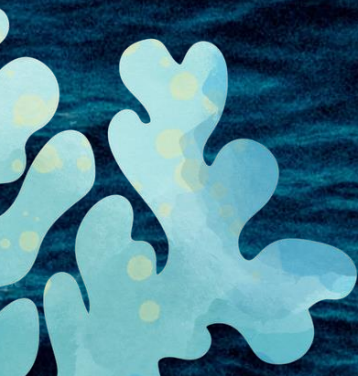


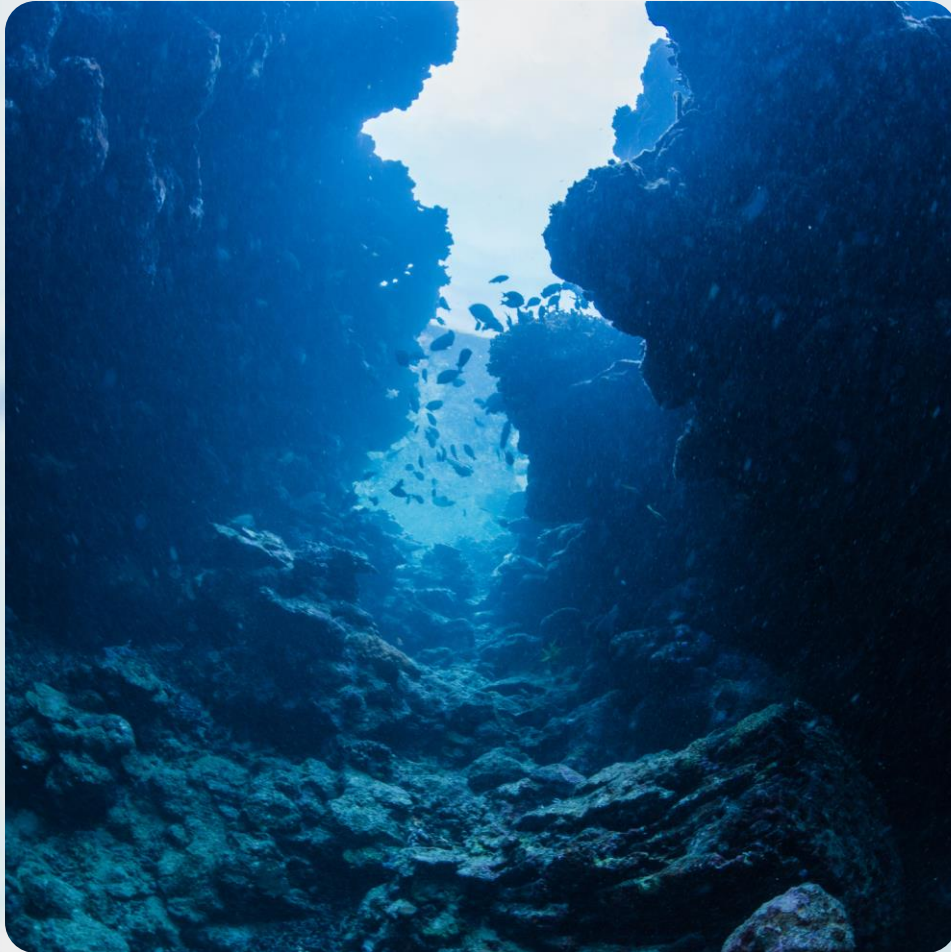


April 21 ————— 2026

# Seabed Mining Under the Outer Continental Shelf Lands Act

An Environmental Law Institute Public Webinar





# ELI's Deep-Sea Mining Project

- U.S. legal framework related to DSM
- Analyze legal authorities, interactions between laws, processes, requirements, and gaps
- Convene experts for roundtable discussions
- Record webinars and produce related materials, including a comprehensive report

# Agenda

- 01. Welcome and Introduction**  
Rebecca Kihslinger, Senior Science and Policy Analyst, Environmental Law Institute
- 02. Overview of ELI Materials**  
Therese Wilkerson, Staff Attorney, Environmental Law Institute
- 03. OCSLA's Seabed Mining Permitting Process & Opportunities to Engage**  
Bobbi-jo Dobush, Principal, Salt Horizon LLC
- 04. Other Laws Relevant to Deep Seabed Mining**  
Robin Kundis Craig, Robert A. Schroeder Distinguished Professor, University of Kansas School of Law

# Agenda

**05.** **State and Territorial Engagement under CZMA**  
Jeff Burrigh, Offshore Wind Energy Roadmap Coordinator, Oregon Department of Land Conservation and Development

**07.** **Q&A Discussion**  
Rebecca Kihslinger, Senior Science and Policy Analyst, Environmental Law Institute

**08.** **Closing Remarks**  
Rebecca Kihslinger, Senior Science and Policy Analyst, Environmental Law Institute



# Relevant Materials

**FACT SHEET OCSLA 101**

**WHAT IS OCSLA?**

The **Outer Continental Shelf Lands Act (OCSLA)** is the principal U.S. federal statute governing mineral resource development on the **U.S. Outer Continental Shelf (OCS)**, which consists of submerged lands beyond submerged state and territorial lands that are within the U.S. jurisdiction, including lands within the U.S. exclusive economic zone adjacent to Territories.<sup>1</sup> One of OCSLA's policies is to develop the OCS "subject to environmental safeguards."<sup>2</sup>

OCSLA authorizes the **Department of Interior (DOI)** to manage offshore mineral resources, including minerals other than oil, gas, and sulphur (collectively, OCS minerals). DOI has delegated authority to the **Bureau of Ocean Energy Management (BOEM)** and the **Bureau of Safety and Environmental Enforcement (BSEE)** to manage the leasing of OCS minerals.

**SCIENTIFIC RESEARCH PERMITS**

Persons seeking to conduct scientific research activities on the OCS on unleased lands or lands leased to a third party must first either obtain a permit before conducting activities or file a notice to BOEM.<sup>11</sup>

Scientific research permits are required for activities that involve using solid or liquid explosives, drilling a deep stratigraphic test, or developing data and information for proprietary use or sale.<sup>12</sup>

## OCSLA 101 Fact Sheet

Fact sheet providing an overview of OCSLA processes and substantive requirements related to seabed mining in the outer continental shelf (OCS).

**FACT SHEET: OCSLA INTERSECTION WITH OTHER U.S. LAWS**

Relevant Law	OCSLA Connection	Practical Application
<p><b>National Environmental Policy Act (NEPA):</b> Requires federal agencies to consider the environmental impacts of their major federal actions before making a decision.<sup>1</sup></p>	<p>BOEM will conduct NEPA review for OCSLA lease sales and OCS project-specific activities conducted under OCS mineral leases. BOEM has categorically excluded approvals of offshore geological and geophysical (G&amp;G) mineral exploration activities that do not include drilling of deep stratigraphic test holes or use solid or liquid explosives, subject to review of extraordinary circumstances.<sup>2</sup></p>	<p>DOI's 2026 NEPA regulations streamlined requirements, shifted procedural detail to a non-binding Handbook, retained emergency provisions, and stated that almost all opportunities for public involvement are discretionary.<sup>3</sup> Under new DOI policies, BOEM will prepare a programmatic analysis for proposed OCSLA mineral leases (for minerals other than oil, gas, and sulphur) and then conduct tiered NEPA analyses for OCS project-specific activities. For prospecting permits, BOEM "will apply existing streamlined environmental reviews whenever appropriate."<sup>4</sup> BOEM will conduct NEPA review for G&amp;G mineral exploration activities only when the proposed activity includes the drilling of deep stratigraphic test holes or uses solid or liquid explosives.<sup>5</sup> Permit applicants for G&amp;G exploration activities that do not qualify for BOEM's categorical exclusion and OCS mineral lessees (i.e., "project sponsors") may prepare draft EAs or EISs for BOEM's use, but BOEM must independently evaluate and adopt any such applicant-prepared NEPA document.<sup>6</sup> Recent 2025 NEPA amendments allow the project sponsors to pay a fee for expedited review, with BOEM generally required to complete review of an EA</p>

## OCSLA Interactions w/ Other U.S. Laws

Fact sheet analyzing OCSLA interactions with other domestic laws, including NEPA, CZMA, ESA, CWA, CAA, MSA, MMPA, and more.

# Relevant Materials

## OCSLA PROSPECTING

### Prospecting for Minerals Other than Oil, Gas, and Sulphur on the Outer Continental Shelf



#### PURPOSE

- OCSLA implementing regulations establish a framework that allows for geological and geophysical (G&G) prospecting activities and G&G scientific research activities "on the OCS in federal waters related to hard minerals on unleased lands or on lands leased to a third party." **30 C.F.R. § 580.2(a).**
- G&G prospecting permits authorize the "commercial search for mineral resources other than oil, gas, and sulphur." **30 C.F.R. § 580.1.**
- G&G prospecting activities include, but are not limited to:
  - "geological and geophysical marine and airborne surveys where magnetic, gravity, seismic reflection, seismic refraction, or the gathering through coring or other geological samples are used to detect or imply the presence of hard minerals; and
  - any drilling, whether on or off a geological structure." **30 C.F.R. § 580.1.**
- Depending on the nature of the research activities, G&G scientific research activities may be carried out only after a BOEM-issued permit is obtained or a notice is filed. **30 C.F.R. § 580.11.**
- G&G scientific research activities include "any investigations related to hard minerals that are conducted on the OCS for academic or scientific research. These investigations would involve gathering and analyzing geological, geochemical, or geophysical data and information that are made available to the public for inspection and reproduction at the earliest practical time. The term does not include commercial G&G exploration or

## OCSLA Prospecting Flowchart(s)

Flowchart(s) outlining the application process for prospecting for minerals other than oil, gas, and sulphur on the OCS.

## OCSLA LEASING & OPERATIONS

Competitive Leasing Framework for OCS Minerals Other than Oil, Gas, and Sulphur: Process Initiation and Conducting Operations under 2025 BOEM Policies

- Opportunities for comment from interested parties are outlined in orange.
- BOEM has issued proposed regulations, which it will finalize after the comment period ends on April 27, 2025.
- 2025 OCS/BOEM Policy Updates are outlined in pink. As of April 2025, these policies are not formally codified in the law or regulations.



## OCSLA Leasing & Operations Flowchart(s)

Flowchart(s) outlining the competitive leasing framework for OCS minerals other than oil, gas, and sulphur.

# Relevant Materials

## FACT SHEET OCSLA & CZMA FEDERAL CONSISTENCY REVIEW



### Federal Consistency Overview

*Please refer to ELI's OCSLA Prospecting and Leasing Flowcharts and OCSLA 101 Factsheet in conjunction with this fact sheet.*

Section 307 of the Coastal Zone Management Act (CZMA) provides states and territories with National Oceanic and Atmospheric Administration (NOAA)-approved coastal management programs a formal role in reviewing certain federal, federally authorized, and federally funded activities that may affect their coastal uses and/or resources.<sup>1</sup> This process is referred to as "**federal consistency review**."

This mechanism was established to ensure that when activities conducted or authorized by federal agencies

## CZMA Federal Consistency Review

Fact sheet explaining opportunities for States and Territories to engage in OCSLA processes through CZMA consistency reviews.

# OCSLA's DSM Permitting Process Opportunities to Engage

Environmental Law Institute

Bobbi-Jo Dobush

Salt Horizon, LLC

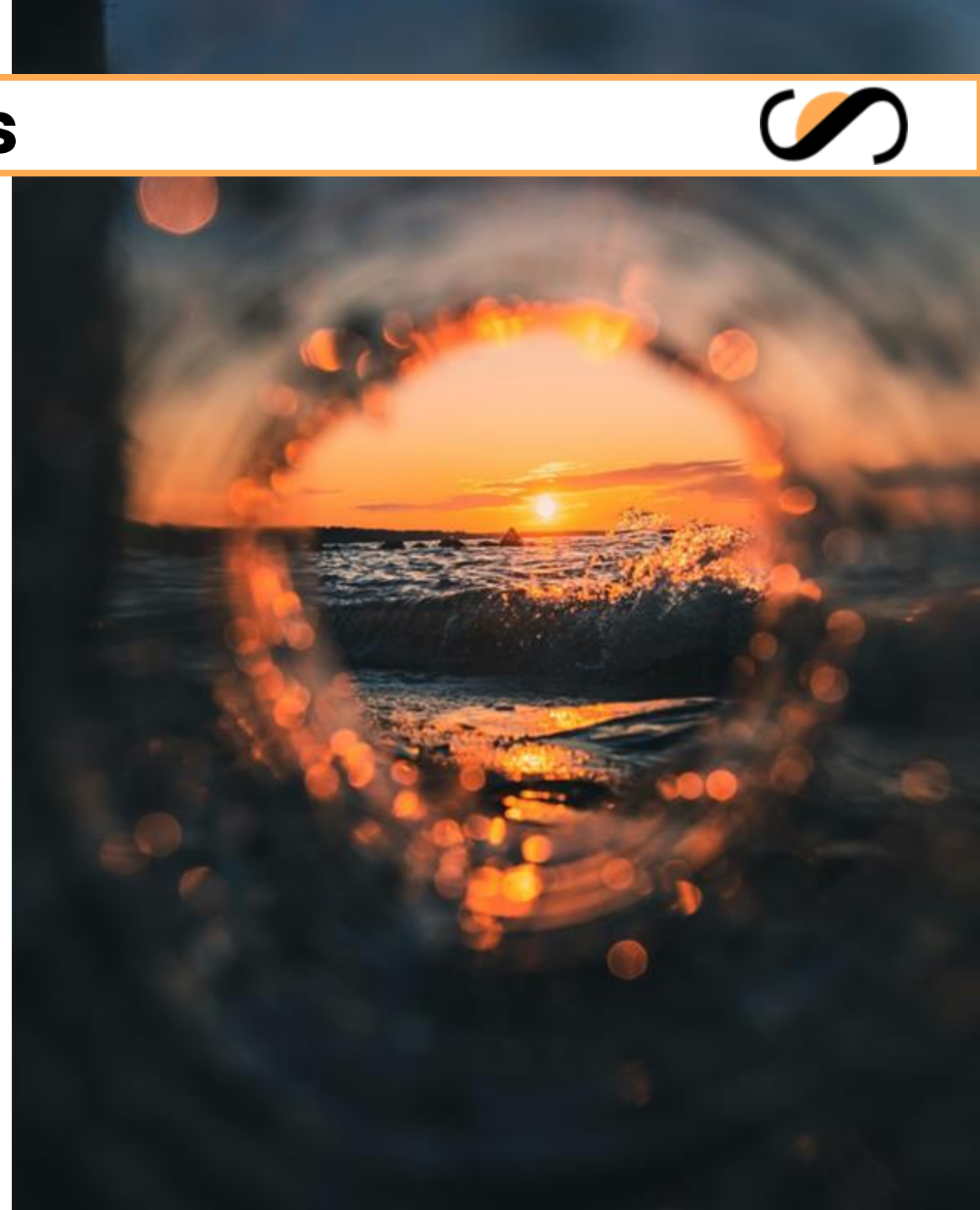
April 21, 2026



# Questions and Considerations



- What is OCSLA
- History of Seabed Minerals Leasing Under OCSLA
- Leasing Process and Timeline
- Opportunities to Engage





## BOEM's Executive Order Guidance

### 2025 Executive Orders

- [EO 14285 Unleashing America's Offshore Critical Minerals and Resources](#)
  - Take immediate action to accelerate responsible development of seabed mineral resources
- [EO 14156 Declaring a National Energy Emergency](#)
  - Current critical minerals efforts do not meet Nation's needs
- [EO 14154 Unleashing American Energy](#)
  - Prioritizes expanding exploration and development of critical minerals
- [EO 14213 Establishing the National Energy Dominance Council](#)
  - Council prioritizes expansion of critical mineral production



### Following 2025 EOs, BOEM:

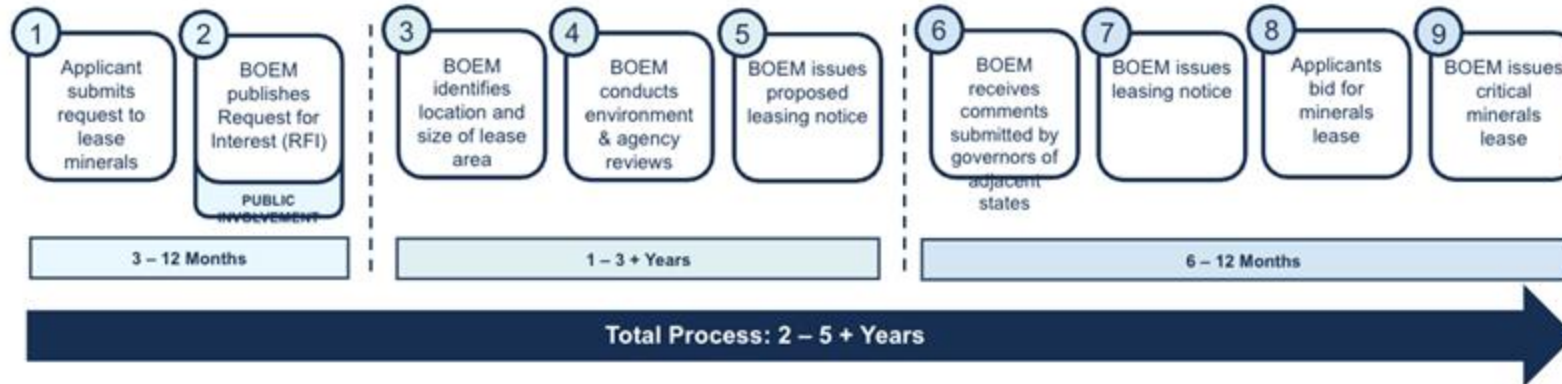
- Completed "Area Identification" for American Samoa in January 2026
- Completed Area ID for CNMI/ Guam in March 2026
- Issued RFI for Alaska OCS (closed April 1, 2026)
- Proposed revision to OCSLA regulations (comment period closes April 27, 2026)



# Leasing Process

“The [RFI] is an early step in the process and is not a decision to hold a sale”

## Leasing Steps: Regulatory Pathway and Projected Timeline Estimates

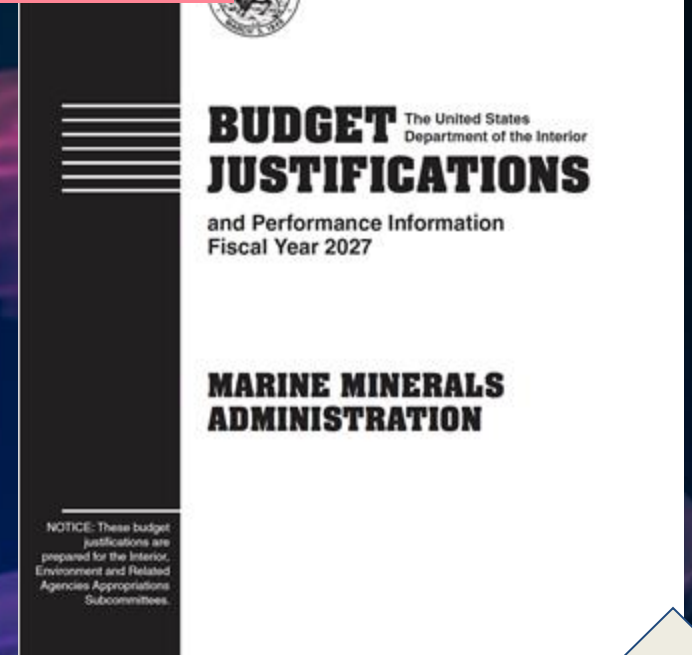


### Notes:

- Minerals leasing is a competitive process with either sealed bid, cash bonus bid, and royalties (581.18(a)).
- The leasing notice will specify the use of sealed or oral bids (581.18 (b) and (c))
- Each action by BOEM is subject to review and approval by the Secretary of Interior or their designee before it proceeds.
- Minimum lease term is 20 years.
- BOEM is currently engaged in updating and modernizing the existing regulatory framework.**



April 8 2026, BOEM presentation in Fairbanks, Alaska

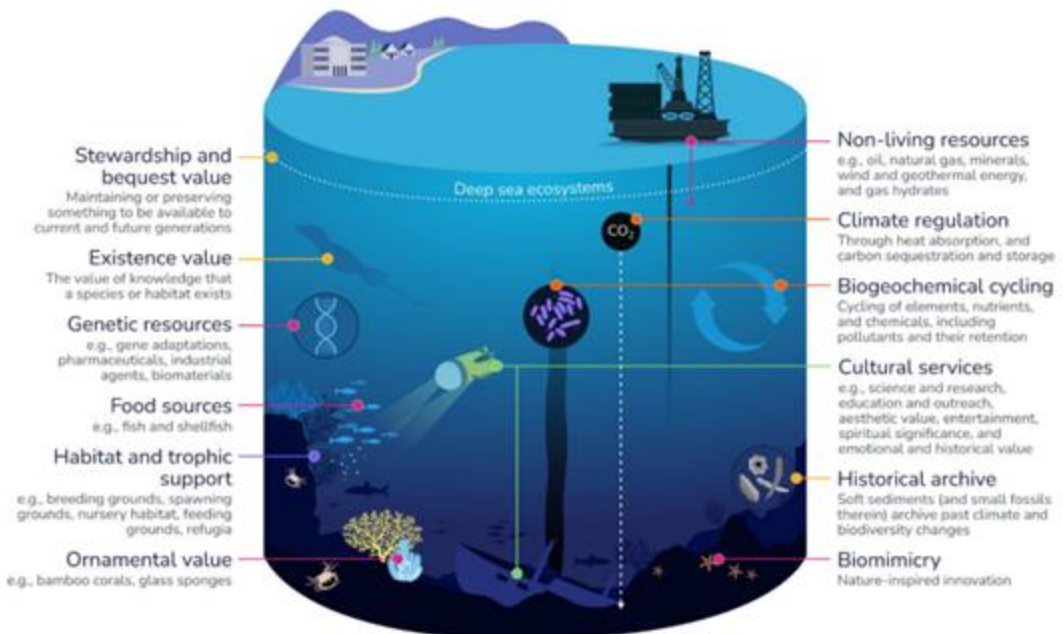


“the MMA anticipates holding three offshore lease sales during fiscal years 2026 and 2027: American Samoa (August 2026), Commonwealth of the Northern Mariana Islands (CNMI) (November 2026), and the Alaska Region (December 2026).”

# Opportunities to Engage



Figure 1: Categories of ecosystem services and deep-ocean examples of each category. Illustrated by Stacey McCormack.



- KEY**
- Provisioning services: result in tangible goods and/or products
  - Regulating services: contribute to the natural production and resilience of habitats and ecosystem processes
  - Supporting services: underlying ecosystem functions that are essential to produce other services
  - Cultural services: non-material benefits deriving from nature
  - Biodiversity values: biodiversity has intrinsic value, but is also the source of most ecosystem services.



## Potential interactions between deep-sea mining and tuna fisheries

14th Meeting of the IATTC Scientific Advisory Committee  
May 2023



**Authors**  
Diva J. Aron<sup>1</sup>, Bobbi-Jo Dobush<sup>2</sup>, Jeffrey C. Drazen<sup>3</sup>, Douglas McCauley<sup>4</sup>, Neil Nathan<sup>1</sup>, Jesse M.A. van der Grint<sup>1</sup>

<sup>1</sup> Marine Science Institute, University of California, Santa Barbara, Santa Barbara, CA, USA  
<sup>2</sup> The Ocean Foundation, USA  
<sup>3</sup> University of California, Santa Barbara, Santa Barbara, CA, USA  
<sup>4</sup> South Africa



Source:  
Mining Watch Canada  
Youtube

LOURDES A. LEON GUERRERO  
GOVERNOR

JOSHUA E. TENORIO  
LT. GOVERNOR

UFISINAN I MAGATHAGAN GU'AHAN  
OFFICE OF THE GOVERNOR OF GUAM

FOR IMMEDIATE RELEASE—February 26, 2026

**Tenorio to Feds: "We're Not Interested in Being Guinea Pigs Out Here"**  
GovGuam leadership tells visiting Department of the Interior officials of opposition to accelerated undersea mining plans in the Marianas



# Questions?

Bobbi-Jo Dobush  
bobbi-jo@salthorizon.com  
Salt Horizon LLC



# Other Laws Relevant to Deep Seabed Mining

Robin Kundis Craig  
Robert A. Schroeder Distinguished Professor  
University of Kansas School of Law



# More Laws Than I Can Cover!

**01**

**Endangered Species Act**

**02**

**Marine Mammal  
Protection Act**

**03**

**NEPA and the New  
Regs**

**04**

**Statutes that Prevent  
Pollution**

**05**

**Statutes that Allow  
Coastal States to Weigh  
In**



An underwater scene with a blue background. Two divers in silhouette are swimming. Several fish are scattered throughout. At the bottom, there is a colorful coral reef with various shapes and colors like red, orange, yellow, and green. Bubbles are rising from the divers and the reef.

01

# Endangered Species Act

## Most Important: Section 7 Consultation

- NOTE: April 3, 2026: Interior announced that it is recombining BOEM and BSEE into a new **Marine Minerals Administration**.
- Regardless of name, however, the agency implementing OCSLA for deep seabed mining will have to consult with NMFS regarding any ESA-listed species in the area.





## New Wrinkle

- On March 31, 2026, the Section 7 “God Squad” (Endangered Species Committee) unanimously voted to exempt oil and gas drilling in the Gulf of Mexico from ESA compliance with respect to the remaining 51 Rice’s whales on grounds of national security.
- **Third time EVER!**
- Given the “criticality” of many of the minerals sought in deep seabed mining, similar votes might effectively exempt the activity.



The background is a vibrant blue gradient representing the ocean. It features stylized wavy lines for water currents. Two dark blue silhouettes of divers are shown swimming. Several small blue fish are scattered throughout the scene. At the bottom, there is a colorful border of coral and sea anemones in shades of pink, orange, yellow, and green. Small white circles represent bubbles.

**02**

**Marine  
Mammal  
Protection Act**

## OVERVIEW

- Seeks to ensure the “optimum sustainable population” of marine mammals, which includes preserving their role in their ecosystems.
- Prohibits “take” of marine mammals, with several permitted exceptions (and sometimes rigorous requirements for the permits).
- Limits trade in marine mammals.



# U.S. Fish & Wildlife's 8:



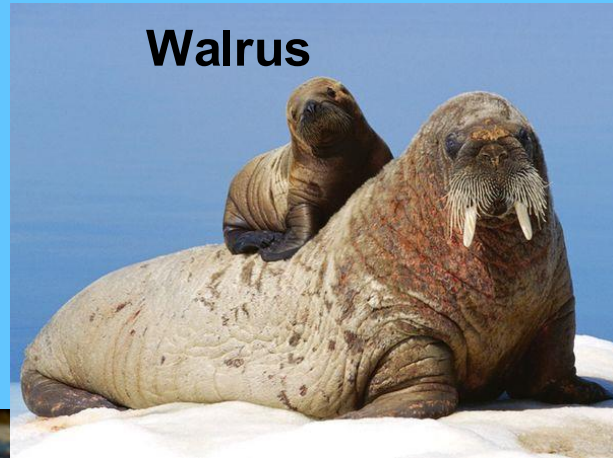
**Polar Bear**



**Dugong**



**Marine Otter**



**Walrus**



**West Indian Manatee (in Florida)**



**Sea Otter**



**Amazonian Manatee**



**West African Manatee**

# The MMPA's "Take" Prohibition

- 16 U.S.C. § 1371(a): It is illegal to "take" a marine mammal in U.S. waters.
- "Take" = "to harass, hunt, capture, or kill, or attempt to do any of these actions."
- **EXEMPTIONS: Alaskan Native subsistence hunting;; Good Samaritan; foreign fishing vessel outside EEZ**

## EXCEPTIONS (with PERMITS or AUTHORIZATIONS):

- Scientific research.
- Enhancing a marine mammal's survival or recovery.
- Commercial and educational photography.
- First-time import for display or research.
- Capture of wild marine mammals for public display.
- Incidental take during commercial fishing.
- **Incidental take during other activities.**

The background is a vibrant blue underwater scene. It features two divers in silhouette, one on the left and one on the right, both equipped with tanks and fins. Several small blue fish are scattered throughout the water. The bottom of the frame is decorated with colorful coral and sea anemones in shades of green, pink, orange, and yellow. Light blue wavy lines represent the water's surface, and small white circles represent bubbles.

**03**

**NEPA and  
Interior's New  
Regs**

# February 24, 2026: New Regs & Handbook



- CEQ's regulations were repealed January 8, 2026.

- The new Handbook has BOEM's Categorical Exclusions

- **EXCLUDED: Approval of offshore geological and geophysical mineral exploration activities, except when the proposed activity includes the drilling of deep stratigraphic test holes or uses solid or liquid explosives.**

- Environmental assessments should be no more than 75 pages and completed within 1 year of application.

- However, if the applicant pays the fee to expedite, the EA must be completed in 180 days.

- EISs should be no more than 150 pages and completed within 2 years.

- However, if the applicant pays to expedite, the EIS must be completed within 1 year.

- **New procedures allow for applicant-prepared environmental assessments and EISs!**



The background is a vibrant blue underwater scene. It features two divers in silhouette, one on the left and one on the right, both equipped with tanks and fins. Several fish of various sizes are scattered throughout the water. At the bottom, there is a colorful coral reef with various shapes and colors like red, orange, yellow, and green. Bubbles are rising from the divers and the reef. The overall style is clean and illustrative.

**04**

**Statutes That  
Prevent  
Marine  
Pollution**

# The Basics

## Clean Water Act

- Section 312 governs discharges from vessels.
- Section 402 NPDES permit program applies to point source discharges throughout the EEZ; the EPA permits beyond three miles.
- Section 404 dredge and fill permits apply in the first three miles.

## Ocean Dumping Act

- Prohibits the dumping of wastes at sea.
- Dumping of dredged material: permit from the Army Corps
- Dumping of anything else: Permit (maybe) from the EPA

## Rivers & Harbors Act Section 13

- AKA Refuse Act
- “It shall not be lawful to throw, discharge, or deposit, or cause, suffer, or procure to be thrown, discharged, or deposited either from or out of any ship, barge, or other floating craft of any kind, ... into any navigable water of the United States ... .”

An underwater-themed illustration with a light blue background. Two dark blue silhouettes of divers are swimming. The scene is decorated with wavy lines, small white bubbles, and several small fish. At the bottom, there is a colorful coral reef with various shapes and colors like red, orange, yellow, and green.

**05**

**Statutes That  
Allow States to  
Weigh In**

# State Certifications & Consistency



## Clean Water Act Section 401

- Requires the relevant coastal state to certify that the permitted discharge will comply with applicable state water quality law and to condition the permit.
- NOTE: Probably requires some demonstration that the mining discharge can impact state waters.



## Coastal Zone Management Act

- Requires federally licensed or permitted activities to be consistent with the enforceable requirements of approved state coastal zone management plans.
- The activity can be inside or outside the coastal zone.

The background is a vibrant blue underwater scene. On the right, a diver in a blue silhouette swims upwards. Several blue fish of various sizes are scattered throughout. At the bottom, there are colorful coral reefs in shades of yellow, orange, red, and green. White bubbles of different sizes float in the water. The overall style is clean and modern with a flat design aesthetic.

# Thank you!

Do you have any questions?

[robinkcraig@ku.edu](mailto:robinkcraig@ku.edu)

**CREDITS:** This presentation template was created by [Slidesgo](#), and includes icons by [Flaticon](#), and infographics & images by [Freepik](#)

# Coastal Zone Management Act of 1972 (CZMA)

- The CZMA recognizes:
  - Coastal resources are limited and unique.
  - Coastal communities and economies could be greatly affected by certain actions taken by the federal government
- CZMA acts as an additional process for federal actions in state coastal zones.
- CZMA requires federal government to consider state interests before acting.

# Federal Consistency, a coordination tool:

Holistic state review of federal activities to assure consistency with state and local enforceable policies.

## Gives us the ability to influence federal activities

- **Permits** – 6 month review
- **Licenses** – 6 month review
- **Federal Agency Activities** – 2 month review

## Review Outcomes

- **Concurrence**
- **Conditional Concurrence**
- **Objection:** Project cannot move forward
- **Presumed Concurrence:** Procedural concurrence

### Technical Terms:

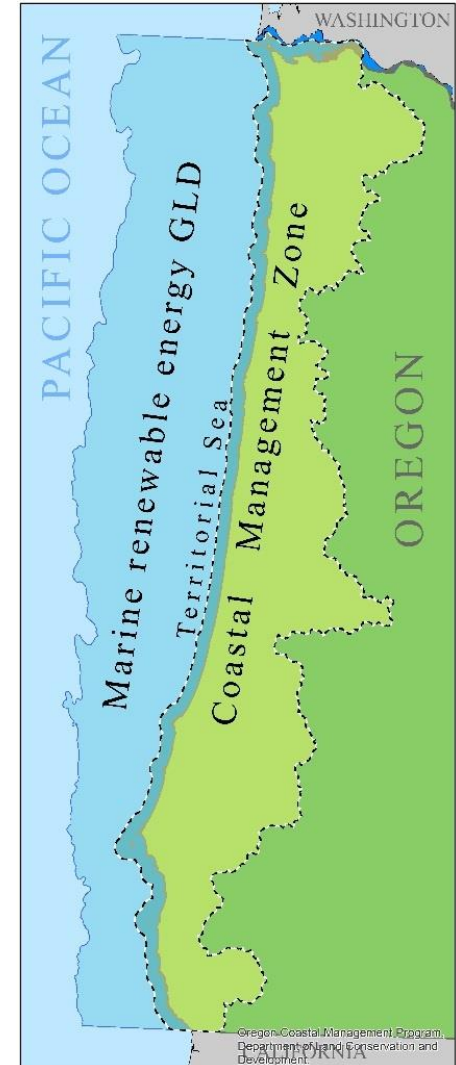
Federal activities – all activities that a federal entity has jurisdiction over.

Enforceable policies – the strongest standards within state and local policies.



# Federal Consistency - Oregon's Main Lever

- State may review any federal action (regardless of location) if it has “reasonably foreseeable effects to state coastal uses and resources”.
- State may apply our “enforceable policies” to a proposed federal activity (leasing) or permit (Construction and Operations Plan).
- State may concur, object, or concur with conditions, based on our enforceable policies.
- Objection can halt a project unless successfully appealed to the US Secretary of Commerce.
- State and local permits may also apply to portions of a project within 3 NM or onshore.





# What Coastal Effects are Subject to State Review?

Review is required when there are reasonably foreseeable effects, including indirect and cumulative effects

Key Coastal Uses and Resource areas:  
cultural, natural, economic, recreational, and aesthetic



# State Review Outcomes

## Concurrence

Action as proposed is consistent with state enforceable policies.

## Concurrence with Conditions

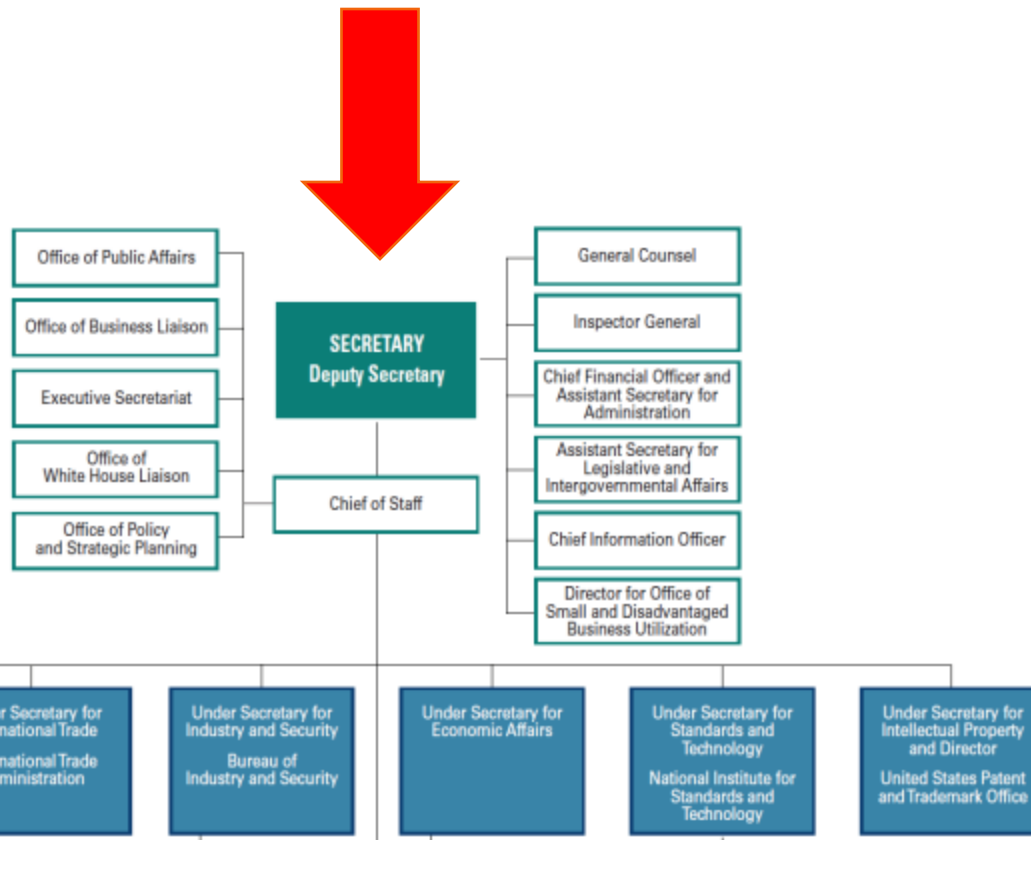
Requires agreement with federal agency responsible for action  
State cannot enforce under CZMA.

## Objection

Requires reason based on enforceable policies or insufficient information  
Project cannot move forward absent an appeal to the Secretary of Commerce.



# Consistency Decision Appeal Process



Applicant has **30 days from decision** to appeal to the U.S. Secretary of Commerce.

- Appeal special conditions or decision

Appeal considers facts *de novo*

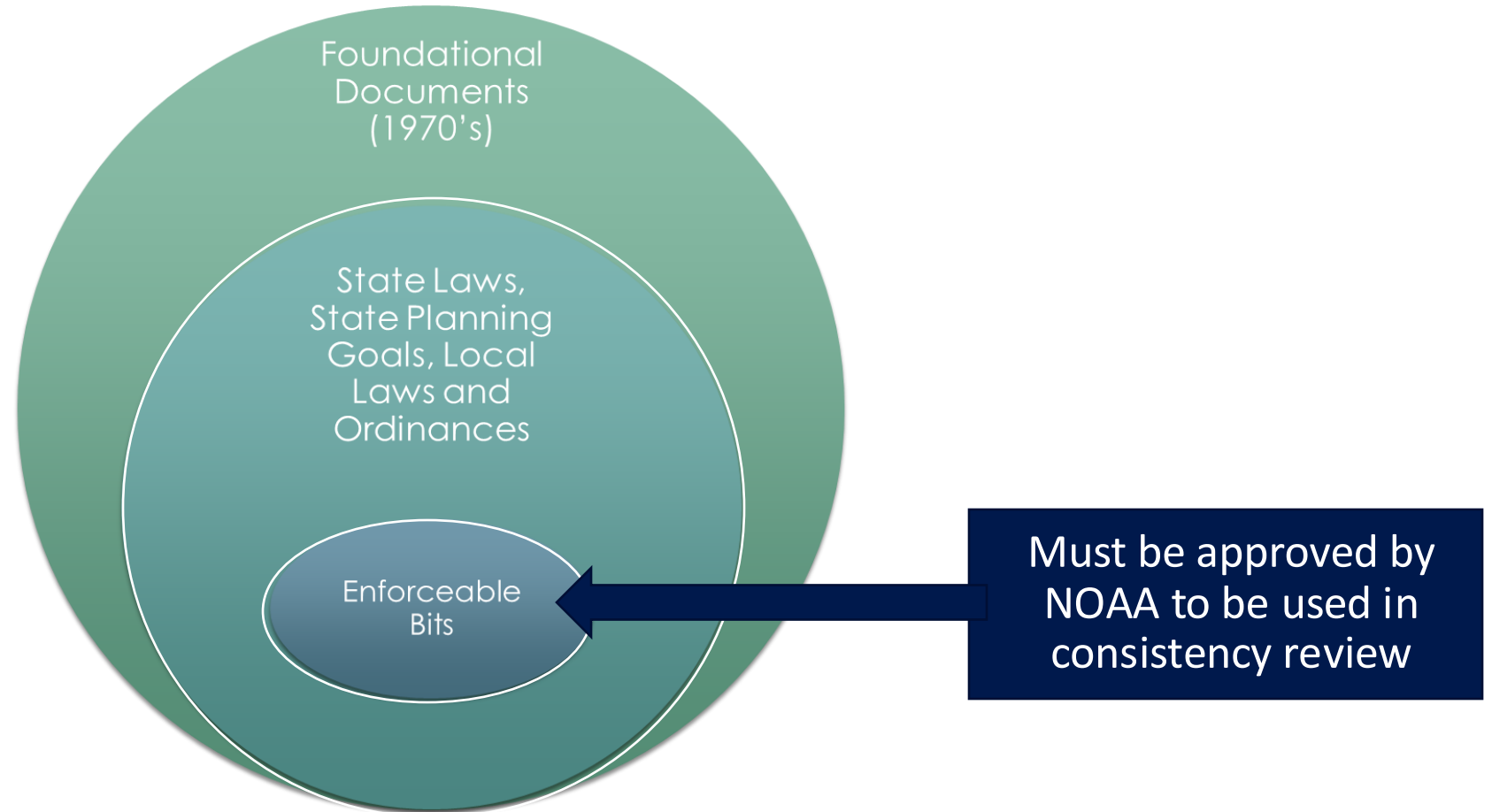
- Does not second-guess state interpretation of its enforceable policies

Appeal Considers:

- Coastal Effects
- National Interest
- Available Alternatives

# Consistency Reviews Rely on ‘Enforceable Policies’

- Not all statute sections are enforceable policies
- Not all local codes are enforceable policies.



For a full list of Oregon's Enforceable Policies, visit:  
[www.tinyurl.com/OREPs](http://www.tinyurl.com/OREPs)



**Oregon's Enforceable Policies**

**State Policy**

**Statewide Land Use Planning Goals**

Forest Lands

Natural Hazards

Coastal Shorelands

Ocean Resources

Estuarine Resources

Beaches & Dunes

Natural Resources,  
Scenic & Historic  
Areas

**Oregon Administrative Rules**

Land Conservation & Development

Water Quality  
Standards

Wildlife

**Oregon Revised Statutes**

Dredge & Fill

Fish, Wildlife,  
& Plants

Air & Water

Oil, Gas, & Mining

Development

Energy

Ocean & Wetlands

Waste Systems

**Other**

Geographic Location  
Description: Offshore  
Renewable Energy

Territorial Sea Plan,  
Parts 2-5

**Local Policy**

**County Policies**

Comprehensive Plans

Land Use Regulations

Estuary Management Plans

**City Policies**

Comprehensive Plans

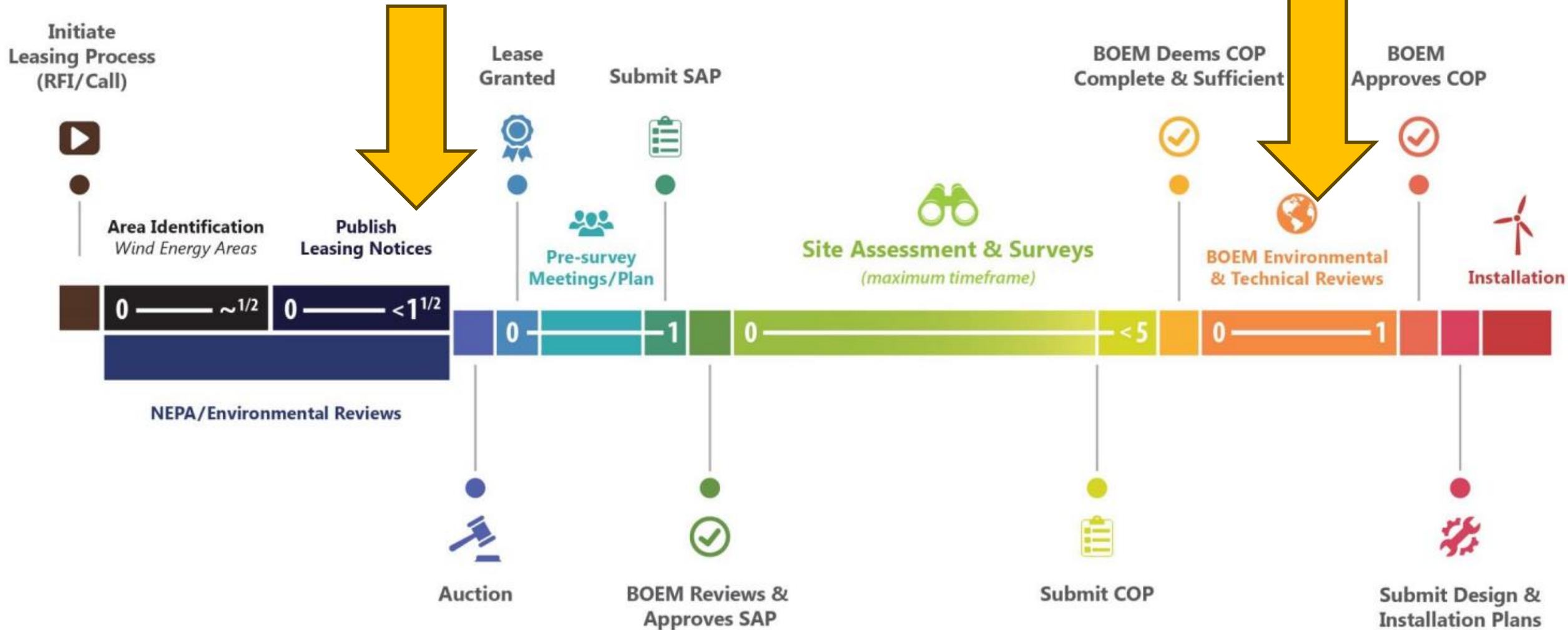
Zoning Ordinances

Estuary Management Plans

# BOEM Offshore Wind Process (comparable to seabed mining process)

## State Consistency Review of Lease Decision

## State Consistency Review of Actual Offshore Wind Project



# Federal Consistency “Touch Points” for Offshore Wind

30 CFR 585 and 15 CFR 930

## Touch Point 1

### BOEM Lease Sale

Grants the right to develop a plan for use of the area

### Reasonably expected effect

Lessees will perform resource assessment activities

### State CZMA Review

2-month review  
Public Comment Period

Application  
& NEPA EIS  
Development  
(*est. 5-? Years*)

## Touch Point 2

### Construction & Operations Plan

Describes how the lessee will construct and operate a commercial wind project on a commercial lease

### State CZMA Review

6-month review  
Public Comment Period

### Section 404 Permit

U.S. Army Corps of Engineers  
Subsea cable installation

### State CZMA Review

6-month review  
Public Comment Period

May take place as joint review

# Potential Effects to State Coastal Uses and Resources

- Sediment plumes affecting nearshore ecosystems
- Impacts to fisheries (coastal use)
- Food web disruption affecting species in state waters
- Shoreward transport of pollutants or turbidity
- Maritime safety
- Noise pollution
- Destruction of essential habitats
- Vessel traffic effects on ports

## NOTE:

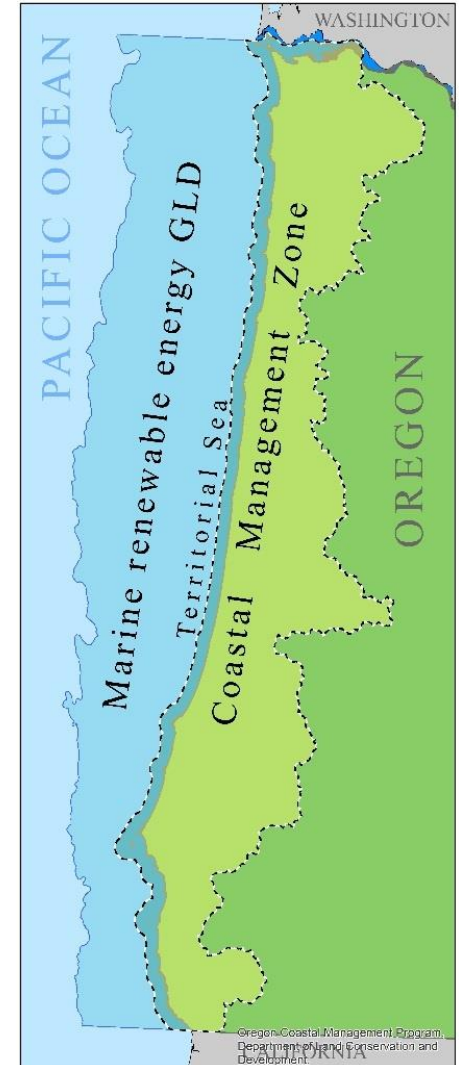
The NOAA Office for Coastal Management must concur that the federal action poses reasonably foreseeable effects to state coastal uses and resources before the state can review an activity outside its geographical jurisdiction.

The State must submit effects findings within 30 days of learning about the action.



# Key Policies Related to Seabed Mining

- Oregon Territorial Sea Plan Part Two
  - Decision criteria include consistency with Statewide Planning Goal 19: Ocean Resources
- Statewide Planning Goal 19: Ocean Resources
  - Requires protection of marine ecosystems, preference for renewable over nonrenewable resources, avoidance of irreversible damage, maintenance of long term ecological integrity and uses (like fisheries)
- ORS 274.610
  - Prohibits state from issuing easements for seabed mining
  - Applies only in state waters; not an enforceable policy.





# Questions?



# Next Steps

ELI will continue developing materials and webinars on the U.S. legal framework related to deep-sea mining. Next, we will cover:

- Permits beyond the U.S. Continental Shelf (under DSHMRA)
- Fast-tracking
- Science & Technology
- Corporations & Responsibility

We will incorporate materials developed for these focus areas into a comprehensive report, which we plan to make available in early Fall 2026.

[www.eli.org/ocean-program/ocean-industry-and-energy](http://www.eli.org/ocean-program/ocean-industry-and-energy)

Contact [sduque@eli.org](mailto:sduque@eli.org) with any outstanding questions.



# Thank You!

*contact: [sduque@eli.org](mailto:sduque@eli.org)*

*[www.eli.org/ocean-program/ocean-industry-and-energy](http://www.eli.org/ocean-program/ocean-industry-and-energy)*