

THOUGHT LEADERSHIP

LEGAL UPDATES

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Executive Order Seeks to Rapidly Accelerate Development of "Priority" Mining Projects

In a move designed to “facilitate domestic mineral production to the maximum possible extent,” on March 20, 2025, the Trump administration issued an executive order—titled “Immediate Measures to Increase American Mineral Production”—requiring an array of accelerated actions by federal agencies to spur investment in and advance approval of domestic mineral production and mining projects federal actions pursuant to its previously declared “national energy emergency.”

Identifying “priority projects” for expedited permitting

The Executive Order’s initial mechanism for immediately accelerating U.S. mineral production—including both mining and mineral processing—requires various federal agencies and authorities to rapidly identify priority projects that can be moved forward for federal regulatory approval. For example, Section 3 of the EO directs all federal agencies “involved in the permitting of mineral production” to provide to the chairperson of the National Energy Dominance Council (NEDC) “a list of all mineral production projects for which a plan of operations, a permit application, or other application for approval has been submitted.” Ten days after the submission of these lists, the EO directs agency heads to collaborate with the chairperson of the NEDC to “identify priority projects that can be immediately approved or for which permits can be immediately issued, and to take all necessary or appropriate actions within the agency’s authority to expedite and issue the relevant permits or approvals.” Section 3 also establishes a process to solicit information from private business concerning “regulatory bottlenecks and other recommended strategies for expediting domestic mineral production.”

The NEDC was established via Executive Order on February 14, 2025, to “advise President Trump on strategies to achieve energy dominance by improving the processes for permitting, production, generation, distribution, regulation, and transportation across all forms of American energy.”

The EO includes additional provisions for identification and action with respect to priority mineral production projects. Section 5(b) requires the Secretaries of Interior, Agriculture, Energy, Defense, and other agencies to establish lists within 30 days of federal lands that may be used for private mineral development and then to take measures to prioritize sites on which “mineral production projects could be fully permitted and operational as soon as possible and have the greatest potential effect on robustness of the domestic mineral supply chain.” Section 4 directs the chair of the NEDC to, within 10 days of the EO, identify priority mineral production projects that could be accelerated under the federal Fixing America’s Surface Transportation (FAST) Act. Within 15 days of receiving this list from the NEDC, the Executive Director of the Federal Permitting Improvement Steering Council established under the FAST Act must publish any projects selected and establish schedules for expedited review.

Mineral production and project funding

A second essential feature of the order—project funding—is detailed in Section 6. The EO invokes Section 303 of the Defense Production Act (DPA), 50 U.S.C. § 4501 et seq., to increase “the domestic production and facilitation of strategic resources the Secretary of Defense deems necessary or appropriate to advance domestic mineral production in the United States.” The DPA was passed in response to the Korean War and gives the President broad authority to influence the U.S. industrial base to ensure that essential materials and goods can be provided when needed for national defense. In recent years, DPA programs have been used extensively for clean energy initiatives, but less significantly for mining projects. This new EO will expand DPA support in the mining space.

Other provisions of the EO address federal funding mechanisms in addition to the DPA. Among other things, the funding-related provisions in Section 6:

Empower various federal agencies to make “loans, loan guarantees, grants, [and] equity” investments and to enter into “off-take agreements” to “advance national security in securing vital mineral supply chains” to the extent permitting by law.

Direct the Departments of Defense, Energy and Agriculture and other federal agencies to evaluate opportunities to enter into arrangements on “favorable terms and conditions” with private parties to supply loans, capital assistance, and working capital under existing public financing programs.

Authorize the Secretaries of Energy and Defense to enter into extended use leases on federal lands to advance development and construction of mineral production projects.

Delegate loan authority to the Chief Executive Officer of the United States International Development Finance Corporation (DFC) to facilitate projects “that create, maintain, protect, expand, or restore domestic mineral production”

Require the Defense Department and other federal authorities to take steps to propose plans for a dedicated “mineral and mineral production fund” for investments executed by the DFC

Mandate Export-Import Bank (EXIM) program guidance for “the use of mineral and mineral production financing tools authorized under the Supply Chain Resiliency Initiative to secure United States offtake of global raw mineral feedstock for domestic minerals processing, as well as under the Make More in America Initiative to support domestic mineral production”

Require the Small Business Administration to develop policy recommendations for legislation “to enhance private-public capital activities to support financings to domestic small businesses engaged in mineral production”

Direct the National Security Capital Forum “to facilitate the introduction of entities to pair private capital with commercially viable domestic mineral production projects to the maximum possible extent”

Many of these agencies have already taken actions to make funding more readily available to natural resources projects and likely will continue to do so in the mining space in response to the EO. EXIM, for example, recently approved additional funding on a \$4.7 billion liquified natural gas project in Mozambique (the largest project in EXIM’s history), which had been paused for four years. In a press release on the approval, EXIM noted that it had only obligated \$34 billion of its funding authority as of January 20, 2025 and still had \$101 billion in funding to deploy.

Implementation timelines

The order identifies a series of tight timelines for implementation of the EO.

Within 10 Days	Heads of permitting agencies submit lists of mineral production projects to Chair of NEDC
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	<p>Agencies, with Chair of NEDC, identify and expedite priority projects</p> <p>Secretary of the Interior provides list of Federal lands with mineral deposits to Assistants to the President</p>
Within 15 Days	<p>Chair of NEDC submits selected projects for Permitting Dashboard to Executive Director of Permitting Council</p> <p>Executive Director publishes selected projects and schedules for review</p>
Within 30 Days	<p>Chair of NEDC and Director of Legislative Affairs submit recommendations to Congress on General Mining Law of 1872</p> <p>Secretaries of Defense, Interior, Agriculture, and Energy identify suitable Federal sites for mineral development</p> <p>Secretaries of Defense and Energy coordinate with SBA and other agencies to support private mineral developers</p> <p>Secretary of Defense adds mineral production as a priority for the DPA Industrial Base Analysis and Sustainment Program</p> <p>CEO of DFC and Secretary of Defense propose a plan for a dedicated mineral investment fund using DPA authorities</p> <p>President of the Export-Import Bank releases program guidance for financing tools to support mineral production</p> <p>Assistant Secretary of Defense for Industrial Base Policy convenes mineral buyers and prepares request for bids</p>
30 Days Plus	<p>Secretaries of Defense and S of Energy enter into extended-use leases with private mineral producers</p> <p>Administrator of the SBA submits legislative recommendations and prepares regulations to enhance small business mineral production financing</p>

What this means to you

The EO's clear intent is to support a broad range of mineral development and production. It variously addresses "minerals," "mining," and "mineral production." The definition of the latter term is very broad, including "mining, processing, refining, and smelting of minerals, and the production of processed critical minerals and other derivative products." Therefore, the EO is important not just to mining, but upstream exploration and downstream commercial activity and could spur permitting and investment at all points of the mineral value chain.

Timing is of the essence. Key decisions pertaining to the identification of "priority projects" will be made in a matter of days. Mining and other mineral companies should evaluate immediately activating public policy channels available to them to ensure that their projects receive all due consideration from policymakers.

Contact us

If you have questions about how this executive action impacts your company or need assistance in developing an action plan for your project portfolio, contact Greg Fontaine, Steve Neeley, or your Husch Blackwell attorney.