

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



Relevant Law	OCSLA Connection	Practical Application
<p>National Environmental Policy Act (NEPA): Requires federal agencies to consider the environmental impacts of their major federal actions before making a decision.¹</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&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.²</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.³ 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."⁴ BOEM will conduct NEPA review for G&G mineral exploration activities only when the proposed activity includes the drilling of deep stratigraphic test holes or uses solid or liquid explosives.⁵ Permit applicants for G&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.⁶ 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 within 180 days of fee payment and an EIS within one year of BOEM's published Notice of Intent to prepare the EIS.⁷</p>
<p>Coastal Zone Management Act (CZMA): Establishes a framework for managing coastal resources and requires certain federal actions to be consistent with the enforceable policies of states' and territories' NOAA-approved coastal management programs.⁸</p>	<p>The CZMA's federal consistency review process provides states and territories with NOAA-approved coastal management programs: a formal role in reviewing certain activities authorized under OCSLA; and influence over the impacts that those qualifying activities might have in their coastal zone.</p>	<p>Certain actions authorized under OCSLA trigger CZMA federal consistency review at the lease sale stage, while prospecting and scientific research permits only undergo review if they are specifically listed in a state or territory's approved federal action list or if the state or territorial coastal agency makes a timely request to perform an unlisted activity review.⁹</p>

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<p>Clean Water Act (CWA): Establishes programs intended to restore and maintain the chemical, physical, and biological integrity of U.S. waters.¹⁰</p>	<p>The CWA is a cross-cutting environmental statute that applies to different aspects of OCS mineral operations through permitting, certification, and vessel-discharge provisions.</p>	<p>For OCS mineral extraction and production activities, any discharge of a pollutant (e.g., sand, rock, or dredged soil) from a non-vessel point source (e.g., a discharge pipe connected to the vessel) into the navigable waters, waters of the contiguous zone, or the ocean (at least up to 200nm of the U.S. exclusive economic zone) would require a Section 402 NPDES permit.¹¹ Activities that place dredged or fill material to alter the seabed (e.g., to support equipment) within three miles from shore require a Section 404 permit.¹² Sewage and discharges incidental to normal vessel operations are subject to standards and prohibitions under Section 312.¹³ Section 401 certifications can apply for OCS mineral operations outside of the three-mile state zone.¹⁴</p>
<p>Rivers and Harbors Act, Refuse Act (Refuse Act): A part of the Rivers and Harbors Act, the Refuse Act bans the deposit of refuse into navigable waters of the U.S., unless otherwise permitted.¹⁵</p>	<p>The Refuse Act's general prohibition on the despositing of refuse in navigable waters extends into waters on the OCS.¹⁶</p>	<p>Persons involved in OCS mineral extraction and production activities may not deposit refuse into the waters on the OCS unless otherwise permitted by the U.S. Army Corps of Engineers.</p>

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<p>Marine Protection, Research, and Sanctuaries Act (MPRSA or Ocean Dumping Act): Regulates the dumping of all types of material into the ocean; prohibits dumping of material into the ocean “which would adversely affect human health, welfare, and amenities, or the marine environment, ecological systems, or economic potentialities.”¹⁷</p>	<p>MPRSA applies to all ocean waters “lying seaward of the baseline from which the territorial sea is measured, as provided for in the Convention on the Territorial Sea and the Contiguous Zone.”¹⁸ MPRSA’s ocean-dumping controls function as one of the “environmental safeguards” governing the development of the OCS.¹⁹</p> <p>(See National Marine Sanctuaries Act). Regulations for National Marine Sanctuaries specify what activities are allowed or prohibited within the sanctuary. Regulations typically prohibit exploring for, developing, or producing minerals within Sanctuaries and discharges of material into the Sanctuaries (with some exceptions).²⁰</p>	<p>For seabed mining activities authorized under OCSLA, MPRSA is important if the activities involve ocean dumping or take place near a National Marine Sanctuary because it will trigger ocean-dumping permitting requirements and additional sanctuary-based restrictions.</p>
<p>Act to Prevent Pollution from Ships (APPS): Implements the International Convention for the Prevention of Pollution from Ships and its 1978 Protocol (MARPOL 73/78); seeks to eliminate the intentional pollution of the marine environment by oil and other harmful substances and minimize accidental discharges of such substances.²¹</p>	<p>APPS applies to all U.S. flag ships worldwide, regardless of location; and foreign-flagged vessels within U.S. navigable waters or in U.S. ports and terminals under U.S. jurisdiction.²² MARPOL (implemented in the U.S. through APPS) has six annexes addressing: oil; noxious liquid substances; harmful substances in packaged form; sewage; garbage; and air emissions.²³ The U.S. is a party to all annexes except the annex governing sewage.</p>	<p>Among other requirements, seagoing ships used for OCS mineral mining activities must comply with oil and garbage discharge and air-pollution requirements under APPS, maintain required equipment and records, and are subject to enforcement for violations of APPS.²⁴</p>

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<p>Clean Air Act (CAA): Principal federal law for protecting and improving the nation’s air quality.²⁵</p>	<p>Air pollution control requirements may apply to vessels that support seabed mineral extraction that constitute OCS sources.</p>	<p>Vessels used for mining on the OCS that are temporarily (or permanently) attached to the seabed will likely need to obtain a permit for any air emissions that exceed applicable CAA thresholds.²⁶</p> <p>Sources within 25 nautical miles of a state must comply with federal, state, and local air quality requirements for the corresponding onshore area. Sources beyond 25 miles must comply with the requirements of 40 C.F.R. pt. 55 (with some exceptions).²⁷</p>
<p>Endangered Species Act of 1973 (ESA): Governs the protection and conservation of endangered species to ensure that species do not go extinct and are recovered to the point where they no longer need protection.²⁸</p>	<p>BOEM has two key duties with regard to activities it authorizes or approves under OCSLA: (1) to ensure its actions are not likely to jeopardize protected species or adversely modify their critical habitat; and (2) to consult with Fish and Wildlife Service (FWS) and/or National Marine Fisheries Service (NMFS) before taking any action that may affect a protected species.</p>	<p>The ESA protects both: 1) domestic and foreign listed species; and 2) critical habitat that occurs within U.S. jurisdiction.²⁹</p> <p>ESA Section 7 consultation applies to all discretionary federal actions, including OCSLA leases and permits, that may affect listed species or critical habitat.³⁰</p> <p>If formal consultation is triggered, NMFS will prepare a Biological Opinion (BiOP): a formal document stating whether BOEM has ensured its action is not likely to jeopardize a listed species or critical habitat.³¹ The BiOP may include an “Incidental Take Statement,” which would authorize a specified amount or extent of otherwise prohibited “takes” of listed species and require measures to minimize the take’s impact.³²</p> <p>Amendments to the ESA created the endangered Species Committee (aka “God Squad”), which can authorize federal projects to proceed even if the relevant project will likely jeopardize a listed species or adversely modify critical habitat.³³ The God Squad granted its first exemption in the oil and gas context in 2026, but it is under active litigation as of this writing.³⁴</p>

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<p>Marine Mammal Protection Act of 1972 (MMPA): Seeks to protect marine animals and their habitats through the prohibition of “taking” (the act of hunting, killing, capturing, and/or harassing).³⁵</p>	<p>BOEM must ensure that any activity it authorizes under OCSLA does not cause an unauthorized take of marine mammals.</p>	<p>If actions triggered by an OCSLA permit or lease may result in the taking of a marine mammal, then the permit applicant or lessee must submit a written request to the NMFS Assistant Administrator.³⁶</p> <p>The NMFS Assistant Administrator can find that: 1) the taking will have a negligible impact; 2) mitigating measures would render the impact negligible; or 3) it would have more than a negligible impact and publish a negative finding along with the basis for denying the request. If there is a preliminary finding of 1) or 2), then there is opportunity for public comment.³⁷</p>
<p>National Historic Preservation Act of 1966 (NHPA): Among other provisions, establishes a process for federal agencies to adhere to when a project may affect a historic property.³⁸</p>	<p>BOEM’s decisions on OCS mineral leases and prospecting/scientific research permits are likely “undertakings” under the NHPA.</p>	<p>Under the NHPA, BOEM must consider the effects of its undertakings on historic properties (e.g., shipwrecks and Native American remains).³⁹ OCS leases and permits likely constitute “undertakings” that trigger the need for BOEM to consider effects on historic properties.⁴⁰ BOEM must also explore steps to avoid, minimize, or mitigate adverse effects on historic properties.⁴¹</p>

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<p>National Marine Sanctuaries Act (NMSA): Allows marine areas to be designated as national marine sanctuaries due to their conservation, ecological, cultural, scientific, or other significant values.⁴²</p>	<p>Mining activities (e.g., disturbing, constructing on, or altering the seabed; exploring for, developing or producing minerals) are generally prohibited in National Marine Sanctuaries.⁴³</p>	<p>The regulations generally prohibiting the alteration of the seabed and mineral exploration and development in National Marine Sanctuaries most likely capture most forms of seabed mining.⁴⁴ Unless otherwise permitted, most seabed mining activities would not comply with the general prohibitions established under the NMSA regulations.</p>
<p>Antiquities Act 1906: Authorizes the President to establish national monuments on federal lands and waters for natural, cultural, or scientific purposes.⁴⁵</p>	<p>National Monuments can be designated in federal marine areas that include part of the OCS (Marine National Monuments).⁴⁶</p>	<p>If a Marine National Monument is created over part of the OCS, leases for OCS minerals cannot proceed if the monument's proclamation, management plan, or regulations prohibits or limits OCS mineral extraction.</p>

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<p>National Wildlife Refuge System Administration Act, as amended: Governs the management and administration of the National Wildlife Refuge System: a network of lands and waters for the conservation of fish, wildlife, and plant resources and habitat; administered by U.S. Fish & Wildlife Service.⁴⁷</p>	<p>Use of refuge lands may generally occur only if FWS determines the use is “compatible” with the National Wildlife Refuge System’s mission and specific refuge’s purpose.⁴⁸</p>	<p>Mineral mining may be prohibited in wildlife refuges, depending on regulations.</p>
<p>Magnuson-Stevens Fishery Conservation and Management Act (MSA): Governs the management of marine fisheries in U.S. waters and establishes eight U.S. regional fishery management councils.⁴⁹</p>	<p>BOEM must consult with NOAA Fisheries on any of its actions that may adversely affect essential fish habitats.</p>	<p>If actions triggered by an OCSLA permit or lease sale may affect essential fish habitats (EFH), then the Secretary of Commerce must consult on the issue, and the relevant Regional Fishery Management Councils can provide comments and recommendations.⁵⁰ BOEM must respond in writing to those comments.</p>

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<p>Fish and Wildlife Coordination Act (FWCA): Allows the U.S. Fish and Wildlife Service (FWS) to evaluate the impact of proposed water resource development projects on fish and wildlife.⁵¹</p>	<p>BOEM must consult with FWS/NOAA if any federally authorized OCS activity will “impound, divert, deepen, or otherwise control or modify” a stream or other body of water.⁵²</p>	<p>There is an outstanding question about the definition of “body of water;” the phrase is not defined in the statute; its definition has likely not been directly litigated.</p> <p>Any seabed mining activities that require, for example, channel deepening for vessels transporting critical minerals to and from a port may trigger consultation requirements under the FWCA.</p>
<p>Foreign Dredge Act of 1906: Regulates vessels engaged in U.S. maritime activity and limits dredging operations only to U.S. vessels.⁵³</p>	<p>OCSLA treats mineral exploration and production on the OCS as subject to U.S. law.⁵⁴ If a seabed mining vessel engages in “dredging” (as determined by U.S. Customs and Border Protection), the Dredge Act’s requirements could apply to that activity.⁵⁵</p>	<p>If dredging is needed for any activities carried out by lessees to conduct seabed mining operations in areas leased under OCSLA, or permittees to prospect or conduct scientific research in OCSLA areas, the vessel used for dredging must be wholly owned by a U.S. citizen(s), (if chartered) chartered by a U.S. citizen, and certified to be endorsed under the Foreign Dredge Act, unless otherwise waived.⁵⁶</p>

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<p>Merchant Marine Act of 1920 (Jones Act): The Jones Act governs the transportation of “merchandise” between two U.S. points, requiring that vessels transporting merchandise be U.S.-built, owned, and crewed by U.S. citizens (i.e., a coastwide-qualified vessel).⁵⁷</p>	<p>OCSLA states that the Constitution and laws of the U.S. extend to, among other things, the “subsoil and seabed of the [OCS]” and “installations and other devices permanently or temporarily attached to the seabed, which may be erected thereon for the purpose of exploring for, developing, or producing resources, including non-mineral energy resources.”⁵⁸</p>	<p>An offshore unit on the OCS becomes a “U.S. point” under the Jones Act when it is attached to the seabed for resource-related purposes.⁵⁹ The process of moving OCS minerals or dredged material (“merchandise”) from a U.S. point to a U.S. point (e.g., from an offshore unit that is attached to the seabed for resource-related purposes to a U.S. port) likely constitutes coastwide movement and, absent a waiver, must be done by a coastwide-qualified vessel as required by the Jones Act.⁶⁰ The Jones Act does not apply to U.S. territories and uninhabited islands and atolls in the Pacific Ocean.⁶¹</p>
<p>Administrative Procedure Act (APA): Establishes the procedural framework for federal agencies in making rules and taking adjudicatory actions; establishes procedures for judicial review of federal agency actions.⁶²</p>	<p>The APA provides default procedures for BOEM to follow (unless OCSLA provides otherwise) and allows for judicial review of final BOEM actions not covered under OCSLA’s judicial review provisions.⁶³</p>	<p>BOEM’s decisions on OCS mineral leases and prospecting and scientific research permits that constitute “final agency action” are reviewable in federal court under the APA to determine whether BOEM reasonably explained its decision and complied with OCSLA and other applicable law.⁶⁴</p>

GLOSSARY

BOEM	Bureau of Ocean Energy Management	Situated within DOI; Administers offshore energy and mineral leasing on the OCS, pursuant to OCSLA.
EA	Environmental Assessment	A shorter National Environmental Policy Act (NEPA) review used to determine whether a proposed federal action may have significant environmental impacts or if a full EIS is needed.
EIS	Environmental Impact Statement	A detailed analysis required under NEPA for major federal actions significantly affecting the environment; evaluating impacts and alternatives.
NOAA	National Oceanic and Atmospheric Administration	U.S. agency situated within the Department of Commerce that studies and manages the oceans and atmosphere. It also administers the Coastal Zone Management Act (CZMA), overseeing state coastal programs and federal consistency.
NPDES	National Pollutant Discharge Elimination System	Permitting program under Section 402 of the Clean Water Act that regulates discharges of pollutants from point sources into U.S. waters, including offshore waters.
OCS	U.S. Outer Continental Shelf	All 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; “a vital national resource reserve held by the Federal Government for the public.”
OCSLA	Outer Continental Shelf Lands Act	Enacted by Congress in 1953, the Act governs the leasing and development of the U.S. offshore mineral and energy resources.

FOOTNOTES

¹ 42 U.S.C. §§ 4321–4370m-11.

² U.S. Dep’t of Interior, Interior Streamlines Offshore Mineral Policies to Strengthen U.S. Supply Chains and Security (June 6, 2025) (available at <https://www.doi.gov/pressreleases/interior-streamlines-offshore-mineral-policies-strengthen-us-supply-chains-and>; U.S. Dep’t of Interior, 516 DM 1, Department of the Interior NEPA Handbook: National Environmental Policy Act Implementing Procedures, Appendix 2 (Feb. 23, 2026) (available at <https://www.doi.gov/document-library/handbook/516-dm-1-handbook-national-environmental-policy-act-implementing>).

³ U.S. Dep’t of Interior, National Environmental Policy Act Implementing Regulations, 91 Fed. Reg. 8,738 (Feb. 24, 2026) (available at <https://www.govinfo.gov/content/pkg/FR-2026-02-24/pdf/2026-03708.pdf>).

⁴ Interior Streamlines Offshore Mineral Policies to Strengthen U.S. Supply Chains and Security, *supra* note 2.

⁵ Department of the Interior NEPA Handbook: National Environmental Policy Act Implementing Procedures, Appendix 2, *supra* note 2.

⁶ 42 U.S.C. § 4336a(f); 43 C.F.R. § 46.107.

⁷ 42 U.S.C. § 4336(f)(a)(4).

⁸ 16 U.S.C. § 1456(c).

⁹ *See* 15 C.F.R. pt. 930, Subparts C, D; 15 C.F.R. §§ 930.53(a), 930.54.

¹⁰ 33 U.S.C. §§ 1251–1389.

¹¹ 33 U.S.C. §§ 1362(12), 1342; *See* Robin Kundis Craig, *The Clean Water Act and the Ocean: An Unfulfilled Promise*, 14 Ky. J. Equine, Agric., & Nat. Res. L. 3, 7–8 (2022) (explaining that the CWA, its regulations, and case law are not clearly settled on the CWA’s jurisdiction beyond 200 nm out to sea).

¹² 33 U.S.C. § 1342; 40 C.F.R. §§ 230.2, 230.3(n).

¹³ 33 U.S.C. § 1322.

¹⁴ 33 U.S.C. § 1341.

¹⁵ 33 U.S.C. § 407.

¹⁶ 33 C.F.R. § 329.4 (defining “navigable waters of the United States” as it is used to define authorities of the Corps of Engineers as “those waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce”).

¹⁷ 33 U.S.C. §§ 1401–1445.

¹⁸ 40 C.F.R. § 220.2(c).

¹⁹ 43 U.S.C. § 1332(3).

²⁰ 15 C.F.R. pt. 922.

²¹ 33 U.S.C. §§ 1901–1915.

²² 33 U.S.C. § 1902.

²³ International Convention for the Prevention of Pollution from Ships, Nov. 2, 1973, 12 I.L.M. 1319, 1340 U.N.T.S. 184; Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, Feb. 17, 1978, 17 I.L.M. 546, 1340 U.N.T.S. 61.

²⁴ 33 U.S.C. §§ 1901, 1902, 1907, 1908; 33 C.F.R. pt. 151.

²⁵ 42 U.S.C. §§ 7401–7671q.

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²⁶ 42 U.S.C. § 7627; 40 C.F.R. pt. 55.

²⁷ 40 C.F.R. § 55.3(b).

²⁸ 16 U.S.C. §§ 1531–1544.

²⁹ 16 U.S.C. §§ 1532, 1533.

³⁰ 16 U.S.C. § 1536(a)(2); 50 C.F.R. § 402.03.

³¹ 16 U.S.C. § 1536(a)(2); 50 C.F.R. § 402.14.

³² 16 U.S.C. § 1536(b)(4); 50 C.F.R. § 402.14(i).

³³ 16 U.S.C. § 1536(e)–(p); 50 C.F.R. pt. 453.

³⁴ Endangered Species Committee Order, 91 Fed. Reg. 16,966 (Apr. 3, 2026); *Center for Biological Diversity v. Burgum*, No. 1:26-cv-00940 (D.D.C. filed Mar. 25, 2026).

³⁵ 16 U.S.C. §§ 1361–1423h.

³⁶ 16 U.S.C. § 1371(a)(5).

³⁷ 50 C.F.R. pt. 216.

³⁸ 54 U.S.C. §§ 300101–320303.

³⁹ 54 U.S.C. § 306108.

⁴⁰ *See* 54 U.S.C. § 300320; 36 U.S.C. § 800.16(y).

⁴¹ 36 C.F.R. § 800.6.

⁴² 16 U.S.C. §§ 1431–1445c-1.

⁴³ *See* Nat'l Oceanic & Atmospheric Ass'n, National Marine Sanctuaries Regulations, <https://sanctuaries.noaa.gov/protect/regulations/> (last visited Apr. 15, 2026).

⁴⁴ *See e.g.*, 15 C.F.R. § 922, Subpart P (regulations governing the Florida Keys National Marine Sanctuary, prohibiting on a sanctuary-wide basis: 1) dredging and drilling on the seabed; and 2) mineral exploration, development, and production).

⁴⁵ 54 U.S.C. §§ 320301–320303.

⁴⁶ 54 U.S.C. § 320301(a) (stating the President to declare national monuments “on land owned or controlled by the Federal Government”).

⁴⁷ 16 U.S.C. §§ 668dd–66ee.

⁴⁸ 50 C.F.R. § 26.41.

⁴⁹ 16 U.S.C. §§ 1801–1891d.

⁵⁰ 16 U.S.C. § 1855(b)(2)–(4).

⁵¹ 16 U.S.C. §§ 661–666c-1.

⁵² 16 U.S.C. § 662.

⁵³ 46 U.S.C. § 55109.

⁵⁴ 43 U.S.C. § 1333(a)(1).

⁵⁵ *See* U.S. Customs & Border Prot., HQ H327270 (Nov. 14, 2022) (providing that “CPB has long-held that the term ‘dredging’ within the meaning of 46 U.S.C. § 55109 is ‘the use of a vessel equipped with excavating machinery in digging up or otherwise removing submarine material.’”).

⁵⁶ 46 U.S.C. § 55109; 46 U.S.C. § 501 (governing waivers of navigation laws).

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⁵⁷ 46 U.S.C. § 55102.

⁵⁸ 43 U.S.C. § 1333(a)(1).

⁵⁹ *Id.*

⁶⁰ *Id.*; 46 U.S.C. § 501 (governing waivers of navigation laws).

⁶¹ John Frittelli, Cong. Research Serv. R45725, Shipping Under the Jones Act: Legislative and Regulatory Background 5 (Nov. 21, 2019).

⁶² 5 U.S.C. §§ 701–706.

⁶³ *See* 43 U.S.C. § 1349(c) (does not cover judicial review of BOEM regulations).

⁶⁴ 5 U.S.C. §§ 704, 706(2)(A), (C), (D).