UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration (NOAA)

DSHMRA Paperwork Reduction Act Application Instructions

These application instructions are for the purpose of the receipt and maintenance of applications for exploration licenses and commercial recovery permits, and the issued licenses and permits, required by the Deep Seabed Hard Mineral Resources Act (DSHMRA or the Act) (30 U.S.C. §§ 1401-1473). NOAA's regulations at 15 CFR Part 970 (exploration licenses) and 15 CFR Part 971 (commercial recovery permits and miscellaneous provisions) govern the applications for, and the issuance and maintenance of, DSHMRA licenses and permits. These instructions are provided for purposes of the Paperwork Reduction Act (PRA) (44 U.S.C. §§ 3501-3521) and NOAA's Final Rule revising the DSHMRA regulations, 91 Fed. Reg. 2642 (January 21, 2026).

I. Scope and Disclaimer

Use these instructions to identify the regulatory sections that govern license and permit application requirements. Any questions regarding these instructions should be directed to nos.dshmra@noaa.gov.

These instructions do not establish legally binding requirements and do not constitute legal advice. Applicants are responsible for being aware of and complying with DSHMRA (30 U.S.C. §§ 1401-1473) and NOAA's regulations at 15 CFR Part 970 (exploration licenses) and 15 CFR Part 971 (commercial recovery permits and miscellaneous provisions). Any information provided on this web site may not be used for enforcement or compliance purposes. The information presented here is intended to help applicants, or potential applicants, navigate the regulations. However, DSHMRA and the implementing regulations, and not this web site, establish application requirements and users should not rely on the information presented here for compliance with legal requirements.

These instructions are not intended to, and do not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

II. License and Permit Application Instructions

U.S. citizens must obtain licenses and permits from NOAA before undertaking deep seabed mining exploration or commercial recovery activities in areas beyond national jurisdiction and DSHMRA charges the NOAA Administrator with the responsibility for issuing such licenses and permits. Under the revised DSHMRA regulations, an eligible applicant may either use: (1) the two-step sequential process where an applicant first applies for and obtains an exploration license and then applies for a commercial recovery permit, or (2) the new consolidated application process where an eligible applicant applies for and obtains at the same time a license and permit.

III. DSHMRA Regulation Application Sections and Regulatory Text

Listed below are the sections of 15 CFR Part 970 (exploration licenses) and 15 CFR Part 971 (commercial recovery permits) that pertain to DSHMRA application requirements as well as other information-collection requirements. The applicable regulatory text is provided under the section description. However, applicants for licenses, permits, or the consolidated license and permit as well as any licensees and permittees must comply with all relevant provisions of the DSHMRA regulations.

For the Consolidated License/Recovery Permit Applications, the relevant provisions are in 15 CFR § 971.214, and in 15 CFR Part 970 (exploration licenses) and 15 CFR Part 971 (commercial recovery permits). As stated in § 971.214(a),

> Consolidated license and permit applications shall follow the requirements in this section and not the requirements set forth in §§ 970.200 through 970.208, 970.400 through 970.408, 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 parts 970 and 971, 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 parts 970 or 971, the provision of this section shall control.

A. Exploration License Applications (15 CFR Part 970, Subpart B)

15 CFR § 970.201 Statement of financial resources.

(a) General. The application must contain information sufficient to demonstrate to the Administrator the financial resources of the applicant to carry out, in accordance with this part, the exploration program set forth in the applicant's exploration plan. The information must show that the applicant is reasonably capable of committing or raising sufficient resources to cover the estimated costs of the exploration program. The information must be sufficient for the Administrator to make a determination on the applicant's financial responsibility pursuant to § 970.401.

(b) Contents. In particular, the information on financial resources must include:
(1) A description of how the applicant intends to finance the exploration program;

(2) The estimated cost of the exploration program;

(3) With respect to the applicant and those entities upon which the applicant will rely to finance his exploration activities, 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 will suffice in this regard); and

(4) The credit rating and bond rating of the applicant, and such financing entities, to the extent they are relevant.

15 CFR § 970.202 Statement of technological experience and capabilities.

(a) General. The application must contain information sufficient to demonstrate to the Administrator the technological capability of the applicant to carry out, in accordance with the regulations contained in this part, the exploration program set out in the applicant's exploration plan. It must contain sufficient information for the Administrator to make a determination on the applicant's technological capability pursuant to § 970.402.

(b) Contents. In particular, the information submitted pursuant to this section must demonstrate knowledge and skills which the applicant either possesses or to which he can demonstrate access. The information must include:

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

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

(3) The experience on which the applicant will rely in using this or similar equipment.

15 CFR § 970.203 Exploration plan.

(a) General. Each application must include an exploration plan which describes the applicant's projected exploration activities during the period to be covered by the proposed license. Generally, the exploration plan must demonstrate to a reasonable extent that the applicant's efforts, by the end of the 10-year license period, will likely lead to the ability to apply for and obtain a permit for commercial recovery. In particular, the plan must include sufficient information for the Administrator, pursuant to this part, to make the necessary determinations pertaining to the certification and issuance or transfer of a license and to the development and enforcement of the terms, conditions and restrictions for a license.

(b) Contents. The exploration plan must contain the following information. In presenting this information, the plan should incorporate the applicant's proposed individual approach, including a general description of how projected participation by other entities will relate to the following elements, if appropriate. The plan must present:

(1) The activities proposed to be carried out during the period of the license;

(2) A description of the area to be explored, including its delineation according to § 970.601;

(3) 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.

(i) 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;

(ii) Assaying nodules to determine their metal contents;

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

(iv) Designing and testing mining systems which simulate commercial recovery;

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

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

(vii) Applying for a commercial recovery permit and, to the extent known, other permits needed to construct and operate commercial scale facilities (if application for such permits is planned prior to obtaining a commercial recovery permit);

(4) A description of the methods to be used to determine the location, abundance, and quality (i.e., assay) of nodules, and to measure physical conditions in the area which will affect nodule recovery system design and operations (e.g., seafloor topography, seafloor geotechnic properties, and currents);

(5) A general description of the developing recovery and processing technology related to the proposed license, and of any planned or ongoing testing and evaluation of such technology. To the extent possible at the time of application, this description should address 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;

(6) An estimated schedule of expenditures, which must be responsive to the diligence requirements as discussed in § 970.602;

(7) Measures to protect the environment and to monitor the effectiveness of environmental safeguards and monitoring systems for commercial recovery. These measures must take into account the provisions in §§ 970.506, 970.518, 970.522 and subpart G of this part; and

(8) A description of any relevant activity that the applicant has completed prior to the submission of the application.

15 CFR § 970.204 Environmental and use conflict analysis.

(a) Environmental information. To enable NOAA to implement better its responsibility under section 109(d) of the Act to develop an environmental impact statement (EIS) on the issuance of an exploration license, the application must include information for use in preparing NOAA's EIS on the environmental impacts of the activities proposed by the applicant. The applicant must present physical, chemical and biological information for the exploration area. This information should include relevant environmental information, if any, obtained during past exploration activities, but need not duplicate information obtained during NOAA's DOMES Project. Planned activities in the area, including the testing of integrated mining systems which simulate commercial recovery, also must be described. NOAA will need information with the application on location and boundaries of the proposed exploration area, and plans for delineation of features of the exploration area including baseline data or plans for acquiring them. The applicant may at his option delay submission of baseline and equipment data and system test plans. However, applicants so electing should plan to submit this latter information at least one year prior to the initial test, to allow time for the supplement to the site-specific EIS, if one is required, to be prepared by NOAA, circulated, reviewed and filed with EPA. The submission of this information with the application is strongly encouraged, however, to minimize the possibility that a supplement will be required. If such latter information is submitted subsequent to the original application such tests may not be undertaken in the absence of concurrence by NOAA (which, if applicable, will be required in a term, condition, or restriction in the license). NOAA has developed a technical guidance document which will provide assistance for the agency and the applicant, in consultation, to identify the details on information needed in each case. NOAA may refer to such information for purposes of other determinations under the Act as well. NOAA also will seek to facilitate other Federal and, as necessary, state decisions on exploration activities by functioning as lead agency for the EIS on the application and related actions by other agencies, including those pertaining to any onshore impacts which may result from the proposed exploration activities.

(b) Use conflict information. To assist the Administrator in making determinations relating to potential use conflicts between the proposed exploration and other activities in the exploration area, pursuant to §§ 970.503, 970.505, and 970.520, the application must include information known to the applicant with respect to such other activities.

15 CFR § 970.205 Vessel safety.

In order to provide a basis for the necessary determinations with respect to the safety of life and property at sea, pursuant to §§ 970.507, 970.521 and subpart H of this part, the application must contain the following information, except for those vessels under 300 gross tons which are engaged in oceanographic research if they are used in exploration.

(a) U.S. flag vessel. The application must contain a demonstration or affirmation that any United States flag vessel utilized in exploration activities will possess a current valid Coast Guard

Certificate of Inspection (COI). To the extent that the applicant knows which United States flag vessel he will be using, the application must include a copy of the COI.

(b) Foreign flag vessel. The application must also contain information on any foreign flag vessels to be used in exploration activities, which responds to the following requirements. To the extent that the applicant knows which foreign flag vessel he will be using, the application must include evidence of the following:

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

(2) That 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

(3) That 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).

(c) Supplemental certificates. If the applicant does not know at the time of submitting an application which vessels he will be using, he must submit the applicable certification for each vessel before the cruise on which it will be used.

15 CFR § 970.206 Statement of ownership.

The application must include sufficient information to demonstrate that the applicant is a United States citizen, as required by § 970.103(b)(6), and as defined in § 970.101(t). In particular, the application must include:

(a) Name, address, and telephone number of the United States citizen responsible for exploration operations to whom notices and orders are to be delivered; and

(b) A description of the citizen or citizens engaging in such exploration, including:

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

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

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

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

(5) 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.

15 CFR § 970.207 Antitrust information.

(a) General. Section 103(d) of the Act specifically provides for antitrust review of applications by the Attorney General of the United States and the Federal Trade Commission.

(b) Contents. In order to provide information for this antitrust review, the application must contain the following:

(1) A copy of each agreement between any parties to any joint venture which is applying for a license, provided that said agreement relates to deep seabed hard mineral resource exploration or mining;

(2) The identity of any affiliate of any person applying for a license; and

(3) 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:

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

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

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

15 CFR § 970.208 Fee.

(a) General. Section 104 of the Act provides that no application for the issuance or transfer of an exploration license will be certified unless the applicant pays to NOAA a reasonable administrative fee, which must reflect the reasonable administrative costs incurred in reviewing and processing the application.

(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. If costs incurred by NOAA in reviewing and processing an application are significantly less than or in excess of the original fee, the agency subsequently will determine those differences in costs and adjust the fee accordingly. If the costs are significantly less, NOAA will refund the difference. If they are significantly greater, the applicant will be required to submit the additional payment prior to issue or transfer of the license. In the case of an application for transfer of a license to an entity which has previously been found qualified for a license, the Administrator may, on the basis of pre-application

consultations pursuant to § 970.200(d), 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. If an applicant elects to pursue the 'banking' option under § 970.601(d), and exercises that option by submitting two applications, only one application fee needs to be submitted with respect to each use of the 'banking' option.

B. 15 CFR § 970 Subpart B (Commercial Recovery Permit Applications)

15 CFR § 971.201 Statement of financial resources.

(a) ***General.*** The application must contain information sufficient to demonstrate to the Administrator pursuant to § 971.301 that, upon issuance or transfer of the permit, the applicant will have access to the financial resources to carry out, in accordance with this part, the commercial recovery program set forth in the applicant's commercial recovery plan.

(b) ***Specific.*** In particular, the information on financial resources is expected to be general in nature but must include the likely sources and timing of funds to meet the applicant's scheduled expenditures in the recovery plan. These sources may include cash flow, reserves, and outside funding.

15 CFR § 971.202 Statement of technological experience and capabilities.

(a) ***General.*** The application must contain information sufficient to demonstrate to the Administrator pursuant to § 971.301 that, upon issuance or transfer of the permit, the applicant will have the technological capability to carry out, in accordance with the regulations contained in this part, the commercial recovery program set out in the applicant's commercial recovery plan.

(b) ***Specific.*** In particular, the information submitted pursuant to this section must describe the equipment, knowledge, and skills the applicant possesses, or to which it can demonstrate access [see § 971.200(e)]. The information must include:

(1) A description of the technology or the 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 must include:

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

(ii) The rationale for extrapolating from test results to commercial mining. The more test data offered with the application the less analysis will be expected; and

(iii) Anticipated system reliability within the context of anticipated production time lost through equipment failure.

(2) A functional description of the types of technical persons on whom the applicant will rely to operate its equipment.

15 CFR § 971.203 Commercial recovery plan.

(a) ***General.*** The application must include a proposed commercial recovery plan which describes the applicant's projected commercial recovery activities, in a general way, for the twenty year period to be covered by the proposed permit. Although preliminary and subject to change, the plan must be more detailed for that portion of the permit term leading up to the initiation of commercial recovery. The plan must include sufficient information for the Administrator, pursuant to this part, to make the necessary determinations pertaining to the certification and issuance or transfer of a permit and to the development and enforcement of the TCRs for a permit.

(b) ***Specific.*** The plan must include:

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

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

(3) Environmental safeguards and monitoring systems, which must take into account requirements under subpart F of this part, including best available technologies (BAT) (§ 971.604) and monitoring (§ 971.603);

(4) 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 (especially § 971.502);

(5) A resource assessment of the area or areas proposed for commercial recovery which meets the requirements for resource assessment and logical mining unit (§ 971.501);

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

(7) 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.

15 CFR § 971.204 Environmental and use conflict analysis.

(a) ***Environmental information submission.*** The application must be supported by sufficient marine environmental information for the Administrator to prepare an environmental impact statement (EIS) on the proposed mining activities, and to determine the appropriate permit TCRs based on environmental characteristics of the requested minesite. The Administrator may require

the submission of additional data, in the event he determines that the basis for a suitable EIS, or a determination of appropriate TCRs, is not available.

(b)

(1) In preparing the EIS, the Administrator will attempt to characterize the environment in such a way as to provide a basis for judging the potential for significant adverse effects or irreparable harm triggered by commercial mining (see subpart F). In compiling these data, the Administrator will utilize existing information including the relevant license EIS, additional exploration data acquired by the applicant, and other data in the public domain.

(2) The EIS must present adequate physical, chemical, and biological information for the permit area. If the permit area lies within the area of NOAA's Deep Ocean Mining Environmental Study (DOMES), the parameters listed in NOAA's Technical Guidance Document pertaining to the upper and lower water column should be included. Specifically, these parameters include:

(i) Upper water column—Nutrients; Endangered species; Salinity, temperature, density.

Currents.
(ii) Lower water column and seafloor—Currents; Suspended particulate matter dispersion

Sediment characteristics (mineralogy, particle size, shape and density, and water content); Topography; Benthos.

(3) For a permit area outside the DOMES area, the applicant is encouraged to consult with NOAA at the earliest opportunity in order to determine the specific parameters to be measured based on the location and specific environmental characteristics of the permit area. The Administrator, in consultation with the Administrator of the Environmental Protection Agency and with the assistance of other appropriate Federal agencies, may determine that a programmatic EIS is required for any new area.

(c) The application must include a monitoring plan for test mining and at-sea commercial recovery activities which meets the objectives and requirements of § 971.603.

(d) ***Use conflict analysis.*** The application must include 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.

(e) ***Onshore information.*** Because of NEPA requirements, the Administrator must include in the EIS on the proposed permit the complete spectrum of activities resulting from the issuance of a permit. Therefore, onshore information including the location and operation of nodule processing facilities must be submitted with the application in accordance with the details in § 971.606.

15 CFR § 971.205 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, pursuant to § 971.407, § 971.422 and Subpart G of this part, the application must contain the following information for vessels used in commercial recovery, except for those vessels under 300 gross tons which are engaged in oceanographic research:

(a) ***U.S. flag vessel.*** All mining ships and at least one of the transport ships used by each permittee must be documented under the laws of the United States. To the extent that the applicant knows which United States flag vessels it will use, it must include with its application copies of the vessels' current valid Coast Guard Certificates of Inspection.

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

(1) That 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;

(2) That 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

(3) That 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).

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

15 CFR § 971.206 Statement of ownership.

(a) ***General.*** The application must include sufficient information to demonstrate that the applicant is a United States citizen.

(b) ***Specific.*** In particular, the application must include:

(1) Name, address, and telephone number of the United States citizen responsible for commercial recovery operations;

(2) A description of the citizen or citizens engaging in commercial recovery, including:

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

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

(iii) The name and place of business of the registered agent or equivalent representative to whom notices and orders are to be delivered;

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

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

15 CFR § 971.207 Antitrust information.

In order to support the antitrust review referenced in § 971.211, the application must contain information sufficient, in the applicant's view and based on preapplication consultations pursuant to § 971.200(g), to identify the applicant and describe any significant existing market share it has with respect to the mining or marketing of the metals proposed to be recovered under the permit.

15 CFR § 971.208 Fee.

(a) ***General.*** Section 104 of the Act provides that no application for the issuance or transfer of a permit will be certified unless the applicant pays to NOAA an administrative fee which reflects the reasonable administrative costs incurred in reviewing and processing the application.

(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. If the administrative costs of reviewing and processing the application are significantly less than or in excess of $100,000, the Administrator, after determining the amount of the under- or over-charge, as applicable, will refund the difference or require the applicant to pay the additional amount before issuance or transfer of the permit. In the case of an application for transfer of a permit to, or for a significant change to a permit held by, an entity which 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.

15 CFR § 971.209 Processing outside the United States.

(a) Except as provided in this section and § 971.408, the processing of hard minerals recovered pursuant to a permit shall be conducted within the U.S., provided that the President or his designee does not determine that this restriction contravenes the overriding national interests of the United States.

(b) If foreign processing is proposed, the applicant shall submit a justification demonstrating the basis for a finding pursuant to § 971.408(a)(1). The justification shall include an analysis of each factor which the applicant considers essential to its conclusion that processing at a site within the U.S. is not economically viable.

(c) If the Administrator determines that the justification provided by the applicant is insufficient, or if the Administrator receives during the public comment or hearing period what the Administrator determines to be a serious alternative U.S. processing site proposal, the

Administrator may require the applicant to supply, within a specified reasonable time, additional information relevant to the § 971.408(a)(1) finding.

(d) The applicant must include in its application satisfactory assurances that such resources after processing, to the extent of the permittee's ownership therein, will be returned to the United States for domestic use if the Administrator determines pursuant to § 971.408 that the national interest necessitates such return. Assurances must include proposed arrangements with the host country.

C. Consolidated Application Provisions

§ 971.214 Consolidated license and permit procedures.

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(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, the following (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;

(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 (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.

D. Other Collections Related to Applications For and Maintenance of Licenses and Permits

1. Notice of Objection to License/Permit Terms, Conditions, and Restrictions (TCRs).

The relevant provisions are in 15 CFR § 970.510 (licenses) and 15 CFR § 971.411 (permits).

15 CFR 970.510 Objections to terms, conditions and restrictions.

(a) The licensee may file a notice of objection to any term, condition or restriction in the license. The licensee may object on the grounds that any term, condition or restriction is inconsistent with the Act or this part, or on any other grounds which may be raised under applicable provisions of law. If the licensee does not file notice of an objection within the 60-day period immediately following the licensee's receipt of the notice of issuance or transfer under § 970.509, he will be deemed conclusively to have accepted the terms, conditions and restrictions in the license.

(b) Any notice of objection filed under paragraph (a) of this section must be in writing, must contain the precise legal basis for the objection, and must provide information relevant to any underlying factual issues deemed by the licensee as necessary to the Administrator's decision upon the objection.

(c) Within 90 days after receipt of the notice of objection, the Administrator will act on the objection and publish in the Federal Register, as well as provide to the licensee, written notice of his decision.

(d) If, after the Administrator takes final action on an objection, the licensee demonstrates that a dispute remains on a material issue of fact, the Administrator will provide for a formal hearing which will proceed in accordance with subpart I of 15 CFR part 971.

(e) Any final determination by the Administrator on an objection to terms, conditions or restrictions in a license after the formal hearing provided in paragraph (d) of this section is subject to judicial review as provided in chapter 7 of title 5, United States Code.

15 CFR 971.411 Objections to terms, conditions and restrictions.

(a) The permittee may file a notice of objection to any TCR in the permit. The permittee may object on the grounds that any TCR is inconsistent with the Act or this part, or on any other grounds which may be raised under applicable provisions of law. If the permittee does not file notice of an objection within the 60-day period immediately following the permittee's receipt of the notice of issuance or transfer under § 971.410, the permittee will be deemed conclusively to have accepted the TCRs in the permit.

(b) Any notice of objection filed under paragraph (a) of this section must be in writing, must indicate the legal or factual basis for the objection, and must provide information relevant to any underlying factual issues deemed by the permittee as necessary to the Administrator's decision upon the objection.

(c) Within 90 days after receipt of the notice of objection, the Administrator will act on the objection and publish in the Federal Register, as well as provide to the permittee, written notice of the decision.

(d) If, after the Administrator takes final action on an objection, the permittee demonstrates that a dispute remains on a material issue of fact, the Administrator will provide for a formal hearing which will proceed in accordance with Subpart I of this part.

(e) Any final determination by the Administrator on an objection to TCRs in a permit, after the formal hearing provided in paragraph (d), is subject to judicial review as provided in chapter 7 of title 5, United States Code.

2. Annual Report. The relevant provisions are in 15 CFR § 970.602(d) (licenses), 15 CFR § 971.426 (permits), and 15 CFR § 971.801 (both).

15 CFR § 970.602 Diligent exploration.

(a) Each licensee must pursue diligently the activities described in his approved exploration plan. This requirement applies to the full scope of the plan, including environmental safeguards and monitoring systems. To help assure this diligence, terms, conditions and restrictions which the Administrator issues with a license will require such periodic reasonable expenditures for

exploration by the licensee as the Administrator may establish, taking into account the size of the area of the deep seabed to which the exploration plan applies and the amount of funds which is estimated by the Administrator to be required during exploration for commercial recovery of hard mineral resources to begin within the time limit established by the Administrator. However, such required expenditures will not be established at a level which would discourage exploration by persons with less costly technology than is prevalently in use.

(b) In order to fulfill the diligence requirement, the applicant first must propose to the Administrator an estimated schedule of activities and expenditures pursuant to § 970.203(b) (3) and (6). The schedule must show, and the Administrator must be able to make a reasonable determination, that the applicant can complete his exploration activities within the term of the license. In this regard, there must be a reasonable relationship between the size of the exploration area and the financial and technological resources reflected in the application. Also, the exploration must clearly point toward developing the ability, by the end of the 10-year license period, to apply for and obtain a permit for commercial recovery.

(c) Ultimately, the diligence requirement will involve a retrospective determination by the Administrator, based on the licensee's reasonable conformance to the approved exploration plan. Such determination, however, will take into account the need for some degree of flexibility in an exploration plan. It also will include consideration of the needs and stage of development of each licensee, again based on the approved exploration plan. In addition, the determination will take account of legitimate periods of time when there is no or very low expenditure, and will allow for a certain degree of flexibility for changes encountered by the licensee in such factors as its resource knowledge and financial considerations.

(d) In order for the Administrator to make determinations on a licensee's adherence to the diligence requirements, the licensee must submit a report annually reflecting his conformance to the schedule of activities and expenditures contained in the license. In case of any changes requiring a revision to an approved license and exploration plan, the licensee must advise the Administrator in accordance with § 970.513.

15 CFR § 971.426 Annual report and records maintenance.

Each permit will require the permittee to submit an annual report and maintain information in accordance with § 971.801 including compliance with the commercial recovery plan and the quantities of hard mineral resources recovered and the disposition of such resources.

15 CFR § 971.801 Records to be maintained and information to be submitted by licensees and permittees.

(a)

(1) In addition to the information specified elsewhere in the part and in 15 CFR part 970, each licensee and permittee must keep such records, consistent with standard accounting principles, as specified by the Administrator in the license or permit. Such records shall include information which will fully disclose expenditures for exploration for, or commercial recovery of hard

mineral resources in the area under license or permit, and any other information which will facilitate an effective audit of these expenditures.

(2) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for purposes of audit and examination to any books, documents, papers, and records of licensees and permittees which are necessary and directly pertinent to verification of the expenditures referred to in paragraph (a)(1) of this section.

(b) In addition to the information specified elsewhere in this part and in 15 CFR part 970, each applicant, licensee or permittee will be required to submit to the Administrator, upon request, data or other information the Administrator may reasonably need for purposes of:

(1) Making determinations with respect to the issuance, revocation, modification, or suspension of the license or permit in question;

(2) Evaluating the effectiveness of license or permit TCRs;

(3) Compliance with the biennial Congressional report requirement contained in section 309 of the Act; and

(4) Evaluation of the exploration or commercial recovery activities conducted by the licensee or permittee.

At a minimum, licensees and permittees shall submit an annual written report within 90 days after each anniversary of the license or permit issuance or transfer, discussing exploration or commercial recovery activities and expenditures. The report shall address diligence requirements (see § 971.503 and 15 CFR 970.602), implementation of any approved monitoring plan (see § 971.602 and 15 CFR 970.522(c) and 970.702(a)), and applicable changes which do not constitute revisions (see § 971.413(e) and 15 CFR 970.513(c)). Permittees must also report the tonnage of nodules recovered (§ 971.426) and discuss manganese conservation measures (see § 971.502).

3. Extensions of Licenses and Permits. The relevant provisions are in 15 CFR § 970.515 (licenses) and 15 CFR § 971.415 (permits).

15 CFR 970.515 Duration of a license.

(a) Each exploration license will be issued for a period of 10 years.

(b) If the licensee has substantially complied with the license and its associated exploration plan and requests an extension of the license, the Administrator will extend the license on terms, conditions and restrictions consistent with the Act and this part for a period of not more than 5 years.

In determining substantial compliance for purposes of this section, the Administrator may make allowance for deviation from the exploration plan for good cause, such as significantly changed

market conditions. However, a request for extension must be accompanied by an amended exploration plan to govern the activities by the licensee during the extended period.

(c) Successive extensions may be requested, and will be granted by the Administrator, based on the criteria, and for the length of time, specified in paragraph (b) of this section.

15 CFR § 971.415 Duration of a permit.

(a) Unless suspended or revoked pursuant to §§ 971.406 and 971.417, each commercial recovery permit will be issued for a period of 20 years and for so long thereafter as hard mineral resources are recovered annually in commercial quantities from the area listed in the permit.

(b) If the permittee has substantially complied with the permit and its associated recovery plan and requests an extension of the permit, the Administrator will extend the permit with appropriate TCRs, consistent with the Act, for so long thereafter as hard mineral resources are recovered annually in commercial quantities from the area to which the recovery plan associated with the permit applies. The Administrator may make allowance for deviation from the recovery plan for good cause, such as significantly changed market conditions. However, a request for extension must be accompanied by an amended recovery plan to govern the activities by the permittee during the extended period.

(c) Successive extensions may be requested, and will be granted by the Administrator, based on the criteria specified in paragraphs (a) and (b).

4. License or Permit Revision. The relevant provisions are in 15 CFR §§ 970.513 and 970.514 (licenses) and 15 CFR § 971.413 (permits).

15 CFR § 970.513 Revision of a license.

(a) During the term of an exploration license, the licensee may submit to the Administrator an application for a revision of the license or the exploration plan associated with it. NOAA recognizes that changes in circumstances encountered, and in information and technology developed, by the licensee during exploration may require such revisions. 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), as applicable, must be included in such application, some details may have to be provided in the future in the form of a revision. In such instances, the Administrator may issue or transfer a license which would authorize exploration activities and plans only to the extent described in the application.

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

(c) A change which would require an application to and approval by the Administrator as a revision is a major change in one or more of:

(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;

(2) The bases for issuing or transferring the license pursuant to §§ 970.503 through 970.507; or

(3) The terms, conditions and restrictions issued for the license pursuant to §§ 970.517 through 970.524.

A major change is one which is of such significance so as to raise a question as to:

(i) The applicant's ability to meet the requirements of the sections cited in paragraphs (c) (1) and (2) of this section; or

(ii) The sufficiency of the terms, conditions and restrictions to accomplish their intended purpose.

15 CFR § 970.514 Scale requiring application procedures.

(a) A proposal by the Administrator to modify a term, condition or restriction in a license pursuant to § 970.512, or an application by a licensee for revision of a license or exploration plan pursuant to § 970.513, is significant, and the full application requirements and procedures will apply, if it would result in other than an incidental:

(1) Increase in the size of the exploration area; or

(2) Change in the location of the area.

An incidental increase or change is that which equals two percent or less of the original exploration area, so long as such adjustment is contiguous to the licensed area.

(b) All proposed modifications or revisions other than described in paragraph (a) of this section will be acted on after a notice thereof is published by the Administrator in the Federal Register, with a 60-day opportunity for public comment. On a case-by-case basis, the Administrator will determine if other procedures, such as a public hearing in a potentially affected area, are warranted. Notice of the Administrator's decision on the proposed modification will be provided to the licensee in writing and published in the Federal Register.

15 CFR § 971.413 Revision of a permit.

(a) During the term of a commercial recovery permit, the permittee may submit to the Administrator an application for a revision of the permit or the commercial recovery plan associated with it to accommodate changes desired by the permittee. 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), must be included in such application, some details may have to be provided in the future in the form of a revision. In such instances, the Administrator

may issue or transfer a permit which would authorize commercial recovery activities and plans only to the extent described in the application.

(b) An application by a permittee for a revision of a permit or its associated commercial recovery plan involving a significant change, as defined in § 971.412(b), must be followed by the full application procedures in this part, including a public hearing.

(c) An application by a permittee for a revision of a permit or its associated commercial recovery plan involving a major change, as defined in § 971.412(c) (See also § 971.425 of this part), will be acted on after notice thereof is published by the Administrator in the Federal Register with a 60-day opportunity for public comment and consultation with appropriate Federal agencies.

(d)

(1) The Administrator will approve a revision if the Administrator finds in writing that the revision will comply with the requirements of the Act and this part.

(2) Notice of the Administrator's decision on the proposed revision will be provided to the permittee in writing and published in the Federal Register.

(e) A permittee may notify the Administrator of minor changes, as defined in § 971.412(d), subsequently in the annual report (See § 971.801 of this part).

(f) If the relative importance of the change is unclear to the permittee, the Administrator should be notified in advance so that the Administrator can decide whether a revision in accordance with § 971.412(e) is required.

5. License or Permit Transfer. The relevant provisions are throughout 15 CFR Part 970 (exploration licenses), including 15 CFR § 970.516 (approval of license transfers) and throughout 15 CFR Part 971 (commercial recovery permits), including 15 CFR § 971.416 (approval of permit transfers). The provisions specific to approval of transfers are provided here.

15 CFR § 970.516 Approval of license transfers.

(a) The Administrator may transfer a license after a written request by the licensee. After a licensee submits such a request to the Administrator, the proposed transferee will be deemed an applicant for an exploration license, and will be subject to the requirements and procedures of this part.

(b) The Administrator will transfer a license if the proposed transferee and exploration activities meet the requirements of the Act and this part, and if the proposed transfer is in the public interest. The Administrator will presume that the transfer is in the public interest if it meets the requirements of the Act and this part. In case of mere change in the form or ownership of a licensee, the Administrator may waive relevant determinations for requirements for which no changes have occurred since the preceding application.

15 CFR § 971.416 Approval of permit transfers.

(a) The Administrator may transfer a permit after a written request by the permittee. After a permittee submits a transfer request to the Administrator, the proposed transferee will be deemed an applicant for a commercial recovery permit, and will be subject to the requirements and procedures of this part.

(b) The Administrator will transfer a permit if the proposed transferee is a United States citizen and proposed commercial recovery activities meet the requirements of the Act and this part, and if the proposed transfer is in the public interest. The Administrator will presume that the transfer is in the public interest if it meets the requirements of the Act and this part. In case of mere change in the form or ownership of a permittee, the Administrator may waive relevant determinations for requirements for which no changes have occurred since the preceding application.

6. Adjudicatory Hearing. The relevant provisions are in 15 CFR Part 971, Subpart I (both for licenses and permits).

Subpart I—Uniform Procedures

15 CFR § 971.900 Applicability.

The regulations of this subpart govern the following hearings conducted by NOAA under this part and under 15 CFR part 970:

(a) All adjudicatory hearings required by section 116(b) of the Act to be held on the following actions upon a finding by the Administrator that one or more specific and material issues of fact exist which require resolution by formal process, including but not limited to:

(1) All applications for issuance or transfer of licenses or permits;

(2) All proposed TCRs on a license or permit; and

(3) All proposals to modify significantly a license or permit;

(b) Hearings conducted under section 105(b)(3) of the Act on objection by a licensee or permittee to any term, condition or restriction in a license or permit, or to modification thereto, where the licensee or permittee demonstrates, after final action by the Administrator on the objection, that a dispute remains as to a material issue of fact;

(c) Hearings conducted in accordance with section 106(b) of the Act pursuant to a timely request by an applicant or a licensee or permittee for review of:

(1) A proposed denial of issuance or transfer of a license or permit; or

(2) A proposed suspension or modification of particular activities under a license or permit after a Presidential determination pursuant to section 106(a)(2)(B) of the Act;

(d) Hearings conducted in accordance with section 308(c) of the Act to amend regulations for the purpose of conservation of natural resources, protection of the environment, and safety of life and property at sea;

(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; and

(f) Hearings conducted in accordance with 15 CFR part 970, subpart C to determine priority of right among preenactment explorers.

15 CFR § 971.901 Formal hearing procedures.

(a) ***General.***

(1) All hearings described in § 971.900 are governed by subpart C of 15 CFR part 904, as modified by this section. The rules in this subpart take precedence over 15 CFR part 904, subpart C, to the extent there is a conflict.

(2) Hearings held under this section will be consolidated insofar as practicable with hearings held by other agencies.

(3) For the purposes of this subpart, *involved applicant, licensee or permittee* means an applicant, licensee or permittee the status of whose application, license, permit or activities conducted under the license or permit may be altered by the Administrator as a result of proceedings under this subpart.

(b) ***Decision to hold a hearing.*** Whenever the Administrator finds that a formal hearing is required by the provisions of this part or 15 CFR part 970, he will provide for a formal hearing. Upon deciding to hold a formal hearing, the Administrator will refer the proceeding to the Department of Commerce Office of Administrative Law Judges for assignment to an Administrative Law Judge to serve as presiding officer for the hearing.

(c) ***Notice of formal hearing.***

(1) The Administrator will publish notice of the formal hearing in the Federal Register at least 15 days before the beginning of the hearing, and will send written notice by registered or certified mail to any involved applicant, licensee or permittee and to all persons who submitted written comments upon the action in question, or who testified at any prior informal hearing on the action or who filed a request for the formal hearing under this part or 15 CFR part 970.

(2) Notice of a formal hearing will include, among other things:

(i) Time and place of the hearing and the name of the presiding judge, as determined under paragraph (b) of this section;

(ii) The name and address of the person(s) requesting the formal hearing or a statement that the formal hearing is being held by order of the Administrator;

(iii) The issues in dispute which are to be resolved in the formal hearing;

(iv) The due date for filing a written request to participate in the hearing in accordance with paragraphs (f)(2) and (f)(3) of this section; and

(v) Reference to any prior informal hearing from which the issues to be determined arose.

(d) ***Powers and duties of the administrative law judge.*** In addition to the powers enumerated in 15 CFR part 904. Subpart C, judges will have the power to:

(1) Regulate the course of the hearing and the conduct of the parties, interested persons and others submitting evidence, including but not limited to the power to require the submission of part or all of the evidence in written form if the judge determines a party will not be prejudiced thereby, and if otherwise in accordance with law;

(2) Rule upon requests submitted in accordance with paragraph (f)(2) of this section to participate as a party, or requests submitted in accordance with paragraph (f)(3) of this section to participate as an interested person in a proceeding, by allowing, denying, or limiting such participation; and

(3) Require at or prior to any hearing, the submission and exchange of evidence.

(e) ***Argument.*** At the close of the formal hearing, each party will be given the opportunity to submit written arguments on the issues before the judge.

(f) ***Hearing participation.***

(1) Parties to the formal hearing will include:

(i) The NOAA General Counsel;

(ii) Any involved applicant, licensee or permittee; and

(iii) Any other person determined by the judge, in accordance with paragraph (f)(2) below, to be eligible to participate as a full party.

(2) Any person desiring to participate as a party in a formal hearing must submit a request to the judge to be admitted as a party. The request must be submitted within ten days after the date of mailing or publication of notice of a decision to hold a formal hearing, whichever occurs later. Such person will be allowed to participate if the judge finds that the interests of justice and a fair determination of the issues would be served by granting the request. The judge may entertain a request submitted after the expiration of the ten days, but such a request may only be granted upon an express finding on the record that:

(i) Special circumstances justify granting the request;

(ii) The interests of justice and a fair determination of the issues would be served by granting the request;

(iii) The requestor has consented to be bound by all prior written agreements and stipulations agreed to by the existing parties, and all prior orders entered in the proceedings; and

(iv) Granting the request will not cause undue delay or prejudice the rights of the existing parties.

(3)

(i) Any interested person who desires to submit evidence in a formal hearing must submit a request within ten days after the dates of mailing or publication of notice of a decision to hold a formal hearing, whichever occurs later. The judge may waive the ten day rule for good cause, such as if the interested person, making this request after the expiration of the ten days, the formal hearing, and the evidence he proposes to submit may significantly affect the outcome of the proceedings.

(ii) The judge may permit an interested person to submit evidence at any formal hearing if the judge determines that such evidence is relevant to facts in dispute concerning the issue(s) being adjudicated. The fact that an interested person may submit evidence under this paragraph at a hearing does not entitle the interested person to participate in other ways in the hearing unless allowed by the judge under paragraph (f)(3)(iii) below.

(iii) The judge may allow an interested person to submit oral testimony, oral arguments or briefs, or to cross-examine witnesses or participate in other ways, if the judge determines:

(A) That the interests of justice would be better served by allowing such participation by the interested person; and

(B) That there are compelling circumstances favoring such participation by the interested person.

(g) ***Definition of issues.***

(1) Whenever a formal hearing is conducted pursuant to this section the Administrator may certify the issues for decision to the judge, and if the issues are so certified, the formal hearing will be limited to those issues.

(2) Whenever a formal hearing is conducted pursuant to a request by an applicant, licensee or permittee for review of a denial of certification, issuance or transfer of a license or permit in accordance with section 106(a)(4) of the Act, or pursuant to an objection to any term, condition, or restriction in a permit in accordance with section 105(b)(3) or (c)(4) of the Act, no issues may be raised by any party or interested person that were not previously raised in the administrative proceedings on the action pursuant to any such section, unless the judge determines that good cause is shown for the failure to raise them. Good cause includes the case where the party seeking to raise the new issues shows that it could not reasonably have ascertained the issues at a prior stage in the administrative process, or that it could not have reasonably anticipated the relevance or materiality of the information sought to be introduced.

(h) ***Decisions*** —

(1) ***Proposed findings of fact and conclusions of law.*** The judge will allow each party to file with the judge proposed findings of fact, and in appropriate cases conclusions of law, together with a supporting brief expressing the reasons for such proposals. Such proposals and briefs must be filed within ten days after the hearing or within such additional time as the judge may allow. Such proposals and briefs must refer to all portions of the record and to all authorities relied upon in support of each proposal. Reply briefs must be submitted within ten days after receipt of the proposed findings and conclusions to which they respond, unless the judge allows additional time.

(2) ***Recommended decision.***

(i) As soon as practicable, but normally not later than 90 days after the conclusion of the formal hearing, the judge will evaluate the record of the formal hearing and prepare and file a recommended decision with the Administrator. The decision will contain findings of fact, when appropriate, conclusions regarding all material issues of law, and a recommendation as to the appropriate action to be taken by the Administrator. The judge will serve a copy of the decision on each party and upon the Administrator.

(ii) Within thirty days after the date the recommended decision is served, any party may file with the Administrator exceptions to the recommended decision. The exceptions must refer to all portions of the record and to all authorities relied on in support of the exceptions.

(3) ***Final decision.***

(i) As soon as practicable, but normally not later than 60 days after receipt of the recommended decision, the Administrator will issue a final decision. The final decision will include findings of fact and conclusions regarding material issues of law or discretion, as well as reasons therefor. The final decision may accept or reject all or part of the recommended decision. The Administrator shall assure that the record shows the ruling on each exception presented.

(ii) With respect to hearings held pursuant to section 116(b), the Administrator may defer announcement of his findings of fact until the time he takes final action with respect to any action described in section 116(a).

(iii) The Administrator will base the final decision upon the record already made except that the Administrator may issue orders:

(A) Specifying the filing of supplemental briefs; or

(B) Remanding the matter to the judge for the receipt of further evidence, or otherwise assisting in the determination of the matter.

(i) ***Filing and service of documents.***

(1) Whenever the regulations in this subpart or an order issued hereunder require a document to be filed within a certain period of time, such document will be considered filed as of the date of the postmark, if mailed, or (if not mailed) as of the date actually delivered to the office where

filing is required. Time periods will begin to run on the day following the date of the document, paper, or event which begins at the time period.

(2) All submissions must be signed by the person making the submission, or by the person's attorney or other authorized agent or representative.

(3) Service of a document must be made by delivering or mailing a copy of the document to the known address of the person being served.

(4) Whenever the regulations in this subpart require service of a document, such service may effectively be made on the agent for the service of process or on the attorney for the person to be served.

(5) Refusal of service of a document by the person, his agent, or attorney will be deemed effective service of the document as of the date of such refusal.

(6) A certificate of the person serving the document by personal delivery or by mailing, setting forth the manner of the service, will be proof of the service.

PRA Burden Statement:

A Federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with an information collection subject to the requirements of the Paperwork Reduction Act of 1995 unless the information collection has a currently valid OMB Control Number. The approved OMB Control Number for this information collection is 0648-0145. Without this approval, we could not conduct this information collection. Public reporting for this information collection is estimated to be approximately: 750 hours for an Exploration License Application, 750 hours for a Commercial Recovery Permit Application, 1,125 hours for a Consolidated License/Recovery Permit Application, 250 hours for a Notice of Objection to License/permit TCR, 20 hours for an Annual Report, 250 hours for a License Extension, 250 hours for a Permit Extension, 40 hours for a License or Permit Revision, 750 hours for a License or Permit Transfer, and 200 hours for an Adjudicatory Hearing. All responses to this information collection are required in order to obtain a service or benefit. This information is used by NOAA to ensure the accuracy of licenses and permits and respond to the regulated community's needs. Send comments regarding this burden estimate or any other aspect of this information collection, including suggestions for reducing this burden to NOAA at nos.dshmra@noaa.gov