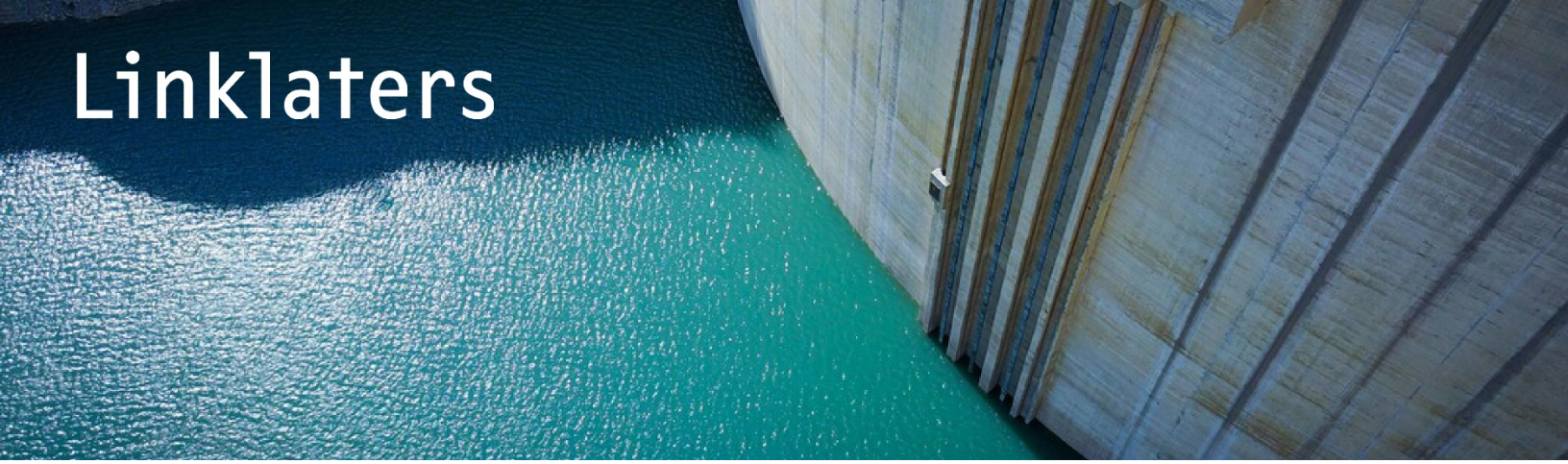


BOEM Proposes First Meaningful Changes of Outer Continental Shelf Hard Minerals Regulations in Nearly Four Decades

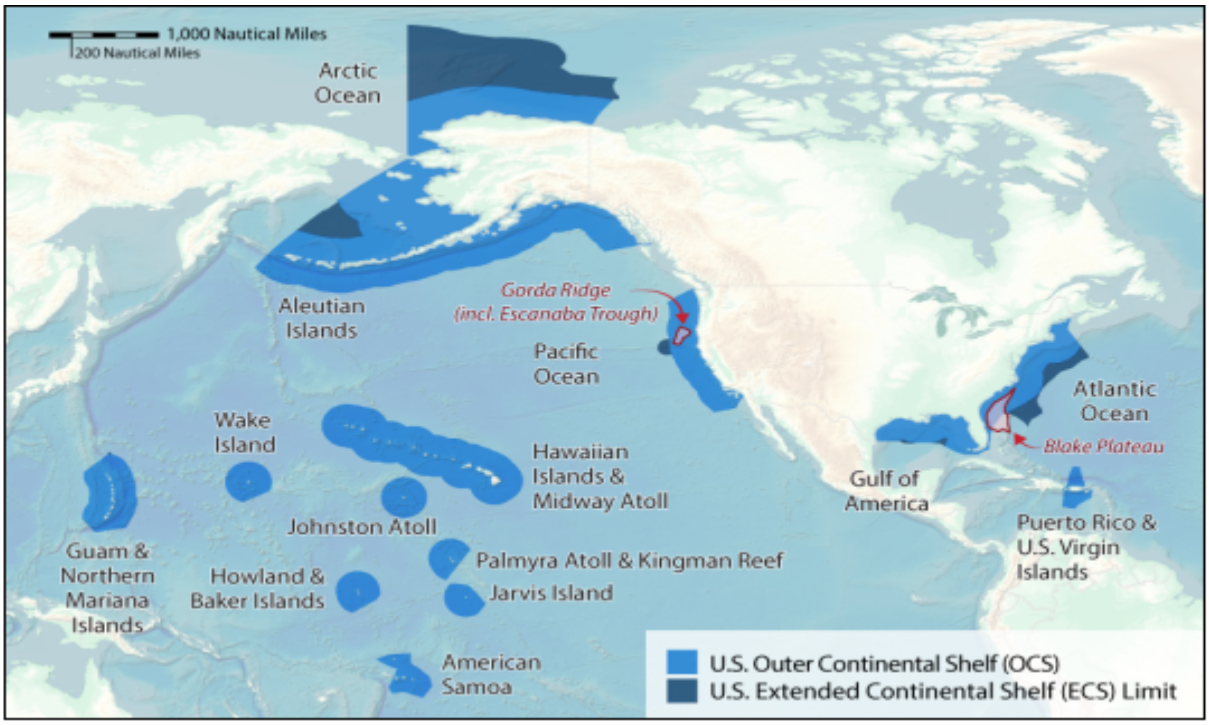
On February 24, 2026, the Bureau of Ocean Energy Management ("**BOEM**") published a proposed rule in the Federal Register that would revise the agency's existing regulations for hard mineral prospecting, leasing, and operations on the U.S. Outer Continental Shelf ("**OCS**"). The proposed rule has nine discrete regulatory changes that fall into four general categories: (1) a shortened leasing review period; (2) elimination of redundant and superfluous provisions; (3) removal of jurisdictional controversy provisions; and (4) changes to environmental and NEPA-related provisions. The proposal is the first meaningful update to a regulatory framework that has remained largely unchanged since the late 1980s. This action is part of the Trump administration's push to establish critical minerals and energy independence and facilitate the extraction of OCS critical minerals.

Background

Governing authority over mineral resource development on the OCS traces to the Outer Continental Shelf Lands Act ("**OCSLA**"), 43 U.S.C. § 1331 et seq., which grants the Secretary of the Interior broad oversight authority over energy and mineral activities on federal submerged lands. Acting under that authority, BOEM administers three parts of the Code of Federal Regulations applicable to hard minerals – minerals other than oil, gas, and sulfur – covering prospecting (30 CFR Part 580), leasing (30 CFR Part 581), and operations (30 CFR Part 582). Those regulations were originally promulgated in 1988 and 1989, and the proposed rule is the first significant effort to revise them.

The proposal arrives against a backdrop of escalating federal attention to domestic critical mineral supply chains. Executive Order 14154 (January 20, 2025) directed federal agencies to, among other things, review and eliminate regulatory barriers to domestic mineral development and called for establishing the United States as a leading producer of non-fuel minerals, including rare earth elements. Executive Order 14285 (April 24, 2025) went further, specifically directing the Department of the Interior to establish an expedited permitting and leasing process for OCS seabed mineral resources within 60 days. In response to these executive orders, BOEM reviewed its permitting, leasing, and operation regulations and "is moving forward with efforts to facilitate the extraction of OCS critical minerals."

Despite the size of the federal OCS (approximately 3.2 billion acres and shown in the below map) and the range of strategically important mineral deposits it may contain, only one hard mineral lease sale has been held under the current framework: the Norton Sound Gold Sale in 1991, which drew no bids, produced no leases, and commercial production of OCS minerals has yet to be achieved.



The Proposed Rule

The proposed rule spans all three applicable CFR parts – 30 CFR Parts 580, 581, and 582 – and proposes nine discrete regulatory changes that fall into four general categories: (1) a shortened leasing review period; (2) elimination of redundant and superfluous provisions; (3) removal of jurisdictional controversy provisions; and (4) changes to environmental and NEPA-related provisions.

1. Shortened Lease Response Period. Under the current regulations, BOEM has 45 days to respond to an unsolicited request for a hard mineral lease sale. This timeframe was not set by statute, but instead a product of the agency's own rulemaking. BOEM proposes replacing it with a 28-day deadline. The agency frames this revision as promoting timely processing of lease requests consistent with the broader mandate to accelerate OCS mineral access.

2. Elimination of Redundant and Superfluous Provisions. Several existing provisions are proposed for removal on the basis that they either duplicate requirements already established elsewhere in law or in agency regulations or add no substantive content. By way of example, Sections 580.33 and 580.34 (governing appeals of penalties and decisions, respectively) and Section 582.50 (appeals under Part 582) are cross-references and are proposed for deletion to avoid redundancy. Each simply directs readers to the general BOEM appeals process already set out in 30 CFR Part 590. Because that process applies agency-wide regardless of whether these cross-references exist, all three are proposed for deletion.

3. Jurisdictional Controversies Provisions. Both the leasing and operations parts contain provisions summarizing an OCSLA provision, 43 U.S.C. § 1336, which was included in the original statute to address boundary disputes between federal and state jurisdiction – a concern that arose primarily in the context of oil and gas, where directional drilling can allow a well drilled from one side of a jurisdictional boundary to access resources on the other. BOEM's position is that this type of dispute is far less likely to arise with hard mineral extraction, which does not involve the same cross-boundary resource access concerns. Accordingly, BOEM proposes to remove both provisions, noting that the underlying statutory authority to resolve any such controversy remains unaffected.

4. Environmental and NEPA-Related Provisions. Three provisions in Part 580 governing environmental matters are proposed for elimination:

- Section 580.29 states that BOEM will assess the potential environmental impact of prospecting and scientific research activities. BOEM proposes to remove it as redundant because BOEM is already required by statute to evaluate all applications on a technical and environmental basis regardless of this provision.
- Section 580.30 lists categories of activities that, according to the provision, would not require environmental analysis. BOEM proposes its removal on the basis that categorical exclusions from NEPA reviews are separately maintained in the Departmental Manual and the Department's recently revised NEPA regulations at 43 CFR Part 46. In addition, the provision was misleading because any individual activity, or a program of activities, may still be subject to the requirements of other environmental laws, thereby requiring analysis or possibly consultation, and the provision wrongly implies environmental analysis is not required. (Notably, the Department of the Interior recently substantially revised its NEPA implementing regulations, which included changes to the categorical exclusion provisions. The final rule provides that the bureaus may rely on categorical exclusion determinations made by other federal agencies for substantially the same action without conducting their own extraordinary circumstances review, provided they document such reliance. The bureaus may also apply multiple categorical exclusions in combination to cover a proposed action composed of multiple action elements, provided they verify that each element is supported by a categorical exclusion and complete extraordinary circumstances review for the action as a whole.)
- Section 580.31 requires BOEM to notify state and local governments of certain prospecting-related environmental matters. BOEM proposes to remove it on the basis that it is not directed at the regulated community, BOEM is not required by OSCLA to engage an adjacent or affected State, and it restates requirements that are already imposed by other federal statutes, including NEPA and the Coastal Zone Management Act. BOEM notes that deletion would not affect states' rights to access permit applications, participate as cooperating agencies in NEPA processes, or submit Freedom of Information Act requests.

What to Expect Next

The proposed rule is open for public comments through April 27, 2026. Comments may be submitted through the federal rulemaking portal at www.regulations.gov, referencing docket number BOEM-2025-0120. It seems likely that BOEM will issue a final rule in 2026.

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