



Key Takeaways

President Trump's 2025 executive orders created a framework to fast-track seabed mining under both the Outer Continental Shelf Lands Act (OCSLA) and the Deep Seabed Hard Mineral Resources Act (DSHMRA).

U.S. federal agencies are implementing those orders by:

- streamlining leasing, permitting, and licensing procedures;
- making significant changes to the environmental review process;
- reducing the number of opportunities for public engagement, including opportunities to provide comments;
- shortening the length of comment periods; and
- compressing reviews required by other federal statutes.

Please refer to ELI's flowcharts for [DSHMRA](#) and [OCSLA](#) in conjunction with this issue brief.

Executive Orders Related to Seabed Mining

In early 2025, President Trump issued two executive orders that together aim to expedite mining of seabed minerals.

E.O. 14156, "Declaring a National Energy Emergency"

E.O. 14156 directs heads of federal agencies "to identify and exercise any lawful **emergency** authorities available to them, as well as all other lawful authorities they may possess, to facilitate the identification, leasing, siting, production, transportation, refining, and generation of domestic energy resources [including critical minerals], including, but not limited to, on Federal lands."¹

E.O. 14285, "Unleashing America's Offshore Critical Minerals and Resources"

E.O. 14285 requires the Secretary of the Interior to "establish an **expedited process** for reviewing and approving permits for prospecting and granting leases for exploration, development, and production of seabed mineral resources" within the U.S. Outer Continental Shelf under the Continental Shelf Lands Act (OCSLA).²

E.O. 14285 also requires the Secretary of Commerce to "**expedite** the process for reviewing and issuing seabed mineral exploration licenses and commercial recovery permits in areas beyond national jurisdiction under the Deep Seabed Hard Mineral Resources Act" (DSHMRA).³

Fast-Tracking Under OCSLA

Department of the Interior's Implementation of E.O.s 14156 and 14285

In its policies implementing E.O. 14285, the Department of the Interior (DOI) has provided that the Bureau of Ocean Energy Management (BOEM) will **speed up the leasing process** by electing not to issue a formal request for information or form a joint task force with state and federal agencies before identifying potential offshore areas for mineral development (thus reducing public notifications and opportunities for stakeholder engagement).⁴ Once a lease for offshore critical minerals is issued, BOEM and Bureau of Safety and Environmental Enforcement will "consider[] offshore critical mineral projects for **expedited permitting** under the Department's emergency procedures [developed pursuant to E.O. 14156] and other applicable laws."⁵ Separately from those emergency procedures, new DOI policies also provide that "[a]pprovals for mapping, testing, and site development will be **fast-tracked by minimizing . . . compliance steps**," and, upon the lessee's request," BOEM will also **consolidate** exploration, testing, and mining plans into a single review" to "**speed[] up decision-making**."⁶ DOI's recent [proposed regulations](#) implementing E.O. 14285 also state that BOEM will have 28 (instead of 45) days to respond to unsolicited requests for leasing.⁷

Emergency Procedures Under E.O. 14156

Under E.O. 14156, eligible projects may proceed through department-wide emergency procedures for:

National Environmental Policy Act

"Alternative arrangements" for NEPA compliance

Endangered Species Act

Expedited ESA Section 7 consultation

National Historic Preservation Act

Alternative procedures for NHPA Section 106 compliance

Project Eligibility

DOI has stated that the projects eligible for alternative arrangements to comply with NEPA, ESA, and NHPA are those:

- That seek to identify, lease, develop, produce, transport, refine, or generate energy resources, as defined in Section 8(a) of E.O. 14156 [which includes critical minerals, but omits most renewables such as wind or solar energy]; and
- For which the project applicant(s) have submitted plans of operations, applications for permits to drill, or other applications.⁸

Fast-Tracking Under DSHMRA

Department of Commerce's Implementation of E.O. 14285

On January 21, 2026, the National Oceanic and Atmospheric Administration (NOAA) revised its DSHMRA regulations to implement E.O. 14285.⁹ These revised regulations established a consolidated application process through which an applicant may apply concurrently for an exploration license and a commercial recovery permit.¹⁰ Previously, an applicant had to receive an exploration license prior to applying for a commercial recovery permit. The consolidated process requires only one public hearing and one Environmental Impact Statement (EIS) (for more on the EIS process, see the NEPA section below), thus resulting in fewer opportunities for the public to engage with the government regarding the proposed exploration and exploitation activities.¹¹

Environmental Review under NEPA

NEPA requires federal agencies to consider the environmental impacts of their major actions, which can include the agency's own projects, permit issuances, or funding decisions, before making a decision.¹²

Some federal actions can be categorically excluded from NEPA review, as federal agencies may establish categories of activities that normally do not significantly affect the quality of the human environment.¹³ For example, DOI recently categorically excluded from NEPA review all geological and geophysical (G&G) exploration activities permitted under OCSLA that do not involve the drilling of deep stratigraphic test holes or use solid or liquid explosives.¹⁴

Typically, as a first step to identify environmental effects of a proposed action and to determine their significance, a federal agency prepares an Environmental Assessment (EA). An EA is a concise public document that generally describes, among other things, the purpose and need for the proposed action, alternatives to the proposed action, and the proposed action's and alternatives' environmental impacts.¹⁵ After preparing an EA, the agency will either issue a Finding of No Significant Impact (FONSI) or move forward with a full environmental impact statement (EIS).

If the proposed major federal action is determined to cause reasonably foreseeable significant environmental effects, the federal agency must prepare an EIS. The EIS is a detailed written statement that, among other criteria, assesses reasonably foreseeable environmental effects of the proposed agency action, any reasonably foreseeable adverse environmental effects that cannot be avoided should the proposal be implemented, and a reasonable range of alternatives to the proposed action, including a "no action" alternative.¹⁶

In January 2025, President Trump issued E.O. 14154, "Unleashing American Energy," which rescinded a prior, 1977 executive order that for decades had authorized the Council on Environmental Quality (CEQ) to issue binding, government-wide NEPA regulations.¹⁷ E.O. 14154 directed CEQ to instead provide non-binding NEPA guidance and prompted CEQ's ultimate rescission of its long-standing regulations that guided NEPA implementation for decades.¹⁸ While federal agencies had agency-specific regulations implementing NEPA prior to January 2025, they operated under and had to be consistent with CEQ's NEPA regulations. Now, they are operating only under agency-specific NEPA frameworks, informed by non-binding CEQ guidance.

DOI's Alternative Arrangements for NEPA Compliance

In February 2025, DOI rescinded most of its NEPA implementing regulations and later shifted most procedural details into a non-binding Handbook.¹⁹ One of the regulatory provisions that DOI retained, however, allows DOI to use "**alternative arrangements**" to demonstrate compliance with NEPA's environmental review requirements when the DOI Responsible Official (RO) "determines that an **emergency** exists that makes it necessary to take actions **to address imminent threats to life, property, or important natural, cultural, or historic resources** before preparing an environmental document or documenting the use of a categorical exclusion."²⁰ NEPA itself does not mention emergency or alternative arrangements.

In April 2025, the DOI RO issued "Alternative Arrangements for NEPA Compliance," citing the "national energy emergency" declared under E.O. 14156 as the basis for exercising alternative arrangements under the regulation. As of June 2026, the legal basis for DOI's use of the alternative arrangements is being challenged in federal court, resting in part on the argument that DOI "failed to articulate a reasoned explanation of how the circumstances described in [E.O. 14156] constitute an emergency within the meaning of [DOI's NEPA Emergency Response regulations]."²¹

DOI's April 2025 "Alternative Arrangements for NEPA Compliance" apply to both federal agencies' actions that are not likely to have significant environmental impacts (requiring EAs) and to actions likely to have significant environmental impacts (requiring EISs).²² Project applicants will need to first affirm in writing that they want their project to be reviewed under DOI's alternative arrangements for NEPA compliance.²³

Projects Without Significant Impacts

For projects not likely to have significant environmental impacts, the BOEM RO will use the alternative arrangements for NEPA compliance as follows:

- prepare a short EA and, if appropriate, a FONSI within 14 days of receiving a complete application; and
- publish both the EA and FONSI (if applicable) on a public website.²⁴

The RO is not required to seek public comment prior to finalizing the EA, FONSI, and "any decision."²⁵

Projects With Significant Impacts

For projects likely to have significant environmental impacts, the BOEM RO will use the alternative arrangements as follows:

- issue a Notice of Intent (NOI) to prepare an EIS and offer a brief comment period of approximately 10 days;
- hold a public meeting;
- prepare an EIS within approximately 28 days of publishing the NOI;
- publish the EIS online; and
- file it with the Environmental Protection Agency.²⁶

The RO is not required to publish a draft EIS before finalizing the EIS and any Record of Decision.²⁷

DOI's alternative arrangements differ significantly from a typical NEPA review process prescribed in DOI's 2026 NEPA Handbook. For example, the 2026 DOI NEPA Handbook generally sets forth longer periods of time for the preparation of EAs (~1 year), public comment periods for EISs (30 days, to the extent practicable), and preparation of EISs after publication of an NOI (~2 years).²⁸

OCSLA activities that may proceed under DOI's NEPA Alternative Arrangements:

- Permit applications for G&G prospecting and scientific research permits that: 1) meet the NEPA Alternative Arrangements' eligibility requirements; and 2) involve the drilling of deep stratigraphic test holes or use solid or liquid explosives; and
- OCS post-lease activities for minerals other than oil, gas, and sulphur that meet the NEPA Alternative Arrangements' eligibility requirements.

NOAA's NEPA Review under DSHMRA

The issuance of any license or permit under DSHMRA qualifies as "a major Federal action significantly affecting the quality of the human environment" under NEPA and thus requires an EIS.²⁹ Each separate application for an exploration license and a commercial recovery permit requires a separate EIS.³⁰ Under new regulations governing a consolidated application (with an applicant applying for both an exploration license and a commercial recovery permit at the same time), NOAA would be allowed to prepare only one EIS.

NOAA does not have regulations implementing NEPA; instead, NOAA uses NOAA Administrative Order 216-6A and Companion Manual to NOAA Administrative Order 216-6A. The Companion Manual requires NOAA to publish a NOI "to prepare an EIS, which will include a request for public comment on alternatives or impacts and on relevant information, studies or analyses with respect to the proposed agency action."³¹ Any substantive comments or responses to comments will be appended to the final EIS.

DSHMRA requires NOAA to publish a draft EIS together with the proposed terms, conditions, and restrictions for the proposed exploration and/or commercial recovery activities. This takes place within 180 days (or a longer period if the Administrator establishes good cause) after certification of the application. DSHMRA also requires a hearing on the application and the draft EIS. Each final EIS is published 180 days (or a longer period if the Administrator establishes good cause) after publication of the draft EIS.³²



Image credit: NOAA; a crab walking across ferromanganese nodules on the seafloor of Gosnold Seamount; <https://www.noaa.gov/media-advisory/deep-seabed-mineral-development-media-resource-guide>

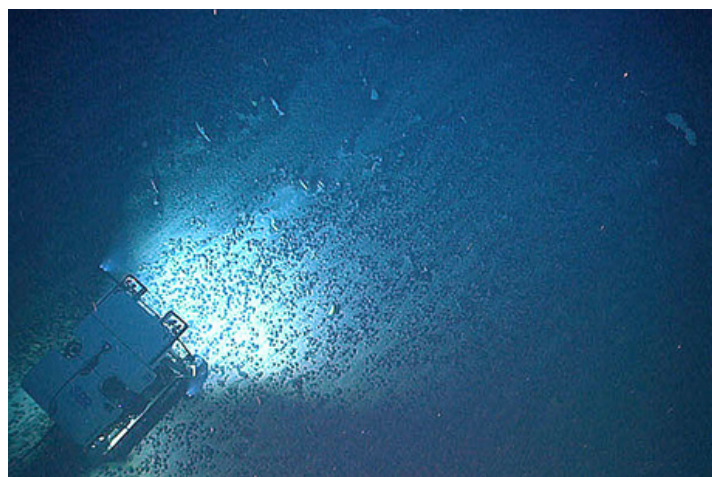


Image credit: NOAA; vehicle traversing a field of polymetallic nodules on the deep sea floor; <https://oceanservice.noaa.gov/deep-seabed-mineral-resources/deep-seabed-mining/>

DOI's Alternative Procedures for ESA Section 7 Consultation

Section 7 of ESA requires federal agencies to ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of any listed (endangered or threatened) species or the destruction or adverse modification of listed species' critical habitat.³³ If a federal agency's proposed action may adversely affect listed species or critical habitat, the agency generally must consult with the U.S. Fish & Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS) to fulfill this requirement (Section 7 consultation).³⁴

Section 7 consultation can be informal or formal: informal consultation "is an optional process that includes all discussions, correspondence, etc., between the [USFWS or NMFS, as appropriate³⁵] and the Federal agency . . . designed to assist the Federal agency in determining whether formal consultation or a conference is required."³⁶ Formal consultation is triggered when the federal agency or USFWS/NMFS concludes that a proposed action is likely to adversely affect listed species or critical habitat, requiring preparation of a biological opinion.³⁷

ESA implementing regulations permit the DOI to adopt "alternative procedures" for informal, expedited consultation to comply with ESA Section 7(a)-(d) in "emergency circumstances," such as "situations involving acts of God, disasters, casualties, national defense or security emergencies, etc."³⁸ In April 2025, DOI issued new "Alternative Procedures for Informal Section 7 Consultation," citing the "national energy emergency" declared under E.O. 14156.³⁹ Eligible project applicants can inform USFWS about the proposed action and "must affirm in writing that they want their project covered by the alternative procedures for informal, expedited [S]ection 7 consultation."⁴⁰

Under the alternative procedures, the federal agency will then coordinate with USFWS in accordance with the informal consultation emergency provision of the ESA regulations and proceed "with the proposed action if the necessary requirements of other departments and agencies are met."⁴¹ Eligible project applicants can thus avoid engaging in formal, ESA Section 7 consultation under the alternative arrangements.⁴²

OCSLA activities that may proceed under DOI's ESA Section 7 Alternative Procedures

- Permit applications for G&G prospecting and scientific research permits that meet the DOI's Alternative Procedures for ESA Section 7 consultation;
- OCS post-lease activities for minerals other than oil, gas, and sulphur that meet the DOI's Alternative Procedures for ESA Section 7 consultation.

DOI's Emergency Process for NHPA Section 106 Compliance

NHPA's Section 106 requires federal agencies to "take into account the effect" of their undertakings⁴³ on any historic property (Section 106 consultation).⁴⁴ Under the NHPA, "historic property" means "any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion on the National Register [of Historic Places], including artifacts, records, and material remains related to the district, site, building, structure, or object."⁴⁵ Section 106 consultation generally requires federal agencies to consult with state, tribal, and local entities to assess whether historic properties are present in the area of potential adverse effects and to develop solutions to avoid, minimize, or mitigate the identified adverse effects.⁴⁶

NHPA implementing regulations permit federal agencies to develop "procedures for taking historic properties into account during operations which respond to a disaster or emergency declared by the President, tribal government, or the Governor of a State or which respond to other immediate threats to life or property."⁴⁷ These alternative procedures must be approved by the National Historic Preservation Council (Council).

If a federal agency does not have approved alternative procedures and proposes an "emergency undertaking as an essential and immediate response to a disaster or emergency declared by the President" among other possibilities, the agency can comply with NHPA Section 106 through another emergency process by: 1) following a programmatic agreement that specifies how historic properties will be accounted for in emergency situations; or 2) notifying the Council and other relevant entities, like any Indian Tribe or Native Hawaiian organization, "likely to be affected prior to the undertaking and affording them an opportunity to comment within seven days of notification."⁴⁸ (The latter mechanism will be referred to as the emergency notification process.)

In April 2025, DOI issued its "Emergency Process for Section 106 Compliance" pursuant to the emergency notification process, citing the "national energy emergency" declared under E.O. 14156 as the basis for exercising this regulatory authority. Under this Emergency Process, eligible projects seeking to identify and/or develop energy resources will need to "affirm in writing to the RO(s) that they want to proceed under the alternative procedures and will implement to the extent prudent and feasible, measures that avoid or minimize harm to historic properties."⁴⁹ The relevant RO will then notify the Council and relevant entities of the specific energy project(s) and invite comments within seven days of notice.⁵⁰

OCSLA activities that may proceed under DOI's Emergency Process for NHPA Section 106 Compliance:

- Permit applications for G&G prospecting and scientific research permits that meet the DOI's Emergency Process for NHPA Section 106 Compliance;
- OCS post-lease activities for minerals other than oil, gas, and sulphur that meet the DOI's Emergency Process for NHPA Section 106 Compliance.

ENDNOTES

- ¹ Exec. Order No. 14,156, Declaring a National Energy Emergency, 90 Fed. Reg. 8,433 (Jan. 29, 2025).
- ² Exec. Order No. 14,285, Unleashing America’s Offshore Critical Minerals and Resources, 90 Fed. Reg. 17,735 (Apr. 29, 2025).
- ³ *Id.*
- ⁴ U.S. Dep’t of Interior, Interior Streamlines Offshore Mineral Policies to Strengthen U.S. Supply Chains and Security (June 6, 2025).
- ⁵ *Id.*
- ⁶ *Id.*
- ⁷ Administrative Revisions to Regulations Related to Outer Continental Shelf Minerals Other Than Oil, Gas, and Sulphur, 91 Fed. Reg. 8,803 (proposed Feb. 24, 2026) (to be codified at 30 C.F.R. pts. 580, 581, and 582).
- ⁸ U.S. Dep’t of Interior, Alternative Arrangements for Compliance with the National Environmental Policy Act amid the National Energy Emergency (Apr. 23, 2025); U.S. Dep’t of Interior, Alternative Procedures for Informal, Expedited Consultation under Section 7 of the Endangered Species Act for Energy Projects amid the National Energy Emergency (Apr. 23, 2025); U.S. Dep’t of Interior, Using the Emergency Provisions to Comply with Section 106 of the National Historic Preservation Act in Response to the National Energy Emergency (Apr. 23, 2025).
- ⁹ Deep Seabed Mining: Revisions to Regulations for Exploration License and Commercial Recovery Permit Applications, 91 Fed. Reg. 2,642 (Jan. 21, 2026) (to be codified at 15 C.F.R. pt. 971).
- ¹⁰ 15 C.F.R. § 971.214.
- ¹¹ 15 C.F.R. § 971.214(b).
- ¹² 42 U.S.C. §§ 4321–4370m-11.
- ¹³ 42 U.S.C. § 4336e(1).
- ¹⁴ U.S. Dep’t of Interior, Department of the Interior NEPA Handbook: National Environmental Policy Act Implementing Procedures, Appendix 2, Section 15.4(9) (Feb. 2026) (available at <https://www.doi.gov/media/document/doi-handbook-nepa-procedures>).
- ¹⁵ 42 U.S.C. §§ 4336e(4), 4336(b)(2); U.S. Env’tl. Prot. Agency, National Environmental Policy Act Review Process, <https://www.epa.gov/nepa/national-environmental-policy-act-review-process> (last visited June 11, 2026).
- ¹⁶ 42 U.S.C. §§ 4336e(6), 4332(C).
- ¹⁷ Exec. Order No. 14154, Unleashing American Energy, 90 Fed. Reg. 8,353 (Jan. 29, 2025); Exec. Order No. 11991, 42 Fed. Reg. 26,967 (May 25, 1977).
- ¹⁸ Exec. Order No. 14154, Unleashing American Energy, 90 Fed. Reg. 8,353, 8,355 (Jan. 29, 2025)
- ¹⁹ 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>).
- ²⁰ 43 C.F.R. § 46.150.
- ²¹ First Am. & Supp. Compl. For Declaratory & Injunctive Relief ¶ 252, State of Wash. v. Trump, No. 2:25-cv-00869 (W.D. Wash. Jan. 30, 2026).
- ²² U.S. Dep’t of Interior, Alternative Arrangements for Compliance with the National Environmental Policy Act amid the National Energy Emergency (Apr. 23, 2025).
- ²³ *Id.*
- ²⁴ *Id.*
- ²⁵ *Id.*

ENDNOTES

²⁶ *Id.*

²⁷ *Id.*

²⁸ U.S. Dep't of Interior, Department of the Interior NEPA Handbook: National Environmental Policy Act Implementing Procedures, Pt. 1 (Feb. 2026) (available at <https://www.doi.gov/media/document/doi-handbook-nepa-procedures>).

²⁹ 30 U.S.C. §1419(d).

³⁰ 15 C.F.R. § 970.500; 15 C.F.R. § 971.400.

³¹ Policy and Procedures for Compliance with the National Environmental Policy Act and Related Authorities: Companion Manual for NOAA Administrative Order 216-6A (June 30, 2025).

³² 26 U.S.C. § 1419(d).

³³ 16 U.S.C. § 1536(a).

³⁴ *Id.*

³⁵ 50 C.F.R. § 402.02.

³⁶ 50 C.F.R. § 402.13(a).

³⁷ 50 C.F.R. § 402.14.

³⁸ 50 C.F.R. § 402.05(a).

³⁹ U.S. Dep't of Interior, Alternative Procedures for Informal, Expedited Consultation under Section 7 of the Endangered Species Act for Energy Projects amid the National Energy Emergency (Apr. 23, 2025).

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.* (requiring that “as soon as practicable under the circumstances, following termination or expiration of the national energy emergency, the Federal action agency shall follow 50 C.F.R. § 402.05(b) and provide the information necessary to initiate consultation”).

⁴³ 36 C.F.R. § 800.16(y) (defining “undertaking” as “a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; and those requiring a Federal permit, license, or approval”).

⁴⁴ 54 U.S.C. § 306108.

⁴⁵ 54 U.S.C. § 300308.

⁴⁶ 36 C.F.R. pt. 800, subpt. B.

⁴⁷ 36 C.F.R. § 800.12(a).

⁴⁸ 36 C.F.R. § 800.12(b) (the seven-day notice period may be shortened under exigent circumstances).

⁴⁹ U.S. Dep't of Interior, Using the Emergency Provisions to Comply with Section 106 of the National Historic Preservation Act in Response to the National Energy Emergency (Apr. 23, 2025).

⁵⁰ *Id.*