

# DSHMRA FACT SHEET

## EXPLORATION LICENSE AND COMMERCIAL RECOVERY PERMIT



### EXPLORATION LICENSE

Opportunities for states to engage are highlighted in pink.

Opportunities for public comment are highlighted in orange.

#### STAGE 1: SUBMISSION OF APPLICATION

An application for an issuance or transfer of an exploration license must be submitted by a U.S. citizen to the NOAA Administrator. Application must contain information about:

- financial resources;
- technological expertise and capabilities;
- exploration plan;
- vessel safety;
- environmental impacts, for Environmental Impact Statement (EIS) under NEPA, and use conflict analysis;
- statement of ownership; and
- antitrust information<sup>1</sup>

#### STAGE 2: DETERMINATION OF SUBSTANTIAL COMPLIANCE

##### STAGE 2A

**Within 30 days of receipt of the application**, the Administrator shall make a determination if the application is in substantial compliance with the informational requirements set out in 15 CFR 970.201-209 and issue written notice to the applicant. A determination on substantial compliance relates 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.<sup>2</sup>

If the application is not in substantial compliance, the notice shall identify in what respects. If the application is in substantial, but not full compliance, the notice shall specify which information is needed and why.<sup>3</sup> The applicant loses priority of right for the issuance of a license if the application is not brought from substantial to full compliance within 60 days of receiving notice.<sup>4</sup>

For each application for an exploration license, the Administrator must publish in the Federal Register a notice that such application has been received. Interested parties are permitted to examine the materials relevant to the application and will have **at least 60 days after publication of the notice to submit written comments.**<sup>5</sup>

##### STAGE 2B

“Promptly” upon receipt of the application and the opening of coordinates describing the application area, the Administrator shall distribute copies to the relevant Federal Agencies or Departments. Each department or agency, other than FTC and Attorney General, has **60 days** to recommend certification of the application, issuance or transfer of the license, or denial of such certification, issuance or transfer. The FTC and Attorney General have **90 days** to recommend certification or denial.<sup>6</sup>

## ENVIRONMENTAL REVIEW

The National Environmental Policy Act (NEPA) is the primary federal law that requires the federal government to take a hard look at the environmental impacts of major federal actions prior to making a decision. NOAA's policy for NEPA compliance requires NOAA to publish a notice of intent "to prepare an EIS, which will include a request for public comment on alternatives or impacts and on relevant information, studies or analyses with respect to the proposed agency action."<sup>7</sup> DSHMRA also requires NOAA to publish a draft EIS and to have a hearing on the EIS (Stages 4A-4B). Substantive comments and responses will be appended to the final EIS.<sup>8</sup>

## STAGE 3: CERTIFICATION OF APPLICATION

The Administrator will have **100 days** to certify an application that is deemed to be in full compliance. If there is no certification or denial within 100 days, the Administrator will inform the applicant in writing about the unresolved issues, efforts to resolve them, and additional time needed.

To certify, the Administrator must determine 1) whether issuance of a license would violate any restrictions in DSHMRA and 2) that the following requirements are met: financial responsibility; technological capability; previous license and permit obligations; adequate exploration plan; appropriation exploration size and location; and fee payment. Certification is done in consultation with other Agencies.

If the Administrator proposes to deny certification, he will send a written notice of intention to deny certification to the applicant and **publish the notice in the Federal Register**. Unless the applicant subsequently corrects a deficiency or requests an administrative review, the Administrator will deny certification.<sup>9</sup>

## STAGE 4: PROPOSED TERMS, CONDITIONS, AND RESTRICTIONS (TCRS)

### STAGE 4A

**Within 180 days of certification** (or a longer period the Administrator establishes for good cause in writing), the Administrator will propose TCRs for the proposed exploration and will issue a **public notice with proposed TCRs and draft EIS**.<sup>10</sup>

- The Administrator will provide TCRs in writing to the applicant and issue a public notice.
- Before establishing the proposed TCR on environmental protection, the Administrator shall consult with the Administrator of the Environmental Protection Agency, the Secretary of State, and the Secretary of Homeland Security (for Coast Guard).<sup>11</sup>

### STAGE 4B

Interested persons have **at least 60 days** after the publication of the proposal to issue a license, including proposed TCRs and draft EIS, **to submit written comments**, and can examine relevant materials subject to 15 CFR 971.802.

The Administrator will also hold a **public hearing** on the license proposal and invite comments.<sup>12</sup>

### STAGE 4C

Prior to issuing a license, the Administrator will continue consulting with relevant Agencies.<sup>13</sup>

These consultations will be held to ensure compliance with the Endangered Species Act (ESA), the Marine Mammal Protection Act (MMPA), the Fish and Wildlife Coordination Act (FWCA), and, if the Regional Fishery Management Council is affected, the Magnuson-Stevens Fishery Conservation and Management Act of 1976 (MSA).



## STAGE 4D

After preparation of a draft EIS, the Administrator shall hold a **public hearing** on the application and draft EIS.<sup>14</sup>

*[It is not entirely clear whether this public hearing is in addition to, or concurrent with, the public hearing on the proposal to issue a license and the proposed TCRs per 15 CFR 970.501(b)].*

If the Administrator determines there exists one or more specific and material factual issues that require resolution by formal processes, at least one formal hearing will be held in the District of Columbia metropolitan area in accordance with the provisions of subpart I of 15 CFR part 971.

## STAGE 5: FINAL DETERMINATION

*Information about amending an application before final determination can be found in 15 CFR 970.213.*

Before issuing the license, the Administrator must make written findings on freedom of the high seas; international obligations of the US; breach of international peace and security involving armed conflict; environmental effects; and safety at sea.<sup>15</sup> *[It is not entirely clear whether these findings are published along with the final EIS].*

Within **180 days** of publishing the proposed TCRs and the draft EIS, the Administrator will make a final determination and publish a final EIS. Notification of the Administrator's issuance of a license with TCRs will be published in the Federal Register.<sup>16</sup>

*Information about suspending or modifying activities, or suspending or revoking licenses can be found in 15 CFR 970.511. Information about modifying TCRs can be found in 15 CFR 970.512. Information about revision of a license can be found in 15 CFR 970.513.*

# COMMERCIAL RECOVERY PERMIT

## STAGE 1: SUBMISSION OF APPLICATION

A U.S. citizen holding a valid exploration license may apply to the NOAA Administrator for issuance of a commercial recovery permit for all or part of the area to which the exploration license applies.<sup>17</sup> A holder of a commercial recovery permit may apply to the Administrator for transfer of the permit. Application must include:

- statement of financial resources;
- statement of technological expertise and capabilities;
- exploration plan;
- marine environmental information (for EIS) and use conflict analysis;
- vessel safety;
- statement of ownership;
- antitrust information;
- resource assessment;
- application fee; and
- justification for processing of recovered nodules outside the US, if applicable<sup>18</sup>



## STAGE 2: DETERMINATION OF APPLICATION COMPLETION

**Within 60 days of receiving the application**, the Administrator will notify the applicant whether the application is complete and includes the informational requirements set out in 15 CFR 971.201-209 in written notice to the applicant. The notice will identify, if applicable, what in the application is not complete, what information must be submitted, why, and a reasonable date to do so. Application processing will not begin until the Administrator designates the application is complete.<sup>19</sup>

## STAGE 3: CONSULTATION PROCESSES

### STAGE 3B

For each complete application, the Administrator will **publish in the Federal Register notice** that an application for a commercial recovery permit has been received. Interested parties will be allowed to examine materials relevant to the application and will have **at least 60 days after publication of the notice** to submit **written comments**.<sup>20</sup>

### STAGE 3A

**Promptly after receiving an application that is determined to be complete**, the Administrator shall distribute it to the relevant Federal Agencies or Departments. Each department or agency, other than FTC and Attorney General, have **60 days** to recommend certification of the application, issuance or transfer of the license, or denial of such certification, issuance or transfer. The FTC and Attorney General have **90 days** to recommend certification or denial.<sup>21</sup>

## ENVIRONMENTAL REVIEW

NEPA is the primary federal law that requires the federal government to take a hard look at the environmental impacts of major federal actions prior to making a decision. NOAA's policy for NEPA compliance requires NOAA to publish a notice of intent "to prepare an EIS, which will include a request for public comment on alternatives or impacts and on relevant information, studies or analyses with respect to the proposed agency action."<sup>22</sup> DSHMRA also requires NOAA to publish a draft EIS and to have a hearing on the EIS (Stages 5A-5C). Substantive comments and responses will be appended to the final EIS.<sup>23</sup>

## STAGE 4: CERTIFICATION OF APPLICATION

The Administrator shall endeavor to certify an application **within 100 days of submission** of an application that is deemed complete. To certify, the Administrator must determine 1) whether issuance of a license would violate any restrictions in DSHMRA and 2) that the following requirements are met: approved size and location of the commercial recovery area selected by the applicant; financial responsibility; technological capability; previous license and permit obligations; commercial recovery plan; and fee payment.<sup>24</sup>



## STAGE 5: PROPOSED TERMS, CONDITIONS, AND RESTRICTIONS (TCRS)

### STAGE 5B

Interested persons and **Affected States** have **at least 60 days** after the publication of the proposed TCRs and draft EIS to submit **written comments**, and interested persons can examine relevant materials subject to 15 CFR 971.802.<sup>28</sup>

### STAGE 5A

Within **180 days of certification** (or a longer period the Administrator establishes for good cause in writing), the Administrator will propose TCRs for the proposed commercial recovery and will issue a **public notice with proposed TCRs and draft EIS**.<sup>25</sup>

- The Administrator will provide TCRs in writing to the applicant and affected states, and issue a public notice.
- Before establishing the TCRs pertaining to environmental protection, the Administrator will consult with the Administrator of the Environmental Protection Agency, the Secretary of State, and the Secretary of Homeland Security (for Coast Guard).<sup>26</sup>
- Another Federal agency, or a **State acting under Federal authority** can propose other TCRs.<sup>27</sup>

### STAGE 5C

After preparation of a draft EIS, the Administrator shall hold a **public hearing** on the application and draft EIS. **A hearing will be conducted in any State in which a processing plant or any of its ancillary facilities** (such as a marine terminal or a waste disposal facility) are proposed to be located.<sup>29</sup>

If the Administrator determines there exists one or more specific and material factual issues which require resolution by formal processes, at least one formal hearing will be held in the District of Columbia metropolitan area in accordance with the provisions of subpart I of 15 CFR part 971.

*Information about the process for an applicant to file a notice of objection to any term, condition or restriction in the license can be found in 15 CFR 971.411.*

### STAGE 5D

Prior to issuing a permit, the Administrator will continue consulting with relevant Agencies.

These consultations will be held to ensure compliance with ESA, MMPA, FWCA, and, if the Regional Fishery Management Council is affected, MSA.<sup>30</sup>

## STAGE 5: FINAL DETERMINATION

*Information about amending an application before final determination can be found in 15 CFR 971.213.*

Prior to issuing the permit, the Administrator must make written findings on the following: freedom of the high seas; international obligations of the US; breach of international peace and security involving armed conflict; environmental effects; safety at sea; and processing outside of the US, if applicable.<sup>31</sup>

Within **180 days** of publishing the proposed TCRs, the Administrator will make a final determination and publish a final EIS. Notification of Administrator's issuance of a permit with TCRs will be published in the Federal Register.<sup>32</sup>

*Information about suspending or modifying activities, or suspending or revoking permits can be found in 15 CFR 971.417.*

*Information about modifying TCRs can be found in 15 CFR 971.414. Information about revision of a license can be found in 15 CFR 971.413.*



# DHSMRA FACT SHEET

## FOOTNOTES

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[1] 15 CFR 970.200-208.

[2] 15 CFR 970.209.

[3] 15 CFR 970.209(c).

[4] Priority of right for the issuance of a license is established based on the order chronological order of application submissions that are in substantial compliance. 26 USC 1413(b)

[5] 15 CFR 970.212.

[6] 15 CFR 970.211.

[7] Policy and Procedures for Compliance with the National Environmental Policy Act and Related Authorities: Companion Manual for NOAA Administrative Order 216-6A (June 30, 2025)

[8] Policy and Procedures for Compliance with the National Environmental Policy Act and Related Authorities: Companion Manual for NOAA Administrative Order 216-6A (June 30, 2025)

[9] 15 CFR 970.400.

[10] 15 CFR 970.500; 30 USC 1419(d).

[11] 15 CFR 970.518.

[12] 15 CFR 970.501.

[13] 15 CFR 970.502.

[14] 15 CFR 970.212.

[15] 15 CFR 970.500; 30 USC 1419(d).

[16] 15 CFR 970.509.

[17] 15 CFR 971.201-9.

[18] 15 CFR 971.501.

[19] 15 CFR 971.210.

[20] 15 CFR 971.211.

[21] 15 CFR 971.212.

[22] Policy and Procedures for Compliance with the National Environmental Policy Act and Related Authorities: Companion Manual for NOAA Administrative Order 216-6A (June 30, 2025)

[23] Policy and Procedures for Compliance with the National Environmental Policy Act and Related Authorities: Companion Manual for NOAA Administrative Order 216-6A (June 30, 2025)

[24] 15 CFR 971.300.

[25] 15 CFR 971.400; 30 USC 1419(d).

[26] 15 CFR 971.419.

[27] 15 CFR 971.430.

[28] 15 CFR 971.401(a).

[29] 15 CFR 971.212(b); 15 CFR 971.401(b); 15 CFR 971.204.

[30] 15 CFR 971.402.

[31] 15 CFR 971.400.

[32] 15 CFR 971.410.