

**BEFORE THE BUREAU OF OCEAN ENERGY MANAGEMENT
DEPARTMENT OF THE INTERIOR**

In the Matter of:

Docket No. BOEM-2026-0232

91 Fed. Reg. 42246

Potential Use of the Outer Continental Shelf for
Offshore Space Launch and Re-Entry Activities

COMMENTS OF THE AMERICAN SPACE LAW SOCIETY

The American Space Law Society is a South Carolina nonprofit conducting research on the law, governance, and politics of human activity beyond Earth. Its interest in this proceeding is institutional rather than commercial: the development of a durable legal pathway for additional American launch capacity. The Society respectfully submits these comments in response to the Bureau of Ocean Energy Management's request for information on the use of submerged lands and existing facilities on the Outer Continental Shelf for space launch, reentry, landing, and recovery activities.¹

These comments respond principally to Requested Information items (f), (g), (h), (i), and (j). The Society does not attempt to answer items (a) through (e) or (k), which principally call for technical, engineering, commercial, or stakeholder-specific information outside the scope of these comments.

I. EXECUTIVE SUMMARY

As demand for payload delivery to orbit grows and launch cadence increases, the United States faces a foreseeable constraint in the coastal infrastructure through which most launch operations must pass. The Eastern Range supported 109 launches in 2025, and the Federal Aviation Administration authorized a record 204 commercial space operations nationwide in fiscal year 2025. A June 2025 report by the U.S. Government Accountability Office found that federal launch infrastructure is aging and generally was not designed for high launch cadence, larger launch vehicles, or the logistics of modern launches.²

The relevant scarcity is not coastline or pad count alone. It is deconflicted launch capacity: opportunities that combine workable trajectories, available airspace and maritime corridors, adequate hazard areas, range support, transportation and utilities, environmental compatibility, and durable legal authorization. Reusable systems add recurring landing, recovery, transport, inspection, refurbishment, and return-to-flight demands. Offshore systems can provide a pressure-relief valve by adding alternative launch, landing, recovery, or support locations, provided that they add usable capacity rather than compete for the same corridors, windows, ports, and government resources.

The American Space Law Society recommends three immediate actions:

- The Secretary of the Interior should request convening by the Assistant to the President for Science and Technology. The Departments of the Interior, Transportation, and Homeland Security should then execute an interagency memorandum of understanding for offshore spaceflight, with the Department of Defense participating in range and national-security matters. The Society recommends a 120-day target following the close of this request for information.
- Within 180 days after the memorandum takes effect, the participating agencies should publish an Offshore Spaceflight Regulatory Pathfinder based on a notional conversion of a qualifying existing Outer Continental Shelf facility. Its products should include a public classification guide, a jurisdiction table, common preapplication requirements, and an integrated sequence of federal decisions.
- The Interior Solicitor should publish an interpretation of section 8(p) of the Outer Continental Shelf Lands Act, followed by Bureau guidance. The better reading provides a potential pathway for qualifying existing facilities under subsection (1)(D), but does not authorize a standalone, purpose-built, non-energy spaceflight facility on previously unoccupied seabed under subsection (1)(C).

II. A COORDINATED FEDERAL PROCESS

Requested Information items (f) and (i).

No single federal authorization governs an offshore spaceflight project. The applicable authorities change with the project's physical form, operational capabilities, lifecycle stage, and geographic and temporal footprint. The same proposal may involve an Outer Continental Shelf property interest, facility conversion or

construction, commercial launch or reentry licensing, airspace and range integration, maritime safety, environmental review, and the international responsibility of the United States.

Executive Order 14369 assigns the Assistant to the President for Science and Technology responsibility for coordinating its implementation. The proposed memorandum would place the Department of the Interior, Department of Transportation, and Department of Homeland Security at the center of the process. The Department of Defense would participate where a proposal affects federal ranges, military operating areas, shared tracking and telemetry, or national-security missions.³

This kind of agreement is familiar to the Bureau. In 2024, the Bureau of Ocean Energy Management, Bureau of Safety and Environmental Enforcement, and Coast Guard executed a memorandum that assigns leadership for different offshore oversight functions and provides for more detailed agreements where responsibilities overlap.⁴

For offshore spaceflight, the memorandum would establish:

- one common preapplication submission based on a single description of the proposed facility and operations;
- a joint preapplication memorandum identifying the agencies expected to act and the apparent legal basis for each action;
- a designated federal point of contact and a published schedule showing which reviews can proceed together and which must be sequenced;
- a common factual record for environmental, range, airspace, and maritime review;
- written escalation procedures when participating agencies cannot resolve a jurisdictional or scheduling dispute; and
- public access to nonconfidential classification memoranda, schedules, guidance, and lessons from the reference exercise.

Publishing those materials would make the process more accessible to new entrants and reduce the advantage enjoyed by firms with prior agency experience. Classified, export-controlled, proprietary, security-sensitive, law-enforcement-sensitive, personal, and otherwise protected information would remain subject to existing safeguards.

The memorandum would coordinate the exercise of existing authority. Each participating agency would retain the decisions and legal duties assigned to it by Congress.

III. THE GOVERNMENT SHOULD DEFINE THE PATH BEFORE APPLICANTS MUST NAVIGATE IT

Requested Information items (f) and (i).

Within 180 days after the memorandum takes effect, the participating agencies should complete an Offshore Spaceflight Regulatory Pathfinder using a notional conversion of a qualifying existing Outer Continental Shelf facility. The reference case should assume documented prior use for an activity authorized under the Outer Continental Shelf Lands Act, a United States-organized and controlled operator, United States registration or flag where applicable, and uncrewed operations.

The agencies should evaluate launch, landing, recovery, testing, processing, logistics, propellant storage, and multi-user capabilities only where those functions change the governing authority, information requirements, agency responsibilities, review sequence, or operational footprint.

Its products would include:

- a short classification guide for prospective applicants;
- a jurisdiction table covering the principal facility and operating models;
- common preapplication requirements and a coordinated sequence of federal decisions; and
- an account of unresolved statutory and jurisdictional questions.

The jurisdiction table would distinguish an apparent existing pathway, a conditional or fact-dependent pathway, unresolved authority, and no apparent existing pathway. Classification should turn on the project's physical form, operational capabilities, lifecycle stage, and operational footprint.

After publication, a complete common preapplication would receive a joint preapplication memorandum within 120 days. The memorandum should state the government's preliminary view of how the proposal fits existing authorities, the material facts supporting that view, the agencies expected to act, the information each expects to require, the reviews that can proceed together, and the expected order of decisions. An agency may revise its position when material facts or governing law change, or when the initial analysis proves mistaken, with the reason for the revision stated in writing.

The agencies may later test the published materials against a voluntarily submitted real proposal. Any generally applicable lessons should be incorporated into the public guidance.

IV. CLARIFYING THE REACH OF SECTION 8(P) WOULD STRENGTHEN THE OFFSHORE PATHWAY

Requested Information items (f) and (h).

BOEM has identified section 8(p) as a potential source of authority for both the alternate use of existing facilities and new purpose-built infrastructure. This request for information provides an appropriate opportunity to clarify how those pathways fit the statute. Because a BOEM property interest would provide the foundation for later engineering, environmental review, licensing, and investment, the final framework would benefit from a public Interior interpretation before substantial project-specific reliance develops.¹

Subsection (1)(C) authorizes leases, easements, and rights-of-way for activities that produce or support the production, transportation, storage, or transmission of energy from sources other than oil and gas. Subsection (1)(D) separately addresses energy-related and other authorized marine-related uses of facilities currently or previously used for activities authorized under the Outer Continental Shelf Lands Act. BOEM's Part 586 regulations implement the existing-facility pathway.⁵

In the American Space Law Society's view, the better reading is that subsection (1)(C) does not authorize a standalone, purpose-built, non-energy spaceflight facility on previously unoccupied seabed. Commercial launch is a transportation activity. Storing and consuming propellant does not convert the facility's principal activity into the energy production, storage, transportation, or transmission addressed by subsection (1)(C).

Subsection (1)(D) appears to provide the most plausible present pathway through the alternate use of a qualifying existing facility. Application remains fact-dependent, including whether the structure and its prior use qualify, whether the proposed use is an authorized marine-related purpose, and whether associated construction remains part of an alternate use rather than a separate new facility.

An existing-facility pathway also needs a clear allocation of decommissioning responsibility. Part 586 assigns the holder of an Alternate Use right-of-use and easement responsibility for decommissioning obligations that arise after issuance and pertain to the alternate use, while the original lessee remains responsible for earlier obligations and obligations tied to continued activity under the original lease. BOEM and the Bureau of Safety and Environmental Enforcement determine decommissioning requirements case by case; Part 586 also requires financial assurance sufficient to cover all obligations and generally requires decommissioning within one year after termination. Guidance should explain how conversion affects existing removal schedules, bonding, assignments, and the final removal condition.⁵

To give BOEM and prospective applicants a reliable basis for proceeding, the American Space Law Society recommends that the Interior Solicitor publish an opinion addressing existing facilities, standalone seabed-attached facilities, permanently moored systems, structures placed near an existing facility, hybrid proposals, section 8(p)(3) competitive issuance, and the safeguards and coordination required by section 8(p)(4). Bureau guidance could then apply that interpretation to the reference exercise and preapplication process. BOEM could continue discussing greenfield concepts during preapplication while reserving project-specific grants until the Department has published its statutory position.

Other authorities can supplement BOEM's process without supplying missing property authority. Section 4(f) of the Outer Continental Shelf Lands Act, codified at 43 U.S.C. § 1333(e), extends the Army Corps of Engineers' section 10 authority to artificial islands, installations, and other devices on the Outer Continental Shelf. That authority concerns structures and navigation rather than the conveyance of a federal property interest. The Deepwater Port Act offers an institutional analogue for a congressionally created offshore licensing process with interagency review, navigation and environmental criteria, and decommissioning requirements, but it is limited to oil and natural gas. If existing law leaves greenfield spaceflight infrastructure outside BOEM's granting authority, a narrow statutory amendment would provide the durable solution.⁵

A published interpretation would also place the Department in the strongest position under *Loper Bright Enterprises v. Raimondo*. That decision does not resolve how section 8(p) applies to offshore spaceflight, but it directs courts to exercise independent judgment when determining statutory meaning. A reasoned public interpretation would help demonstrate that the offshore pathway rests on the statute's text and structure rather than on ambiguity alone.⁶

The framework should allow BOEM and the Federal Aviation Administration to conduct their reviews in parallel where the governing processes permit. Federal Aviation Administration requirements depend on the proposed configuration and use; an exclusive-use launch site, for example, does not always require a separate launch-site operator license. The coordinated schedule should identify the property, construction, and

operational decisions that may advance together and the approvals required before modification or operations begin.⁷

Early clarification would also serve the industry's interests. If the statutory basis for a property grant remains uncertain, developers and investors may commit capital against a right that later proves unstable. Resolving the issue at the framework stage would improve bankability and reduce the risk that litigation shifts delay to a later, more expensive phase of development.

V. A COMMON RECORD AND EARLY OPERATIONAL REVIEW

Requested Information items (g), (i), and (j).

The Federal Aviation Administration's pending environmental-waiver rulemaking identifies duplication among statutes and agencies as a source of delay and recognizes that a separate federal property action may retain its own environmental consequences. The interagency memorandum should require participating agencies to agree, as far as their statutes permit, on the project description, operating cadence, lifecycle assumptions, geographic and temporal footprint, baseline information, data standards, modeling inputs, and review schedule.⁸

Each agency would continue to make the findings assigned to it. The common record should be designed to support review under the National Environmental Policy Act, Outer Continental Shelf Lands Act, Endangered Species Act, Marine Mammal Protection Act, Essential Fish Habitat provisions of the Magnuson-Stevens Act, National Historic Preservation Act, Coastal Zone Management Act, government-to-government Tribal consultation requirements, Clean Water Act, Clean Air Act, and other applicable laws. Additional analysis should be tied to a different statutory question, a project-specific information gap, a changed assumption, or a risk outside the common record. The process should identify any state, Tribal, or local role required by existing law or connected to an onshore facility, state permit, or state-owned infrastructure; the memorandum would not create additional concurrence rights based only on proximity to a federal offshore facility.¹

Initial property classification would be followed by range, airspace, and maritime review before the project is treated as operationally viable. That review should identify nominal and contingency trajectories, hazard areas, recovery or impact zones, operating and backup windows, interaction with other launches and military activity, shipping and fishing conflicts, port requirements, and government resources. The process would allow applicants to revise location, trajectory, cadence, or capability in response, with supplemental classification when the change alters the legal pathway.⁹

The maritime review would distinguish the installation-centered zone from temporary operational controls and the broader advisory footprint of launch, reentry, debris, recovery, and contingency operations. Although the United States is not a party to the United Nations Convention on the Law of the Sea, Article 60 supplies the relevant international framework for installation-centered safety zones. Federal law separately provides a Coast Guard pilot authority for temporary exclusive-economic-zone safety zones associated with launch and reentry by United States citizens. Where repeated operations would materially affect international shipping, the Coast Guard and Department of State would evaluate whether an International Maritime Organization routing measure is warranted.¹⁰

The joint preapplication memorandum would also identify how the United States will satisfy applicable obligations under the Outer Space Treaty and related agreements, including authorization and continuing supervision, launching-State responsibility and liability, registration, jurisdiction and control, due regard, and consultation concerning potentially harmful interference. Federal Aviation Administration licensing will ordinarily be central, while property conditions, maritime controls, communications and payload authorizations, export controls, and other continuing oversight may also contribute.¹¹

Foreign practice confirms that sea launch is operational rather than hypothetical. China has repeatedly conducted orbital launches from maritime platforms, including a Smart Dragon-3 mission from the sea near Haiyang in January 2025. Italy's San Marco range off Kenya conducted an orbital launch from a fixed offshore platform in 1967. These examples demonstrate operational precedent while reflecting institutional arrangements different from those governing the United States Outer Continental Shelf.¹²

VI. IMPLEMENTATION

The American Space Law Society recommends the following targets:

1. **120 days after the close of this request for information:** execution of the interagency memorandum of understanding.

2. **180 days after the memorandum takes effect:** publication of the reference exercise, classification guide, jurisdiction table, and common preapplication requirements.
3. **120 days after receipt of a complete common preapplication:** issuance of the joint preapplication memorandum and coordinated federal schedule.
4. **During the 180-day reference period:** publication of the Interior Solicitor's section 8(p) opinion and Bureau guidance.

If this process identifies a strategically important project category outside existing authority, the Administration should then transmit a narrowly tailored legislative proposal addressing the identified gap.

CONCLUSION

Offshore launch, reentry, landing, and recovery systems can become useful supplemental infrastructure for the United States where they add net deconflicted capacity and rest on durable property, operational, and maritime authority.

The Bureau should use the authority it has, identify the authority it lacks, and initiate the coordination no single bureau can provide. A White House-convened memorandum, an existing-facility reference exercise, public preapplication guidance, and a defensible interpretation of section 8(p) would give both government and prospective applicants a workable place to begin.

Respectfully submitted,

THE AMERICAN SPACE LAW SOCIETY

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SOURCE NOTES

1. Bureau of Ocean Energy Management, Potential Use of the Outer Continental Shelf for Offshore Space Launch and Re-Entry Activities, 91 Fed. Reg. 42246 (July 8, 2026), Docket No. BOEM-2026-0232. [Source](#)
2. U.S. Space Force, 1st Range Operations Squadron (reporting 109 Eastern Range launches in 2025); Federal Aviation Administration, LIFTOFF: Major Move to Streamline Commercial Space Licensing (July 28, 2026) (reporting a record 204 authorized commercial space operations in fiscal year 2025); U.S. Government Accountability Office, National Security Space Launch: Increased Commercial Use of Ranges Underscores Need for Improved Cost Recovery, GAO-25-107228, section titled “Launch Infrastructure and Logistical Challenges” (June 30, 2025). [Space Force](#) [FAA](#) [GAO](#)
3. Exec. Order No. 14369, Ensuring American Space Superiority (Dec. 18, 2025). [Source](#)
4. Bureau of Ocean Energy Management, U.S. Coast Guard, BSEE and BOEM Sign Agreement to Advance Safe and Environmentally Sustainable Energy Development (Apr. 1, 2024). [Source](#)
5. 43 U.S.C. §§ 1333(e), 1337(p), including paragraphs (3) and (4); 33 U.S.C. § 403; 30 C.F.R. Part 586, especially §§ 586.100–.103, .107, .113, .203, .212–.213, and .218–.219; Maritime Administration, About the Deepwater Port Act. [OCSLA § 4](#) [OCSLA § 8\(p\)](#) [Rivers and Harbors Act](#) [Regulations](#) [Deepwater Port Act](#)
6. Loper Bright Enterprises v. Raimondo, 603 U.S. 369 (2024). [Source](#)
7. Federal Aviation Administration, Getting Started with Licensing. [Source](#)
8. Waiver of Specified Statutory Requirements for Commercial Space Launch and Reentry Actions, 91 Fed. Reg. 47997, 47998–99 (proposed July 30, 2026), Docket No. FAA-2026-8614. [Source](#)
9. Federal Aviation Administration, Airspace Integration; U.S. Government Accountability Office, GAO-25-107228, section titled “Launch Infrastructure and Logistical Challenges.” [FAA](#) [GAO](#)
10. United Nations Convention on the Law of the Sea art. 60; 46 U.S.C. § 70034 note; International Maritime Organization, Ships’ Routeing. [UNCLOS](#) [U.S. Code](#) [IMO](#)
11. Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space arts. VI–IX; Convention on International Liability for Damage Caused by Space Objects; Convention on Registration of Objects Launched into Outer Space. [Source](#)
12. State Council of the People’s Republic of China, China’s Smart Dragon-3 Rocket Launches Satellites from Sea (Jan. 13, 2025); NASA, San Marco D/L Explorer (describing the first orbital launch from the San Marco platform in 1967). [China](#) [NASA](#)