

Trump Administration's Invocation of the Defense Production Act for Mineral Production

April 4, 2025

On March 20, 2025, the Trump Administration issued Executive Order (E.O.) 14241, “[Immediate Measures to Increase American Mineral Production](#).” The executive order’s goal is to “facilitate domestic mineral production to the maximum extent possible” to address national security concerns.

Among the actions authorized by E.O. 14241 are invocations and delegations of the [Defense Production Act of 1950](#) (DPA; 50 U.S.C. §§4501 et seq.) The DPA gives the President authority to influence domestic industry in the interest of national defense. E.O. 14241 invokes DPA Titles III and VII.

The Defense Production Act

DPA Title III authorizes the President to expand productive capacity and supply of critical materials and goods. To do this, sections 301 and 302 of Title III authorize the President to issue loans and loan guarantees to businesses to reduce shortfalls of industrial resources, critical technology items, or essential materials needed for national defense. Section 303 authorizes the President to create, maintain, expand, or restore domestic industrial base capabilities essential to national defense, including by making purchases or purchase agreements and providing subsidies to businesses. Title VII contains a range of additional authorities, such as the authority for the federal government to conduct industrial base assessments to obtain information from private industry.

DPA Delegations

The DPA authorizes the delegation of presidential authorities in the act to other executive branch officials, but does not assign specific delegations. Many such delegations were established in [E.O. 13603](#) in 2012. For example, E.O. 13603 delegated the majority of section 301, 302, and 303 authorities to the “head of each agency engaged in procurement for national defense.” As discussed below, E.O. 14241 delegates certain DPA authorities to particular agencies. (E.O. 14241’s delegations have no impact on E.O. 13603’s delegations.)

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E.O. 14241

E.O. 14241 calls for increased domestic mineral production. It defines a “mineral” as a “critical mineral, as defined by [30 U.S.C. §1606\(a\)\(3\)](#), as well as uranium, copper, potash, gold, or any other element, compound or material” as determined by the chair of the recently-established [National Energy Dominance Council](#) (NEDC).

U.S. International Development Finance Corporation Delegations

E.O. 14241 delegates DPA section 301, 302, and 303 authorities to the Chief Executive Officer (CEO) of the [U.S. International Development Finance Corporation](#) (DFC). The DFC CEO may use these authorities “in consultation with the Secretary of Defense, the Secretary of the Interior, the Secretary of Energy, the Chair of the NEDC, and the heads of other agencies as the CEO deems appropriate, for the domestic production and facilitation of strategic resources the CEO deems necessary or appropriate to advance mineral production.” E.O. 14241 also delegates several Title VII authorities to the DFC CEO, including the authority to conduct industrial base assessments. Finally, the executive order directs the Secretary of Defense and the DFC CEO to “develop and propose a plan...for the DFC to use Department of Defense investment authorities (including the DPA) and the Department of Defense Office of Strategic Capital to establish a dedicated mineral and mineral production fund for domestic investments executed by the DFC.”

Department of Defense Delegations

The executive order also delegates DPA section 303 authorities to the Secretary of Defense. It states that the Secretary of Defense may use section 303 authorities, “in consultation with the Secretary of the Interior, the Secretary of Energy, the Chair of the NEDC, and the heads of other agencies as the Secretary of Defense deems appropriate, for the domestic production and facilitation of strategic resources the Secretary of Defense deems necessary or appropriate to advance domestic mineral production.”

Waiver of Certain Section 303 Requirements

Typically, exercising section 303 authorities requires the President to determine that there is a “domestic industrial base shortfall” for a particular resource or material that threatens national defense. This determination must find that domestic industry cannot reasonably provide the good in a timely manner, and that section 303 action is the most cost effective, expedient, and practical alternative. Projects addressing an industrial base shortfall that cumulatively cost more than \$50 million are subject to congressional authorization. However, the DPA allows the President to waive the requirements for a presidential determination and congressional authorization in periods of national emergency. E.O. 14241 invokes that waiver authority due to the “national energy emergency” declared by the Trump Administration in [E.O. 14156](#) in January 2025.

Considerations for Congress

Congress may be interested in the delegation of Title III authorities to the DFC CEO. [E.O. 13922](#) in May 2020 delegated DFC Title III authorities to expand domestic production of resources to address the COVID-19 pandemic. According to a Government Accountability Office [report](#), DFC officials said the process to make loans under that authority was slowed by several factors, including “more applications and more complex interagency involvement than DFC expected.” DFC’s Inspector General [stated](#) that increased domestic responsibilities for the agency may risk distracting DFC from its statutory mandate to promote private investment for economic development in less-developed countries.

E.O. 14241 also directs agencies to which it delegates DPA Title III authority to, “to the extent permitted by law, take steps to rescind any policies that require an applicant [for Title III assistance] to complete and submit to the agency as part of an application for such funds the disclosures that are required by Regulation S-K part 1300.” [These regulations](#) concern disclosures for mining companies, including requiring certain companies to provide the identity of the operator and the mineral rights involved at a mining property. Congress may have interest in monitoring any impacts E.O. 14241 has on such disclosure requirements.

More broadly, most DPA provisions [expire](#) at the end of FY2025 unless Congress reauthorizes the law. Congress could weigh whether any issues related to E.O. 14241 warrant consideration during reauthorization discussions. For example, Congress could consider allowing delegation of DPA authorities to be given only to executive branch agencies identified in statute or authorized by Congress, rather than by the President. Conversely, Congress may decide such a requirement may impede presidential capabilities during time-sensitive situations.

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