

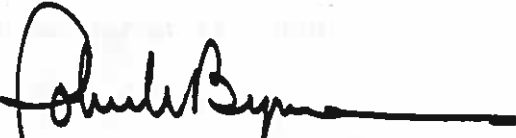
Please file with NOAA Directives Manual 05-85

SUBJECT: Delegation of Prosecutorial Authority to NOAA General Counsel

TO: Financial Management Centers

1. Legislation: As a result of the Deep Seabed Hard Mineral Resources Act (DSM), P.L. 96-283 (30 U.S.C. 1401-1473), and the Ocean Thermal Energy Conversion Act of 1980 (OTEC), P.L. 96-320 (42 U.S.C. 9101-9167), the NOAA Administrator has authority to prosecute violations, including the authority to assess civil money penalties, seek in rem forfeitures, impose permit sanctions (including suspension, revocation, or modification) for violations, refer cases to the Department of Justice for civil and criminal proceedings, and issue compliance orders under OTEC.
2. Relation to Other Instructions: The authority delegated by this Circular is in addition to, and does not supersede, the authority to assess civil money penalties delegated to the General Counsel by NOAA Circular 82-3, filed as NDM 05-85. References to assessment of civil penalties in this Circular are consistent with NDM 05-85 and are included here in order to integrate in a single document the various prosecutorial authorities delegated to the NOAA General Counsel under DSM and OTEC.
3. Delegation to the NOAA General Counsel: Authority is hereby delegated to the General Counsel of NOAA to take such action as is necessary or proper to assess civil money penalties, impose or seek permit or license sanctions, refer cases to the Department of Justice for criminal prosecutions or civil proceedings, and seek in rem forfeitures, including, but not limited to, the following actions: issuing notices of violation and assessment and notices of permit sanction; appointing hearing officers; representing NOAA at enforcement hearings; declining prosecutions for alleged violations; compromising, settling, dismissing, or otherwise disposing of cases; accepting payment of civil penalties and title to seized property (or the monetary value thereof); issuing interim permit or license suspensions, in consultation with the Director of the Office of Ocean Minerals and Energy, pending completion of permit/license proceedings; remitting or mitigating civil penalties and forfeitures; accepting bonds or other security for seized property; referring cases to the Department of Justice for collection of civil penalties, institution of criminal, civil, forfeiture, and license sanction proceedings; requiring submission of information relevant to permit or license sanction proceedings under DSM; and issuing compliance orders, in consultation with the Director of the Office of Ocean Minerals and Energy, under OTEC. This authority may be redelegated at the discretion of the General Counsel.

4. Reservation of Authority: The Administrator specifically reserves the authority: to review and decide appeals of rulings of hearing officers in civil penalty and permit sanction proceedings, including interlocutory appeals and appeals from initial decisions of hearing officers; and to review interim permit or license suspension orders upon request of the licensee or permittee.



John V. Byrne
Administrator