevant to whether exploration activities are needed for the consolidated license and permit application. NOAA is not pre-determining what past exploration activities an applicant may include in its applications for a consolidated license and permit and the applicant can describe past exploration activities in the proposed area or adjacent or other similar areas as part of its explanation for § 971.214(d)(1)(ii), to the extent the applicant can explain the relevancy of the information.

Comment 79. A commenter requested clarification that under the proposed § 971.214(d)(1)(ii), an applicant may alternatively satisfy the informational requirement by filing a detailed plan with NOAA prior to the commencement of commercial recovery operations.

Response. Section 971.214(d)(1) describes past exploration activities, and an applicant must provide in its consolidated license and permit application the explanation required under § 971.214(d)(1)(ii) so that NOAA can determine if the applicant is eligible to use the consolidated application based on whether the applicant can pursue commercial recovery activities in an expeditious and diligent manner.

Comment 80. A commenter recommended that NOAA clarify that the description of technology, equipment, methods, processing locations, and other related operational data provided under §§ 971.214(d)(3)(iii), (d)(5), and (d)(6), as applicable, may be based upon either the currently available techniques, knowledge and know-how, or the applicant's current

expectations at the time of submission. The commenter argued that this flexibility would reflect the current capabilities of offshore mineral operations and processing operations while still affording the NOAA sufficient information to execute informed decisions.

Response. The current regulations and § 971.214 do not limit or pre-determine how an applicant can describe how it will address technology, equipment, methods, processing locations, and other related operational data.

Comment 81. A commenter argued that although DSHMRA provides for antitrust review, it does not mandate detailed information requirements such as those proposed in the Proposed Rule (§ 971.214(d)(9)). The commenter asserted they are counterproductive and should be eliminated.

Response. The Act requires that NOAA conduct an antitrust review, 30 U.S.C. 1413(d), and eliminating the information requirements in the new § 971.214(d)(9) would require changing the antitrust provisions in 15 CFR parts 970 and 971 for individual license or permit applications, which NOAA considers to be beyond the scope of this rulemaking. Moreover, the information collected pursuant to these regulatory provisions is important for compliance with the statutory requirement. However, NOAA has made some minor clarifying edits in § 971.214(d)(9), including clarifying that "affiliate" has the same definition as in § 970.101(d).

Comment 82. A commenter argued that the consolidated approach removes a critical separation of two processes, which introduces problems and issues that limit the ability of the agency to ensure effective protection of the marine environment. The commenter stated that the proposed rule language "exploration, if any…" is vague and, as written, could imply that exploration is not necessary before commercial recovery. The commenter argued that baseline characterization of the seabed mineral resource, the physical and geochemical environment, and associated biological communities, all of which should occur during the exploration phase, is fundamental to an accurate environmental impact statement of the activity and the design of test mining and effective monitoring of impacts, which also occurs during the exploration phase. The

commenter requested adding a formal requirement for a test mining phase after exploration and before commercial recovery.

Response. The consolidated license and permit application does not remove the need for the collection or provision of baseline data; rather, as explained in this preamble, the consolidated license and permit application process recognizes the advancements that have taken place in the deep seabed mining industry and exploration activities that industry has completed. As such, eligible applicants for the consolidated license and permit application process will need to explain why they can undertake commercial recovery activities in an expeditious and diligent manner. As noted herein, NOAA is not pre-determining what an applicant may use in its consolidated license and permit application to meet the requirements, and the applicant can describe past exploration activities in the proposed area or adjacent or other similar areas as part of its explanation for § 971.214(d)(1)(ii), new technologies that would allow for the quick generation of the necessary information, and/or access to necessary baseline data from another source, among other options. As for requiring a formal test mining phase after exploration and before commercial recovery, that requirement would be beyond the scope of this rulemaking. An applicant for an exploration license describes in its application the test mining that would be conducted as part of its proposed exploration activities, if any. However, depending on the information that an applicant provides in its initial license application, an applicant intending to conduct test mining at a later date may need to seek a revision to its license before conducting test mining and NOAA may need to supplement its NEPA evaluation.

Comment 83. A commenter requested that NOAA require explicit communication of uncertainty in the information provided to prepare the EIS and in quantification of the direct impact and potential longer-term effect of activities. Characterizing uncertainty could take the form of providing a range of outcomes for pollutants discharged or information on data quality and underlying assumptions used in determining expected quantities of material recovered, duration and extent of disruption to marine ecosystems, etc. The commenter argued that

characterizing uncertainty as precisely as possible is important to reduce risk as the industry progresses. To advance the acceptance of this industry, the commenter requested that NOAA focus on developing best practices and operational guidance rather than streamlining the permitting process.

Response. NOAA is not developing guidance on uncertainties in the industry, best practices, or operational guidance. However, NOAA is updating its DSHMRA technical guidance in a process that is separate from this rulemaking. Updating the technical guidance is critical for having data acquisition standards for monitoring potential impacts. NOAA expects to release a draft of the revised technical guidance for public review later this year. As NOAA gains experience with new DSHMRA applications, NOAA may provide additional guidance regarding thresholds for net financial resources or technological capabilities.

The 15 CFR part 970 and part 971 regulations include relevant provisions regarding the evaluation of environmental impacts, as well as best available technologies for the protection of safety, health, and the environment (§ 971.604). Regarding possible uncertainties in the industry, the regulations require that applicants using the consolidated license and permit application process must demonstrate that they possess the ability to proceed with commercial recovery in an expedited and diligent manner. Regarding the possibility of uncertainties in longer-term impacts of a proposed deep-sea mining activity, NOAA notes that it retains discretion, in evaluating the impacts of any particular proposal, to "draw what it reasonably concludes is a manageable line - one that encompasses the effects of the project at hand, but not the effects of projects separate in time or place." *Seven County Infrastructure v. Eagle County, Colorado,* 605 U.S. 168, 189 (2025) (citations omitted).

§ 971.802 Public disclosure of documents received by NOAA.

NOAA revises § 971.802 to remove outdated procedures and cross-references for handling records and instead replaces the section with a cross-reference to the current regulations which govern public disclosure of documents received by NOAA. The changes revise paragraph

(a), remove paragraphs (b) through (e), and redesignate paragraphs (f) and (g) as paragraphs (b) and (c). The text of the redesignated paragraphs (b) and (c) remain unchanged from the current paragraphs (f) and (g). When an applicant requests that parts or all of an application be kept confidential, e.g., under § 971.214(c), the applicant should understand that NOAA must provide for public review of applications and that NOAA expects to release substantial portions of an application for this review.

Related Comments.

Comment 84. A commenter argued that the open-ended requirement to submit proprietary technology details may chill R&D investment or spur excessive redactions. The commenter requested that NOAA clarify the confidential business information process under 15 CFR Part 4 by specifying how to mark sensitive material, how it will be stored and redacted, and guaranteed review timelines.

Response. The Act requires that NOAA find that an applicant has the technological capability to carry out the activities described in an application. See 30 U.S.C. 1413(c)(2). This process will include NOAA's evaluation of proprietary technological details. Regarding the treatment of proprietary information by NOAA or other federal agencies, the intent of the changes to § 971.802 was to replace outdated information with a single source for the Department of Commerce's treatment of documents and proprietary information, 15 CFR part 4.

Comment 85. A commenter supported the proposed amendment to 15 CFR § 971.802.

Response. NOAA appreciates the supportive comment.

Comment 86. Commenters expressed concern that the proposed changes to public disclosure of documents do not make clear when and how applications are made accessible to the public. A commenter stated that it was not clear from the proposed revision to § 971.802 how the public would access the applications for exploration and commercial recovery submitted to NOAA, in particular when and how the information would be made available. The commenter argued that members of the public have a legal right to review and comment on all aspects of

DSHMRA applications, and it is incumbent on applicants to demonstrate that any information in an application warrants designation as confidential. The commenter further argued that the application as a whole cannot be shielded from public access as that would violate NOAA's legal obligations to provide opportunities for public review and comment. The commenter argued that interested persons should not have to make a formal FOIA request to obtain relevant application materials that have been submitted; it is NOAA's obligation pursuant to 15 CFR §§ 970.212 and 971.212 to allow for examination of such materials in order for the public to be able to comment within the allotted time period.

Response. The original public disclosure text in § 971.802 was outdated and no longer reflected present public disclosure requirements for federal agencies. Regarding public review and comment of formal DSHMRA applications that applicants have submitted to NOAA, NOAA will provide public review and opportunities to comment on those parts of applications that are not confidential in accordance with the applicable provisions of DSHMRA and 15 CFR parts 4, 970, and 971. NOAA publishes notices of DSHMRA applications and opportunities to comment in the Federal Register after NOAA finds an application in full compliance or fully complete.

V. Miscellaneous Rulemaking Requirement

Executive Order 12372: Intergovernmental Review

NOAA has concluded that this regulatory action does not affect any state's intergovernmental review process established under Executive Order 12372.

Executive Order 13132: Federalism Assessment

NOAA has concluded that this regulatory action is consistent with federalism principles, criteria, and requirements stated in Executive Order 13132. The changes to the DSHMRA regulations will facilitate the submission of exploration license and commercial recovery permit applications as well as NOAA and interagency review of the applications. DSHMRA and these regulatory changes do not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and

responsibilities among the various levels of government. Because DSHMRA and these regulations do not affect the principles of federalism, no federalism assessment was prepared.

Executive Order 12866: Regulatory Planning and Review

Based on the analysis in the RIA and public comment received during the proposed rule stage, OMB has determined this final rule is a significant but not economically significant action under Executive Order 12866, "Regulatory Planning and Review," 58 FR 51735 (Oct 4, 1993).

Executive Order 14192: Unleashing Prosperity through Deregulation

This final rule is an EO 14192 deregulatory action.

Executive Order 13211: Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use

This final rule is not a "significant energy action" for purposes of Executive Order 13211. Therefore, NOAA has not prepared a statement of energy effects. The DSHMRA regulations and these revisions will not result in a "significant adverse effect on the supply, distribution, or use of energy."

Executive Order 14285: Unleashing America's Offshore Critical Minerals and Resources.

E.O. 14285 establishes policies to advance U.S. leadership in seabed mineral exploration and responsible commercial recovery. Section 3(a) directs the Secretary of Commerce, acting through NOAA, to expedite the process for reviewing and issuing exploration licenses and commercial recovery permits under DSHMRA, consistent with applicable law, to "ensure efficiency, predictability, and competitiveness for American companies." This rulemaking responds to the directives of E.O. 14285 by providing an option for a consolidated application process, which will streamline and expedite the process for eligible and qualified applicants to apply for and receive an exploration license and commercial recovery permit.

Executive Order 14294 Fighting Overcriminalization in Federal Regulations

Section 5 of Executive Order 14294 provides, in relevant part, that notices of final rules published in the Federal Register, the violation of which may constitute criminal regulatory

offenses, should include a statement identifying that the rule is a criminal regulatory offense and the authorizing statute.

The Executive Order defines a "criminal regulatory offense" as "a Federal regulation that is enforceable by a criminal penalty." E.O. 14294 section 3(b) (90 FR 20363).

DSHMRA establishes that a person subject to the jurisdiction of the United States is guilty of a criminal offense "if such person willfully and knowingly commits any act prohibited by section 1461 of [DSHMRA]." 30 U.S.C. 1463(a). Acts prohibited under Section 1461 include "violat[ing] . . . any regulation issued under [DSHMRA]." 30 U.S.C. 1461(1). As such, for any criminal regulatory offense enforced under the authority of DSHMRA, the Act requires that the offense be committed "willfully and knowingly" to satisfy the applicable mens rea requirement.

NOAA received no public comments on the implementation of E.O. 14294.

Regulatory Flexibility Act

The RFA (5 U.S.C. 601 *et seq.*) requires Federal agencies to prepare an analysis of a rule's impact on small businesses whenever the agency is required to publish a rulemaking, unless the agency certifies, pursuant to 5 U.S.C. 605, that the action will not have significant economic impact on a substantial number of small businesses. The RFA requires agencies to consider, but not necessarily minimize, the effects of rules on small businesses. The goal of the RFA is to inform the agency and public of expected economic effects of the action and to ensure the agency considers alternatives that minimize the expected economic effects on small businesses while meeting applicable goals and objectives.

NOAA developed the FRFA discussing the impacts of the proposed rule on small businesses. The analysis was updated to incorporate revisions to benefit and cost estimates for the final rule with no changes to its conclusion. The Final RIA, Section 7, Final Regulatory Flexibility Analysis (FRFA), contains additional information. NOAA has also developed a DSHMRA webpage that serves, in part, as a small business compliance guide for SBREFA purposes, *https://oceanservice.noaa.gov/deep-seabed-mining/*. NOAA received some public

comments on the Initial Regulatory Flexibility Analysis that NOAA has considered and addressed in the FRFA. Please see the response to Comment 22. For responses to comments on the consolidated application fee, please refer to NOAA's responses to Comments 33 and 34.

Summary of Findings

NOAA has determined that the final rule would result in a cost savings for the affected businesses. Based on the information from this analysis we found that: (1) there are an estimated seven U.S. businesses that would be affected by this final rule; (2) for these seven businesses, we estimate that 57% (or four businesses) are considered small based on the Small Business Administration (SBA) size standards; and (3) although we estimate that seven businesses would be affected by this final rule, we recognize that the number of applicants could be even smaller since currently there are no U.S. companies engaged in deep seabed commercial recovery of hard mineral resources and there are specific technological, engineering, capital and support services required to undertake seabed mining.

1. Final Regulatory Flexibility Analysis

The RFA establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration."

2. Statement of Need for and Objectives for the Rule

Prior to this final rule, the DSHMRA regulations required a sequential process. Applicants first had to obtain an exploration license before a commercial recovery permit could be applied for. While this sequential approach was initially appropriate due to the nascent stage of deep seabed mining technology and the data needed for a commercial recovery application, a consolidated review was always envisioned for a more mature industry.

The statutory authority for NOAA to prescribe, change, revise, or amend the affected regulations under 15 CFR Parts 970 and 971 is provided under DSHMRA (30 U.S.C. 1413, 1426). NOAA published its DSHMRA exploration license regulations (15 CFR part 970) in 1981, and its commercial recovery permit regulations (15 CFR part 971) in 1989.

The objective of this final rule is to provide the option for a consolidated application that streamlines the process for qualified applicants, in accordance with E.O. 14285, "Unleashing America's Offshore Critical Minerals and Resources," establishing policies to advance U.S. leadership in seabed mineral exploration and responsible commercial recovery.

3. Summary Of Substantive Issues Raised by Public Comments and Statement of Changes

As a result of the public comments and additional public data available, NOAA has updated the FRFA estimates based on the following changes: (1) partial monetization of the applicant's benefit of 100 days saved through the consolidated permit process and (2) included a revision to the applicant's wage burden benefit calculated using PRA "OMB Control # 0648-0145," Section 12. For more information on these updates, please see Section 1.2.a. of the Final RIA. The changes did not impact the number of entities affected by the rule but resulted in an increased benefit to the small business when accounting for the 100 days cost savings. The detailed description of the cost impact to the small businesses is described in the *Cost Impact Analysis* of this FRFA.

4. Description of the Estimated Number of Small Businesses

NOAA used the North American Industry Classification System (NAICS) codes of the current businesses that have applied or expressed interest (prospective DSHMRA applicants). The agency identified seven businesses likely to be affected by this rule. Research and compilation of employee size and revenue data for all seven businesses was conducted. Available name and address information was used to research public and proprietary databases for business type (subsidiary or parent business), primary line of business, employee size, and revenue. The preferred source, deemed most authoritative, came directly from prospective

DSHMRA applicants. Employee size and revenue data for all seven businesses was collected and analyzed. Using names and addresses, public and proprietary databases were consulted to determine business type (subsidiary or parent), primary line of business, employee count, and revenue. The most authoritative information was obtained directly from prospective DSHMRA applicants. In cases where the prospective DSHMRA applicant did not provide this information, the secondary preferred source came from Dun & Bradstreet, which provides a comprehensive database of business records for over 600 million organizations internationally. This information was matched to the SBA's "Table of Small Business Size Standards" to determine if a business is small in NAICS 212290 - All Other Metal Ore Mining which best describes deep-sea mining. This industry has an SBA size standard of 1,250 employees. Based on the information available, four out of seven businesses were classified as potentially impacted by this final rule as small businesses.[4] In addition to these directly impacted small businesses, businesses in several other industries may be indirectly impacted and are included in Table 1.

Table 1. NAICS Categories for Small Businesses

NAICS Code	**Description**	**Number of Small Businesses by Industry***	**Small Business Share of Industry***	**Estimated Revenue Per Small Business***	**SBA Standard** *	**Number of Small Businesses Affected by the Rule*****
212290	All Other Metal Ore Mining	30	88%	$40.5 M	1,250 Employees	4
213114	Support Activities for Metal Mining	158	90%	$2.3 M	$41.0 M	
213115	Support Activities for Nonmetallic Minerals (except Fuels) Mining	175	90%	$2.7 M	$20.5 M	
523110	Investment Banking and Securities Intermediation	1,861	91%	$2.6 M	$47.0 M	

[4] Out of the seven businesses analyzed one business was determined not a small business and two businesses could not be assessed due to a lack of employment information.

NAICS Code	Description	Number of Small Businesses by Industry*	Small Business Share of Industry*	Estimated Revenue Per Small Business*	SBA Standard**	Number of Small Businesses Affected by the Rule***
541620	Environmental Consulting Services	8,119	97%	$1.2 M	$19.0 M	
541690	Other Scientific and Technical Consulting Services	25,810	98%	$0.8 M	$19.0 M	

*Source: U.S. Census Bureau Statistics of US Businesses

**Source: SBA Office of Size Standards

***Source: NOAA records. The number of small businesses is calculated based on business information received from potential DSHMRA applicants and SBA Size Standards by 6-digit NAICS code. In some cases, the SBA Size Standard is based on a business's total annual receipts (gross income plus cost of goods sold). Due to a lack of data on businesses' annual receipts it was not possible to determine whether they met the standard for a small business.

5. Cost Impact Analysis

As noted in the Final RIA, there are cost efficiencies in the transition from print to digital for submission of the application and also efficiencies in the consolidation of the permitting process rather than completing both the exploratory license and commercial recovery permit processes. Monetized savings are found in the preparation of one report rather than two and the need to attend only one adjudicatory hearing in the event certification is denied, rather than two. The applying business would also see a savings of 100 days through only one review process rather than two.

For an individual small business considering the consolidated application over the separate and sequential exploratory and recovery permit processes, they would see a cost savings of $5,099 from transitioning from paper to digital application,[5] $43,125 from submitting only one application package, $26,358 from reducing the number of adjudicatory hearings for any denial of certification from two to one, and $2,411,192 from time savings of 100 days to start the

[5] This includes the net benefits resulting from transitioning from paper to digital for the exploration and recovery applications ($2,856 - $97 = $2,759 and $2,533 - $97 = $2,436) less the cost of digital submission for the consolidated application ($97).

recovery process. For a business electing the sequential process of exploratory licenses and commercial recovery permit applications, the benefits of transitioning from paper to digital application submissions would be $5,002.[6] Other benefits from the standardization of the exploratory and commercial recovery applications were not quantified.

The net benefits associated with these cost savings over the 10-year period between 2026-2035 are presented in Table 2. The total net benefits (USD) of the final rule is $23,523,304 undiscounted, $20,065,855 discounted at three percent, and $16,521,784 discounted at seven percent.

Table 2: FRFA Estimates of Costs and Benefits to Applicant Businesses Over Ten Years (2026 USD)

	Costs			Benefits			Net Benefit		
	(New Costs)			(Cost Savings)					
Year	Undiscounted	3% Discount	7% Discount	Undiscounted	3% Discount	7% Discount	Undiscounted	3% Discount	7% Discount
2026	$150,872	$146,478	$141,002	$2,503,202	$2,430,294	$2,339,441	$2,352,330	$2,283,816	$2,198,440
2027	$150,872	$142,211	$131,777	$2,503,202	$2,359,508	$2,186,394	$2,352,330	$2,217,297	$2,054,616
2028	$150,872	$138,069	$123,156	$2,503,202	$2,290,785	$2,043,359	$2,352,330	$2,152,716	$1,920,202
2029	$150,872	$134,048	$115,099	$2,503,202	$2,224,063	$1,909,681	$2,352,330	$2,090,015	$1,794,582
2030	$150,872	$130,143	$107,570	$2,503,202	$2,159,284	$1,784,749	$2,352,330	$2,029,141	$1,677,179
2031	$150,872	$126,353	$100,532	$2,503,202	$2,096,393	$1,667,989	$2,352,330	$1,970,040	$1,567,457
2032	$150,872	$122,673	$93,955	$2,503,202	$2,035,333	$1,558,869	$2,352,330	$1,912,660	$1,464,913
2033	$150,872	$119,100	$87,809	$2,503,202	$1,976,051	$1,456,887	$2,352,330	$1,856,951	$1,369,078
2034	$150,872	$115,631	$82,064	$2,503,202	$1,918,496	$1,361,576	$2,352,330	$1,802,865	$1,279,512
2035	$150,872	$112,263	$76,696	$2,503,202	$1,862,618	$1,272,501	$2,352,330	$1,750,355	$1,195,805
Total	**$1,508,719**	**$1,286,968**	**$1,059,661**	**$25,032,023**	**$21,352,824**	**$17,581,446**	**$23,523,304**	**$20,065,855**	**$16,521,784**
Annualized	**$150,872**	**$150,872**	**$150,872**	**$2,503,202**	**$2,503,202**	**$2,503,202**	**$2,352,330**	**$2,352,330**	**$2,352,330**
Note: Discounted and annualized amounts are calculated assuming expenditures and payments at the end of year.									

This final rule would result in benefits (i.e., compliance cost savings) to the small

[6] This includes the net benefits resulting from transitioning from paper to digital for the exploration and recovery applications ($2,856 - $97 = $2,759 and $2,533 - $97 = $2,436) less the cost of two digital submissions ($194).

businesses. To assess the impact to small businesses, benefits were calculated as a percentage of businesses' revenues. Annual revenue figures could be found for only two of the four applicants that were determined to be small businesses[7] and showed an interest in applying for a deep seabed mining license and/or commercial recovery permit. This was primarily due to the majority of interested businesses being newly incorporated in 2025. Using business reports and financial records, it was found that the small business benefits of the final rule would have greater than a one percent positive impact on annual revenues.

6. Description of Recordkeeping and Other Compliance Requirements

This final rule will reduce the current requirements for reporting, recordkeeping, and other paperwork requirements for affected businesses by transitioning to electronic delivery and offering an optional consolidated process to streamline exploration licensing and commercial recovery permit applications. These changes and their impacts are described in more depth in Chapters 4 and 5 of the Final RIA.

7. Overlapping, Duplicative, Or Conflicting Federal Rules

The requirements of this final rule will not duplicate, overlap, or conflict with any other Federal requirement.

8. Steps Taken to Minimize the Significant Impact on Small Entities

The requirements in the final rule would bring benefits (i.e., compliance cost savings) to small businesses. NOAA's ability under the Act to develop alternatives to the license and permit processes are limited, as DSHMRA states that an application for an exploration license establishes priority of right to an area. Therefore, NOAA could not, through regulation, remove the requirement for an exploration license. NOAA did consider various amounts for the administrative fee for the consolidated license and permit process. Under existing regulations, the fee for an exploration license application is $100,000, and the fee for a commercial recovery

[7] Due to limited data on business revenue and/or employee totals, it could not be determined whether two potential DSHMRA applicants were small businesses. Hence, these businesses were not included in this analysis.

permit application would be another $100,000. NOAA is proposing a $350,000 fee for the consolidated license and permit application, which imposes a cost burden of $150,000 when compared to the total cost of $200,000 when permits are pursued sequentially. Additionally, as required in the Act (30 U.S.C. § 1414) and described in the regulations (15 CFR §§ 970.208 and 971.208), an applicant must pay to the Administrator a reasonable administrative fee, and the amount of the administrative fee shall reflect the reasonable administrative costs incurred in reviewing and processing the application. Therefore, this fee may be adjusted up or down depending on the administrative costs incurred. For further discussion of the consolidated application fee, please refer to Comments 33 and 34, and NOAA's responses to those comments, above.

Paperwork Reduction Act

This rule contains a collection-of-information requirement subject to review and approval by the OMB under the PRA, 44 U.S.C. 3501 *et seq*. This rule extends and revises the requirements for the collection of information 0648-0145, formerly titled "Deep Seabed Mining Regulations for Exploration Licenses" and now renamed "Deep Seabed Mining Regulations." In accordance with Section 3507(d) of the PRA, the information collection requirements included in this rule have been submitted for approval to OMB.

This rule permits the submissions of consolidated applications seeking both exploration licenses and commercial recovery permits. Anyone seeking an exploration license or commercial recovery permit must submit certain information that allows NOAA to ensure the applicant meets the standards of the Act. Licensees and permittees are required to conduct monitoring and make reports, including annual reports regarding the licensee's or permittee's conformance to the schedule of activities and expenditures contained in the license or permit, and they may request revisions, transfers, or extensions of licenses or permits. Information required for the issuance, revision, transfer, and extension of licenses and permits ensures that the Administrator is able to make determinations on the findings set forth in 30 U.S.C. 1413(c) and 30 U.S.C. 1415(a) and

the factors set forth in the DSHMRA regulations. These findings and factors include that applicants have identified areas of interest for deep seabed hard mineral exploration and production; developed plans for those activities; have the financial resources available to conduct the proposed activity; and have considered the effects of the activity on the natural and human environment. This information is used to determine whether licenses and permits should be issued, revised, transferred, or extended. The licenses and permits are subject to annual reporting requirements and may be subject to extension requests (every five years for exploration licenses, or every twenty years for commercial recovery permits).

NOAA estimates that the public reporting burden for applicants taking advantage of the consolidated exploration license and commercial recovery permit process would be 1,125 hours per applicant; with an estimated one applicant per year using the consolidated process, the total annual burden hours for this process would be 1,125 hours. This estimate takes into account the one-time initial cost (in hours) per entity to prepare and submit to NOAA the consolidated license and permit application. NOAA estimates that the public reporting burden for applicants submitting an exploration license application alone would be 750 hours per applicant, with seven applicants anticipated per year resulting in total annual burden hours of 5,250. A commercial recovery permit application alone would be 750 hours, with one anticipated commercial recovery permit applicant per year for a total of 750 anticipated annual burden hours. This estimate takes into account the one-time initial cost (in hours) per entity to prepare and submit to NOAA either a license application or a permit application.

NOAA anticipates a total of seven annual exploration license applications, one annual commercial recovery permit application, and one annual consolidated application for both an exploration license and a commercial recovery permit. These estimates reflect an upper bound which may overstate the anticipated annual burden, and the burden estimates will be updated in the next renewal cycle based on the actual number of applications received. NOAA sought information from potential respondents as to the time estimates of preparing applications. One

potential respondent estimated a total of 3,600 hours to prepare three applications, resulting in an estimated 1,200 hours per application. Another respondent estimated a total of 600 hours to prepare two applications, resulting in an estimated 300 hours per application. Averaging the estimated time burden between these two potential respondents results in an estimated 750 hours per application. NOAA used this hour estimate for the time burden of preparing a single license or permit application. For a consolidated exploration license and commercial recovery permit application, this is a new proposed process, but NOAA provides an educated estimate that the time burden would be 1.5 times that of a single application, due to efficiencies gained in reducing duplication of effort. As such, NOAA estimates that preparation of a consolidated application would take 1,125 hours. NOAA will update this information in future renewals of this collection based on the actual number of license applications, permit applications, and consolidated applications received during the collection approval cycle, and on further information.

NOAA estimates that there may be one objection to license or permit terms, conditions, or restrictions received per year. NOAA anticipates that the respondent would spend 250 hours per objection for an estimated total annual burden of 250 hours.

Every subsequent year, NOAA anticipates that the total annual cost burden (in hours) for applicable entities to implement the rule by filing annual reports would be 20 hours per report, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The estimated total burden to produce an annual report will vary according to the amount of activities by the license and/or permit holder and is expected to average 20 hours based on previous reports submitted to NOAA. With 10 anticipated annual reports per year, that would result in a total of 200 annual burden hours for annual reports.

The estimated total burden to prepare a license or permit extension request which includes an exploration plan or commercial recovery plan is 250 hours. A license is issued for a

period of ten years. Extension requests may be submitted every five years for exploration licenses, or may be submitted after ten or twenty years (depending on circumstances) for commercial recovery permits. NOAA estimates that the annualized burden hours of extension requests is 100 annualized hours for exploration license extension requests and 25 annualized hours for commercial recovery permit extension requests.

The estimated total burden to prepare a license or permit revision is 40 hours. Based on historical data, NOAA expects to receive 2 revision requests in a given year for a total of 80 annual burden hours.

The estimated total burden to prepare a license or permit transfer request is 750 hours. Based on historical data, NOAA expects to receive 1 transfer request every 10 years. NOAA estimates that the annualized burden of a transfer request is 75 hours.

NOAA has made an educated estimate, based on its experience with processing other types of permit or license hearings or appeals, that the applicant may spend 200 hours of time preparing submittals for an adjudicatory hearing if such hearing is requested or necessary. NOAA anticipates that there may be one adjudicatory hearing per year for a total of 200 annual burden hours.

In sum, the estimated annual public reporting burden hours for this collection of information is 8,055 hours. The estimated total annual wage burden costs would be $926,325 based on the Bureau of Labor Statistics Occupational Outlook Handbook mean annual wage estimate for Chief Executives (11-1011) at $239,200 *(https://www.bls.gov/ooh/management/top-executives.htm#tab-5).* The hourly wage rate was calculated by dividing the mean annual salary by 2,080 hours for an hourly wage rate of $115.

NOAA anticipates that the annual cost burden for applicable entities taking advantage of the consolidated exploration license and commercial recovery permit process is $350,000 since the consolidated application fee has been set at this amount. With one anticipated consolidated application per year, this would be a total estimated annual cost to respondents of $350,000 for

the consolidated permit process.

NOAA anticipates that the annual cost burden for applicants submitting an exploration license application alone or a commercial recovery permit application alone would be $100,000 for the application fee. With an anticipated seven exploration license applications and one commercial recovery permit application per year, this would be a total estimated annual cost to respondents of $800,000 for the exploration license and commercial recovery permit applications. NOAA anticipates that there may be one adjudicatory hearing per year. It is anticipated that a respondent will hire an attorney for any adjudicatory hearings. The cost anticipates that the attorney will spend approximately 200 hours of work submitting evidence, providing oral argument, and submitting written arguments if desired. The mean hourly wage rate for a lawyer (BLS occupational code 23-1011, *https://data.bls.gov/oesprofile/*) is $87.86. A multiplier of 1.5 was used to calculate the loaded salary/anticipated billing rate, for an hourly rate of $131.79. 200 hours x $131.79/hour = $26,358.

In sum, the total estimated annual cost burden to respondents or record keepers is $1,176,358. This total estimated annual cost burden does not include the cost of wage burden hours described above; the total estimated wage burden cost is $926,325 as described above.

These hour and cost estimates are subject to variations among responsible entities depending on the size of the area being explored or mined and the extent of operations. As NOAA gains experience with the regulatory program, burden estimates will be revised.

The estimated annual federal salary cost to the U.S. Government is $2,222,226. These estimates are based on base salaries calculated using the General Schedule (GS) pay tables (*https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2025/RUS.pdf*) for the Rest of U.S. location. The Rest of U.S. location was used since NOAA employees are geographically dispersed. A multiplier of 1.5 was used to calculate the loaded salary. The estimated number of federal employees needed to process the information collection for the applications and other reporting requirements are 20 employees, with ten

employees at a salary level of GS-15, five employees at a salary level of GS-14, and five employees at a salary level of GS-13.

NOAA anticipates travel may be required for public hearings, with an estimated annual cost of $48,000 based on an estimated four trips per year for four staff, costing $3,000 each.

NOAA anticipates there may be one adjudicatory hearing per year. The base salary cost for the Administrative Law Judge for the hearing was calculated using the GS pay tables (*https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2025/ALJ.pdf*) and using a multiplier of 1.5 to obtain the loaded salary for an estimated cost of $6,023.

In sum, the total estimated annual cost to the U.S. Government is $2,276,249.

NOAA solicited comments on this determination in the proposed rule, and several comments addressing the impact to small business and the cost burden were received. These comments were reviewed and addressed in the previous comment section. See NOAA Responses to Comments 21 and 22.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

National Environmental Policy Act

NOAA analyzed this rule in accordance with the National Environmental Policy Act (NEPA, 42 U.S.C. 4321 *et seq.*), the NOAA Administrative Order 216-6A, and the NOAA Companion Manual, "Policy and Procedures for Compliance with the National Environmental Policy Act and Related Authorities" (effective June 30, 2025). This rule establishes a consolidated permit application process without changing the substantive standards to which applications will be held. Because this rulemaking includes only technical and/or procedural changes to the regulatory text, it falls within a category of actions that NOAA has determined

normally does not significantly affect the quality of the human environment and therefore maybe excluded from the requirement to prepare an environmental assessment or an environmental impact statement. Specifically, the rule is consistent with the criteria of categorical exclusion reference number G7 in Appendix E of the NOAA Companion Manual, Preparation of policy directives, rules, regulations, and guidelines of an administrative, financial, legal, technical, or procedural nature, or for which the environmental effects are too broad, speculative or conjectural to lend themselves to meaningful analysis and will be subject later to the NEPA process, either collectively or on a case-by-case basis. NOAA has not identified any extraordinary circumstances that would preclude this categorical exclusion. Furthermore, as required by DSHMRA (30 U.S.C. 1419(d)), NOAA will prepare an environmental impact statement before issuing any license or permit. Therefore, NOAA has determined that this rule would not result in significant effects to the human environment and qualifies to be categorically excluded from the need to prepare a further NEPA analysis. NOAA reviewed comments submitted in response to the notice of proposed rulemaking prior to concluding this NEPA process and finalizing this rule, and responses to those comments are included in the preamble of this final rule.

List of Subjects in 15 CFR Parts 970 and 971

Administrative practice and procedure, Marine resources, Mineral resources.

Neil A. Jacobs,

Under Secretary of Commerce

for Oceans and Atmosphere

and NOAA Administrator,

National Oceanic and Atmospheric Administration.

For the reasons stated in the preamble, NOAA amends 15 CFR parts 970 and 971 as

follows:

PART 970--DEEP SEABED MINING REGULATIONS FOR EXPLORATION LICENSES

1. The authority citation for part 970 continues to read as follows:

Authority: 30 U.S.C. 1401 et seq.

2. Amend § 970.200 by revising paragraph (b) to read as follows:

§ 970.200 General.

* * * * *

(b) *Place, form and copies.* Applications for the issuance or transfer of exploration licenses shall be submitted in electronic format, verified and signed by an authorized officer or other authorized representative of the applicant, to an email address or website as specified by NOAA. The application format shall be organized according to the specific regulatory topics and sections. For applications received electronically after the close of business, for purposes of computing the Administrator's required response time, the application shall be deemed to be received at 8 A.M. eastern time on the next business day.

* * * * *

3. Amend § 970.208 by revising the first sentence in paragraph (b) to read as follows:

§ 970.208 Fee.

* * * * *

(b) *Amount.* In order to meet this requirement, a fee payment of $100,000 payable to the National Oceanic and Atmospheric Administration, Department of Commerce, shall be submitted prior to or concurrent with each application; the application should state the method of payment and the date the payment was submitted. * * *

4. Revise § 970.209 to read as follows:

§ 970.209 Substantial compliance with application requirements.

(a) Priority of right for the issuance of licenses to new entrants shall be established on the basis of the chronological order in which exploration license applications filed under subpart A of this part and consolidated license and permit applications filed under § 971.214 of this chapter that are in substantial compliance are received by the Administrator.

(b) In order for an application to be in substantial compliance, it shall include information specifically identifiable with and materially responsive to the requirements contained in, as applicable, §§ 970.201 through 970.208 or § 971.214(d) of this chapter. A determination on substantial compliance shall relate only to whether the application contains the required information and does not constitute a determination on certification of the application, or on issuance or transfer of a license or permit.

(c) The Administrator shall notify the applicant in writing whether the application is in substantial compliance within 30 days of receipt of an application. The notice shall identify, if applicable, in what respects the application is not in either full or substantial compliance. If the application is in substantial but not full compliance, the notice shall specify the information which the applicant shall submit in order to bring it into full compliance, and why the additional information is necessary.

5. Revise § 970.210 to read as follows:

§ 970.210 Reasonable time for full compliance.

Priority of right shall not be lost in case of any application filed which is in substantial but not full compliance, as specified in § 970.209, if the Administrator determines that the applicant, within 60 days after issuance to the applicant by the Administrator of written notice that the application is in substantial but not full compliance, has brought the application into full compliance with the requirements, as applicable, of §§ 970.201 through 970.208 or § 971.214(d) of this chapter.

6. Amend § 970.303 by revising paragraph (a) to read as follows:

§ 970.303 Procedures for new entrants.

(a) *Filing of new entrant applications or amendments; priority of right.* New entrant applications or amendments shall be filed in accordance with § 970.200 or, as applicable, § 971.214(b) and (c) of this chapter. A new entrant may file an application or amendment only at or after 1500 hours GMT (11:00 a.m. EDT) January 3, 1983. All applications or amendments filed at that time shall be deemed to be filed simultaneously, and, if in accordance with § 970.209, shall have priority of right over any application or amendment filed subsequently. Priority of right for any application or amendment filed after that time shall be established as described in § 970.209.

* * * * *

7. Amend § 970.500 by revising paragraph (a) to read as follows:

§ 970.500 General.

(a) *Proposal.* After certification of an application pursuant to subpart D of this part, or, as applicable, § 971.214(e) of this chapter, the Administrator shall proceed with a proposal to issue or transfer a license for the exploration activities described in the application.

* * * * *

8. Amend § 970.513 by revising the third sentence in paragraph (a) and paragraphs (b) and (c)(1) to read as follows:

§ 970.513 Revision of a license.

(a) * * * In some cases, it may even be advisable to recognize at the time of filing the original license application that although the essential information for issuing or transferring a license as specified in §§ 970.201 through 920.208, or as specified in § 971.214(d) of this chapter, as applicable, shall be included in such application, some details may have to be provided in the future in the form of a revision. * * *

(b) The Administrator shall approve such application for a revision upon a finding in writing that the revision shall comply with the requirements of the Act and this part.

(c) * * *

(1) The bases for certifying the original application pursuant to §§ 970.401 through 970.406, or, as applicable, pursuant to § 971.214(e) of this chapter;

* * * * *

PART 971—DEEP SEABED MINING REGULATIONS FOR COMMERCIAL RECOVERY PERMITS

9. The authority citation for part 971 continues to read as follows:

Authority: 30 U.S.C. 1401 *et seq.*

10. Amend § 971.101 by revising paragraphs (d) and (r) to read as follows:

§ 971.101 Definitions.

* * * * *

(d) *Applicant* means an applicant for a commercial recovery permit pursuant to the Act and this part; as used in § 971.214, applicant means an applicant using the consolidated exploration license and commercial recovery permit application process; as used in subparts H, I and J of this part, "applicant" also means an applicant for an exploration license pursuant to the Act and part 970 of this chapter. "Applicant" also means a proposed permit transferee;

* * * * *

(r) *Recovery plan* or *commercial recovery plan* means the plan submitted by an applicant for a commercial recovery permit pursuant to § 971.203 or, as applicable, pursuant to § 971.214;

* * * * *

11. Amend § 971.200 by revising paragraph (b) to read as follows:

§ 971.200 General.

* * * * *

(b) *Place, form and copies.* An application for the issuance or transfer of a commercial recovery permit shall be submitted in electronic format, verified and signed by an authorized officer or other authorized representative of the applicant, to an email address or website as specified by NOAA. The application format shall be organized according to the specific

regulatory topics and sections. For applications received electronically after the close of business, for purposes of computing the Administrator's required response time, the application shall be deemed to be received at 8 a.m. eastern time on the next business day.

* * * * *

12. Amend § 971.208 by revising the first sentence in paragraph (b) to read as follows:

§ 971.208 Fee.

* * * * *

(b) *Amount*. A fee payment of $100,000 payable to the National Oceanic and Atmospheric Administration, Department of Commerce, shall be submitted prior to or concurrent with each application; the application should state the method of payment and the date the payment was submitted. * * *

13. Add § 971.214 to read as follows:

§ 971.214 Consolidated license and permit procedures.

(a) *Applicability and Order of Precedence*. This section shall govern all consolidated applications that seek both an exploration license and a commercial recovery permit under the Act. Consolidated license and permit applications shall follow the requirements in this section and not the requirements set forth in §§ 970.200 through 970.208 of this chapter, 970.400 through 970.408 of this chapter, and §§ 971.200 through 971.210, and 971.300 through 971.303. All other requirements set forth in 15 CFR parts 970 and 971 that are not in conflict with the requirements of this section shall apply to a consolidated license and permit application, and all the sections in part 970 of this chapter and this part, except for this section, shall continue to apply to individual license or permit applications. With respect to consolidated applications filed under this section, in the event of any conflict or inconsistency between any provision of this section and any provision of part 970 of this chapter and this part, the provision of this section shall control.

(b) *Who may apply; how*. Any United States citizen who can demonstrate that he, she, or it possesses the scientific, technical, and financial resources to pursue commercial recovery activities in an expeditious and diligent manner may apply to the Administrator for issuance or transfer of an exploration license and a commercial recovery permit using the "consolidated license and permit procedures" as set out in this section. Under these consolidated procedures, a qualified applicant may submit a single consolidated application that seeks both an exploration license and a commercial recovery permit. The Administrator shall issue an exploration license and a commercial recovery permit to the applicant if the application complies with the Act and regulations. The Administrator shall consolidate public hearings and other proceedings for the concurrent processing of the issue or transfer of the license or permit to the extent practicable. The Administrator may prepare a single environmental impact statement that evaluates the impacts of both exploration activities and commercial recovery activities, rather than one environmental impact statement for the exploration license and another environmental impact statement for the commercial recovery permit. Further, the Administrator shall prepare and issue separate proposals to issue or transfer the license or permit, in accordance with §§ 970.500 of this chapter and § 971.400; each proposed license or permit will have its own proposed terms, conditions, and restrictions.

(c) *Application and form of applications*. The application shall contain the information required in paragraph (d) of this section, in the order they appear. Each portion of the application shall identify the requirements of this section to which it responds. An applicant shall request to have any information in its application be kept confidential at the time of submitting the information. An applicant shall include information previously submitted that the applicant will rely on in the consolidated license and permit application. Applications shall be submitted electronically as specified by the Administrator. For applications received electronically after the close of business, for purposes of computing the Administrator's required response time, the application shall be deemed to be received at 8 A.M. eastern time on the next business day.

(d) *Contents*. The application shall contain information sufficient to enable the Administrator to make the findings set forth in 30 U.S.C. 1415(a) and 15 CFR 970.500(c), 971.214(e), and 971.400(c), including the items in paragraphs (d)(1) through (11) of this section.

(1) *Past exploration description and statement of diligence*. A statement by the applicant demonstrating that it possesses the scientific, technical, and financial resources to pursue commercial recovery activities in an expeditious and diligent manner, and detailed support for this statement. Support for this statement may include descriptions of past exploration activities or other relevant information, including, to the extent applicable, paragraphs (d)(1)(i) through (iii) of this section (to the extent this information is not applicable, the application should affirmatively state so):

(i) The description of past exploration activities shall contain information on what relevant work, if any, was performed prior to application submission by the applicant, the proposed transferor, or other entities prior to application. This description shall also include when the work was performed, what entity performed the work, the applicant's relationship to the entity performing the work, and the information collected as a result, including the items in paragraphs (d)(1)(i)(A) through (F) of this section:

(A) Survey cruises to determine the location and abundance of nodules as well as the sea floor configuration, ocean currents and other physical characteristics of potential commercial recovery sites;

(B) Assaying nodules to determine their metal contents;

(C) Designing and testing system components onshore and at sea;

(D) Designing and testing mining systems that simulate commercial recovery;

(E) Designing and testing processing systems to prove concepts and designing and testing systems that simulate commercial processing; and

(F) Evaluating the continued feasibility of commercial scale operations based on technical, economic, legal, and environmental considerations.

(ii) An explanation, with support, for why the applicant qualifies to use the consolidated license and permit procedures in this section, including demonstrating that the applicant possesses the scientific, technical, and financial resources to pursue commercial recovery activities in an expeditious and diligent manner. Support for this statement may include, but is not limited to, past exploration activities (described in paragraph (d)(1)(i) of this section), any other relevant prior work or experience of the applicant or affiliates of the applicant, including work in ocean exploration, mineral extraction, or processing, or other relevant information, such as access to or analysis of information regarding resource assessments or sea floor data, agreements with other entities experienced in deep-sea exploration or commercial recovery, access to or the development of relevant emergent technologies, or any other information the applicant deems to be relevant to and supportive of its assertion it is qualified to use the consolidated application.

(iii) Documentation of any agreements, contracts, or partnerships of other businesses or entities that the applicant will rely on for the various parts of any exploration or commercial recovery operations or financing.

(2) *Statement of financial resources.* Information sufficient to demonstrate that the applicant is capable of committing or raising sufficient resources to cover the estimated costs of the exploration program contained in the exploration plan and the commercial recovery program contained in the commercial recovery plan, required by paragraphs (d)(4) and (5) of this section, including general estimated costs of the exploration and commercial recovery plans. In addition to general estimated costs, the application shall provide an estimated schedule of expenditures that lists estimated expenditures for the work proposed in both the exploration plan and the recovery plan. Other information shall include, to the extent it is available, the most recent audited financial statement (for publicly-held companies, the most recent annual report and Form 10-K filed with the Securities and Exchange Commission) for the applicant and those entities upon which the applicant will rely to finance the exploration activities and the credit and bond

rating of the applicant and such financing entities. An applicant may provide other economic analyses to demonstrate the ability to raise sufficient financial resources, including an internal rate of return (IRR) analysis.

(3) *Statement of technological experience and capabilities.* Information sufficient to demonstrate that the applicant possesses or has access to the technological capability to carry out the exploration program contained in the exploration plan and the commercial recovery program contained in the commercial recovery plan. In particular, the information submitted pursuant to this section shall describe the equipment, knowledge, and skills the applicant possesses or to which it can demonstrate access, including:

(i) A description of the exploration equipment to be used by the applicant in carrying out the exploration program;

(ii) A description of the environmental monitoring equipment to be used by the applicant in monitoring the environmental effects of the exploration program;

(iii) A description of the technology, equipment, and methods to be used by the applicant in carrying out each step in the mining process, including nodule collection, retrieval, transfer to ship, environmental monitoring, transport to processing facilities, nodule processing, waste disposal and compliance with applicable water quality standards. The description shall include:

(A) An analysis of the performance of experimental systems, sub-systems, or analogous machinery;

(B) The rationale for extrapolating from test results to commercial mining;

(C) Anticipated system reliability within the context of anticipated production time lost through equipment failure; and

(D) A functional description of the types of technical qualifications the applicant will require for persons operating its equipment.

(4) *Exploration plan.* A description of the applicant's proposed exploration activities including sufficient information for the Administrator to make the necessary determinations

pertaining to the certification and issuance of a license and to the development and enforcement of the terms, conditions and restrictions (TCRs) for a license; and the specific items in paragraphs (d)(4)(i) through (iv) of this section:

(i) A description of the activities proposed to be carried out during the period of the license;

(ii) A description of the area that will be explored, including its delineation according to § 970.601 of this chapter;

(iii) The intended exploration schedule addressing which of the exploration activities in paragraphs (d)(4)(iii)(A) through (F) of this section the applicant intends to conduct after the issuance of the license and when each of these proposed activities will occur:

(A) Conducting survey cruises to determine the location and abundance of nodules as well as the sea floor configuration, ocean currents and other physical characteristics of potential commercial recovery sites;

(B) Assaying nodules to determine their metal contents;

(C) Designing and testing system components onshore and at sea, or an explanation as to why this is not necessary;

(D) Designing and testing mining systems which simulate commercial recovery, or an explanation as to why this is not necessary;

(E) Designing and testing processing systems to prove concepts and designing and testing systems which simulate commercial processing; and

(F) Evaluating the continued feasibility of commercial scale operations based on technical, economic, legal, political and environmental considerations;

(iv) For exploration activities that the applicant intends to conduct under an exploration license:

(A) A description of the methods to determine the location, abundance, and quality (*i.e.*, assay) of nodules and to measure physical conditions in the area that will affect nodule recovery

system design and operations (*e.g.*, seafloor topography, seafloor geotechnical properties, and currents);

(B) A general description of the recovery and processing technology related to the proposed license and of any planned testing and evaluation of such technology addressing such factors as nodule collection technique, seafloor sediment rejection subsystem, mineship nodule separation scheme, pumping method, anticipated equipment test areas, and details on the testing plan; and

(C) Measures to protect the environment and to monitor the effectiveness of environmental safeguards and monitoring systems. These measures shall take into account the provisions in §§ 970.506, 970.518, 970.522 of this chapter and subpart G of part 970 of this chapter.

(5) *Commercial Recovery Plan.* Description of the applicant's projected commercial recovery activities for the twenty-year period to be covered by the proposed permit, including: sufficient information for the Administrator to make the necessary determinations pertaining to the certification and issuance of a permit and to the development and enforcement of the TCRs for a permit; and the specific items in paragraphs (d)(5)(i) through (vii) of this section:

(i) A description of the activities proposed to be carried out during the period of the permit;

(ii) The intended schedule of commercial recovery (see "Diligent commercial recovery," § 971.503);

(iii) Environmental safeguards and monitoring systems, which may evolve over time in light of the findings of any environmental impact statements (EIS) that the Administrator prepares on the proposed activities in the consolidated license and permit application and as required for project development phases and shall take into account requirements under subpart F of this part, including best available technologies (BAT) (§ 971.604) and monitoring (§ 971.603);

(iv) Details of the area or areas proposed for commercial recovery, which meet requirements for diligence (§ 971.503) and conservation of resources pursuant to subpart E of this part (including § 971.502);

(v) A resource assessment of the area or areas proposed for commercial recovery which addresses the requirements for resource assessment and logical mining unit (§ 971.501) to the extent practicable. The resource assessment may be preliminary at the time of application and may be supplemented following completion of any EISs or during the duration of the license or permit, as additional information is collected;

(vi) A description of the methods and technology to be used for commercial recovery and processing (see § 971.202(b)(1)); and

(vii) The methods to be used for disposal of wastes from recovery and processing, including the areas for disposal and identification of any toxic substances in wastes.

(6) *Environmental and use conflict analysis.* Sufficient marine environmental information for the Administrator to prepare any environmental impact statements (EIS) on the proposed activities in the consolidated license and permit application and to determine the appropriate permit TCRs, including the items in paragraphs d(6)(i) through (iv) of this section. The Administrator may require the submission of additional data in the event the Administrator determines that the bases for suitable EISs or a determination of appropriate TCRs is not available.

(i) Physical, chemical and biological information describing the environmental characteristics of the relevant area, including relevant environmental information obtained during past exploration activities;

(ii) A monitoring plan for any proposed but not yet completed exploration activities, including test mining, and any at-sea commercial recovery activities that meet the objectives and requirements of § 971.603. The monitoring plan may be preliminary at the time of application and shall be finalized following completion of any EISs and in coordination with the

development of the TCRs, incorporating relevant environmental data, impact modeling, and assessment outcomes;

(iii) Information known to the applicant on other uses of the proposed mining area to support the Administrator's determination regarding potential use conflicts between commercial mining activities and those activities of other nations or of other U.S. citizens and to assist the Administrator in making determinations related to potential use conflicts pursuant to §§ 970.503, 970.505, and 970.520 of this chapter, and §§ 971.403, 971.405, and 971.421; and

(iv) Onshore information including the location and operation of nodule processing facilities in accordance with § 971.606.

(7) *Vessel safety and documentation.* In order to provide a basis for the necessary determinations with respect to the safety of life and property at sea, the application shall contain the information in paragraphs (d)(7)(i) through (iii) of this section for vessels used for the purposes covered by the application, except for vessels under 300 gross tons which are engaged in oceanographic research:

(i) *U.S. flag vessel.* A demonstration or affirmation that any U.S. flag vessel used in exploration activities shall possess a current valid Coast Guard Certificate of Inspection (COI). All mining ships and at least one of the transport ships used by each permittee shall be documented under the laws of the United States. To the extent that the applicant knows which U.S. flag vessels it will use, it shall include with its application copies of the vessels' current valid Coast Guard COIs.

(ii) *Foreign flag vessels.* To the extent that the applicant knows which foreign flag vessel(s) it will be using for other purposes, the application shall include evidence that:

(A) Any foreign flag vessel whose flag state is party to the International Convention for the Safety of Life at Sea, 1974 (SOLAS 74) possesses current valid SOLAS 74 certificates;

(B) Any foreign flag vessel whose flag state is not party to SOLAS 74 but is party to the International Convention for the Safety of Life at Sea, 1960 (SOLAS 60) possesses current valid SOLAS 60 certificates; and

(C) Any foreign flag vessel whose flag state is not a party to either SOLAS 74 or SOLAS 60 meets all applicable structural and safety requirements contained in the published rules of a member of the International Association of Classification Societies (IACS).

(iii) *Supplemental certification.* If the applicant does not know at the time of submitting an application which vessels it will be using, it shall submit the applicable certification to the Administrator for each vessel before the cruise on which it will be used.

(8) *Statement of Ownership.* Sufficient information to demonstrate that the applicant is a U.S. citizen, including:

(i) Name, address, and telephone number of the U.S. citizen responsible for exploration and commercial recovery operations to whom notices and orders are to be delivered; and

(ii) A description of the citizen or citizens engaging in such exploration and commercial recovery, including:

(A) Whether the citizen is a natural person, partnership, corporation, joint venture, or other form of association;

(B) The state of incorporation or state in which the partnership or other business entity is registered;

(C) The name of the registered agent or equivalent representative and places of business;

(D) Copies of essential and nonproprietary provisions in articles of incorporation, charter or articles of association; and

(E) The name of each member of the association, partnership, or joint venture, including information about the participation of each partner and joint venturer and/or ownership of stock.

(9) *Antitrust information.* In order to facilitate antitrust review pursuant to section 103(d) of the Act, the application shall contain:

(i) A copy of each agreement between any parties to any joint venture which is submitting a consolidated license and permit application, provided that said agreement relates to deep seabed hard mineral resource exploration or commercial recovery;

(ii) The identity of any affiliate, as defined in § 970.101(d) of this chapter, of any person submitting a consolidated license and permit application; and

(iii) For each applicant, its affiliate, or parent or subsidiary of an affiliate which is engaged in production in, or the purchase or sale in or to, the United States of copper, nickel, cobalt or manganese minerals or any metals refined from these minerals:

(A) The annual tons and dollar value of any of these minerals and metals so purchased, sold or produced for the two preceding years;

(B) Copies of the annual report, balance sheet and income statement for the two preceding years; and

(C) Copies of each document submitted to the Securities and Exchange Commission.

(10) *Fee.* A fee payment of $350,000 payable to the National Oceanic and Atmospheric Administration, Department of Commerce, shall be submitted prior to or concurrent with each application; the application should state the method of payment and the date the payment was submitted. If the administrative costs of reviewing and processing the application are significantly less than or in excess of $350,000, the Administrator shall refund the difference or require the applicant to pay the additional amount before issuance or transfer of the license or permit. In the case of an application for transfer of a license or permit to, or for a significant change to a license or permit held by, an entity that has previously been found qualified for a permit, the Administrator may reduce the fee in advance by an appropriate amount which reflects costs avoided by reliance on previous findings made in relation to the proposed transferee. Payment of the application fee does not determine priority of right.

(11) *Processing outside the United States.* Except as provided in this section and § 971.408, the processing of nodules recovered pursuant to a permit shall be conducted within the

United States, provided that the President or his designee does not determine that this restriction contravenes the overriding national interests of the United States. The application shall contain the information outlined in § 971.408 if applicable.

(e) *Certification.* To the maximum extent practicable, the Administrator shall certify a consolidated application within 100 days of the submission of an application which is in full compliance. If final certification or denial of certification has not occurred within 100 days after submission of the application, the Administrator shall inform the applicant in writing of the then pending unresolved issues, the agency's efforts to resolve them, and an estimate of the time required to do so. Certification shall occur after consultation with other departments and agencies pursuant to § 970.211 of this chapter and § 971.211 and determining in writing that:

(1) The applicant is qualified to use this consolidated license and permit application procedure as the applicant has demonstrated that the applicant possesses the scientific, technical, and financial resources to pursue commercial recovery activities in an expeditious and diligent manner.

(2) The issuance or transfer of the license and the permit would not violate any of the restrictions of 15 CFR 970.103(b) or 971.103(b).

(3) The size and location of the exploration and commercial recovery area selected by the applicant is approved, and this approval shall occur unless the Administrator determines that the area is not a logical mining unit under § 970.601 of this chapter and § 971.501, or commercial recovery activities in the proposed area would result in a significant adverse environmental effect which cannot be avoided by imposition of reasonable restrictions.

(4) The applicant:

(i) Has demonstrated that, upon issuance or transfer of the license and the permit, the applicant shall be financially responsible to meet all obligations which may be required to engage in its proposed exploration and commercial recovery activities;

(ii) Has demonstrated that, upon issuance or transfer of the license and the permit, the applicant shall possess or have access to the technological capability to engage in the proposed exploration and commercial recovery;

(iii) Has satisfactorily fulfilled all past obligations under any license or permit previously issued or transferred to the applicant under the Act;

(iv) Has an exploration plan which meets the requirements of paragraph (d)(4) of this section;

(v) Has a commercial recovery plan which meets the requirements of paragraph (d)(5) of this section; and

(vi) Has paid the application fee specified in paragraph (d)(10) of this section.

(f) *Denial of certification*. The Administrator may deny certification of an application if it does not meet the requirements of paragraph (e) of this section or the requirements for issuance or transfer under §§ 970.503 through 970.507 of this chapter or §§ 971.403 through 971.408. The Administrator shall send to the applicant and publish in the Federal Register written notice of a proposed denial of certification.

(1) Such notice shall include:

(i) The basis for the denial;

(ii) If the basis for the proposed denial is because the applicant is not qualified to use the consolidated procedures under this subsection:

(A) The reasons for that determination;

(B) The time within which the applicant may submit an amended application for an exploration license under part 970 of this chapter without disturbing the applicant's priority of right, which shall be 60 days except as specified by the Administrator for good cause; and

(C) The number of days from receipt of the amended application in which the Administrator shall certify or deny certification of the amended application in accordance with

15 CFR 970.400. The Administrator shall endeavor to complete certification of an amended application within 50 days of receipt.

(iii) If the basis for the proposed denial is a deficiency that the applicant can correct:

(A) How to correct the deficiency; and

(B) The time within which the corrected application shall be submitted, which shall not exceed 180 days except as specified by the Administrator for good cause.

(2) The Administrator shall deny certification:

(i) On the 30th day after the date the notice is sent to the applicant, under paragraph (f) of this section unless before that date the applicant files with the Administrator a written request for an administrative review of the proposed denial; or

(ii) On the last day of the period established under paragraph (f)(1)(ii)(B) of this section during which the applicant may submit an amended application for an exploration license under part 970 of this chapter, if the applicant fails to submit such an amended application before such day and an administrative review requested pursuant to paragraph (f)(2)(i) of this section is not pending;

(iii) On the last day of the period established under paragraph (f)(1)(iii)(B) of this section during which the applicant may correct a deficiency, if such deficiency has not been corrected before such day and an administrative review requested pursuant to paragraph (f)(2)(i) of this section is not pending.

(3) If a timely request for administrative review of the proposed denial is made by the applicant under paragraph (f)(2)(i) of this section, the Administrator shall promptly begin a formal hearing in accordance with subpart I of this part. If the proposed denial is the result of a correctable deficiency, the administrative review shall proceed concurrently with any attempts to correct the deficiency, unless the parties agree otherwise or the administrative law judge orders differently.

(4) The Administrator shall send the applicant written notice of any denial of certification including the reasons therefore.

(5) Any final determination granting or denying certification is subject to judicial review as provided in chapter 7 of title 5, United States Code.

(g) *Effect of this section on pending applications*. Within 60 days of this rule becoming final, an applicant who has an application for a license pending before the Administrator may notify the Administrator in writing of its intention to proceed under these consolidated procedures. Such applicants shall submit an amended application that complies with this subpart, and the amended application shall be processed in accordance with this subpart, except that any work, actions or decisions by NOAA, including required findings at various stages of the application process, shall continue to apply to the extent still applicable.

14. Amend § 971.400 by revising paragraph (a) to read as follows:

§ 971.400 General.

(a) *Proposal.* After certification of an application pursuant to subpart C of this part, or, as applicable, § 971.214(e), the Administrator shall proceed with a proposal to issue or transfer a permit for the commercial recovery activities described in the application.

* * * * *

15. Revise § 971.407 to read as follows:

§ 971.407 Safety at sea.

Before issuing or transferring a commercial recovery permit, the Administrator shall find that the commercial recovery proposed in the application shall not pose an inordinate threat to the safety of life and property at sea. This finding shall be based on the requirements in § 971.205, or as applicable, § 971.214(d)(7), and subpart G of this part.

16. Amend § 971.412 by revising paragraph (c)(1) to read as follows:

§ 971.412 Changes in permits and permit terms, conditions, and restrictions.

* * * * *

(c) * * *

(1) The bases for certifying the original application pursuant to § 971.301 or, as applicable, pursuant to § 971.214(e);

* * * * *

17. Amend § 971.413 by revising the second sentence in paragraph (a) to read as follows:

§ 971.413 Revision of a permit.

(a) * * * In some cases, it may be advisable to recognize at the time of filing the original permit application that, although the essential information for issuing or transferring a permit as specified in §§ 971.201 through 971.209, or as applicable, § 971.214(d), shall be included in such application, some details may have to be provided in the future in the form of a revision.

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18. Amend § 971.503 by revising paragraph (b) to read as follows:

§ 971.503 Diligent commercial recovery.

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(b) To meet the diligence requirement, the applicant shall propose to the Administrator an estimated schedule of activities and expenditures pursuant to § 971.203(b)(2), or as applicable, pursuant to § 971.214(d)(2) and (d)(4)(iii). The schedule(s) shall show, and the Administrator must be able to make a reasonable determination, that the applicant can reasonably develop the resources in the permit area within the term of the permit. There must be a reasonable relationship between the size of the recovery area and the financial and technological resources reflected in the application. The permittee shall initiate the recovery of nodules in commercial quantities within ten years of the issuance of the permit unless this deadline is extended by the Administrator for good cause.

* * * * *

19. Amend § 971.701 by revising the third, fourth, and fifth sentences to read as follows:

§ 971.701 Criteria for safety of life and property at sea.

* * * United States flag vessels shall be required to meet all applicable regulatory requirements, including the requirement for a current valid Coast Guard Certificate of Inspection (pursuant to § 971.205(a) or, as applicable, pursuant to § 971.214(d)(7)(i)). United States flag vessels are under United States jurisdiction on the high seas and subject to domestic enforcement procedures. With respect to foreign flag vessels, the SOLAS 74 or SOLAS 60 certificate requirements specified in § 971.205(b), or, as applicable, specified in § 971.214(d)(7)(ii), apply.

20. Amend § 971.802 by:

a. Revising paragraph (a);

b. Removing paragraphs (b) through (e); and

c. Redesignating paragraphs (f) and (g) as paragraphs (b) and (c).

The revisions read as follows:

§ 971.802 Public disclosure of documents received by NOAA.

(a) *General.* Procedures for requesting confidential treatment of information submitted to, reported to, or collected by the Administrator pursuant to this part and 15 CFR part 970 shall be in accordance with 15 CFR part 4. Procedures for requesting records and handling requests for records containing information submitted to, reported to, or collected by the Administrator pursuant to this part and 15 CFR part 970 shall also be in accordance with 15 CFR part 4.

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21. Amend § 971.900 by revising paragraph (e) to read as follows:

§ 971.900 Applicability.

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(e) Hearings conducted in accordance with § 971.302 or 15 CFR 970.407, or, as applicable, in accordance with § 971.214(f) on a proposal to deny certification of an application;

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[FR Doc. 2026-01044 Filed: 1/20/2026 8:45 am; Publication Date: 1/21/2026]