

117TH CONGRESS
1ST SESSION

H. R. 3240

To require the Secretary of the Interior and the Secretary of Agriculture to more efficiently develop domestic sources of the minerals and mineral materials of strategic and critical importance to the economic and national security and manufacturing competitiveness of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 14, 2021

Mr. AMODEI (for himself, Mr. WESTERMAN, Mr. YOUNG, Mr. LAMALFA, Mr. FULCHER, Mr. RESCHENTHALER, and Mrs. LESKO) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To require the Secretary of the Interior and the Secretary of Agriculture to more efficiently develop domestic sources of the minerals and mineral materials of strategic and critical importance to the economic and national security and manufacturing competitiveness of the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Strategic and
5 Critical Minerals Production Act of 2021”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) The industrialization of developing nations
4 has driven demand for nonfuel minerals necessary
5 for telecommunications, military technologies,
6 healthcare technologies, and conventional and renew-
7 able energy technologies.

8 (2) The availability of minerals and mineral
9 materials are essential for economic growth, national
10 security, technological innovation, and the manufac-
11 turing and agricultural supply chain.

12 (3) Minerals and mineral materials are critical
13 components of every transportation, water, tele-
14 communications, and energy infrastructure project
15 necessary to modernize the crumbling infrastructure
16 of the United States.

17 (4) The exploration, production, processing,
18 use, and recycling of minerals contribute signifi-
19 cantly to the economic well-being, security, and gen-
20 eral welfare of the United States.

21 (5) Constraints on mineral supply chains are
22 expected to grow globally due to increased demand,
23 leading to higher costs of raw materials necessary
24 for innovative technologies to combat climate
25 change.

(6) China currently controls the majority of worldwide production of certain minerals, including—

(A) rare earth minerals;

(B) graphite and graphene;

(C) lithium; and

(D) vanadium.

(7) Domestic mineral production must grow to allow the United States to fulfill its national security, healthcare, infrastructure, energy, manufacturing, agricultural, and environmental needs.

(8) In order to ensure the United States remains economically competitive, domestic production of minerals and mineral materials must be prioritized and bolstered through reducing existing constraints on mineral access.

(9) As of 2020, the United States is entirely import dependent for 17 key mineral resources, and more than 50 percent import dependent for an additional 29 mineral commodities. United States mineral import reliance has nearly doubled over the past 20 years.

(10) The United States permitting process—which takes on average 7 to 10 years or more—is one of the principal barriers to the domestic mining

1 sector's ability to ensure robust mineral supply
2 chains and creates a competitive disadvantage in at-
3 tracting investment for mineral development.

4 **SEC. 3. DEFINITIONS.**

5 In this Act:

6 (1) AGENCY.—The term “agency” means—

7 (A) any agency, department, or other unit
8 of Federal, State, local, or tribal government; or

9 (B) an Alaska Native Corporation.

10 (2) ALASKA NATIVE CORPORATION.—The term
11 “Alaska Native Corporation” has the meaning given
12 the term “Native Corporation” in section 3 of the
13 Alaska Native Claims Settlement Act (43 U.S.C.
14 1602).

15 (3) LEAD AGENCY.—The term “lead agency”
16 means the agency with primary responsibility for
17 issuing a mineral exploration or mine permit for a
18 project.

19 (4) MINERAL EXPLORATION OR MINE PER-
20 MIT.—The term “mineral exploration or mine per-
21 mit” includes—

22 (A) an authorization of the Bureau of
23 Land Management or the Forest Service, as ap-
24 plicable, for premining activities that requires
25 an environmental impact statement or similar

1 analysis under the National Environmental Pol-
2 icy Act of 1969 (42 U.S.C. 4321 et seq.);

3 (B) a plan of operations issued by—

4 (i) the Bureau of Land Management
5 under subpart 3809 of part 3800 of title
6 43, Code of Federal Regulations (or suc-
7 cessor regulations); or

8 (ii) the Forest Service under subpart
9 A of part 228 of title 36, Code of Federal
10 Regulations (or successor regulations); and

11 (C) a permit issued under an authority de-
12 scribed in section 3503.13 of title 43, Code of
13 Federal Regulations (or successor regulations).

14 (5) PROJECT.—The term “project” means a
15 project for which the issuance of a permit is re-
16 quired to conduct activities for, relating to, or inci-
17 dental to mineral exploration, mining, beneficiation,
18 processing, or reclamation activities—

19 (A) on a mining claim, millsite claim, or
20 tunnel site claim for any locatable mineral; or

21 (B) relating to a Federal mineral lease
22 leased under—

23 (i) the Mineral Leasing Act for Ac-
24 quired Lands (30 U.S.C. 351 et seq.); or

1 (ii) section 402 of Reorganization
2 Plan Numbered 3 of 1946 (5 U.S.C.
3 App.).

4 **SEC. 4. IMPROVING DEVELOPMENT OF STRATEGIC AND**
5 **CRITICAL MINERALS.**

6 (a) DEFINITION OF STRATEGIC AND CRITICAL MIN-
7 ERALS.—In this section, the term “strategic and critical
8 minerals” means minerals that are necessary—

9 (1) for the national defense and national secu-
10 rity requirements;

11 (2) for the energy infrastructure of the United
12 States, including—

13 (A) pipelines;

14 (B) refining capacity;

15 (C) electrical power generation and trans-
16 mission; and

17 (D) renewable energy production;

18 (3) for community resiliency, coastal restora-
19 tion, and ecological sustainability for the coastal
20 United States;

21 (4) to support domestic manufacturing, agri-
22 culture, housing, telecommunications, healthcare,
23 and transportation infrastructure; or

24 (5) for the economic security of, and balance of
25 trade in, the United States.

1 (b) CONSIDERATION OF CERTAIN DOMESTIC MINES
 2 AS INFRASTRUCTURE PROJECTS.—A domestic mine that,
 3 as determined by the lead agency, will provide strategic
 4 and critical minerals shall be considered to be an infra-
 5 structure project for the purposes of Executive Order
 6 13807 (42 U.S.C. 4370m note, relating to Establishing
 7 Discipline and Accountability in the Environmental Re-
 8 view and Permitting Process for Infrastructure Projects).

9 **SEC. 5. RESPONSIBILITIES OF THE LEAD AGENCY.**

10 (a) IN GENERAL.—The lead agency shall appoint a
 11 project lead within the lead agency, who shall coordinate
 12 and consult with cooperating agencies and any other agen-
 13 cies involved in the permitting process, project proponents,
 14 and contractors to ensure that cooperating agencies and
 15 other agencies involved in the permitting process, project
 16 proponents, and contractors—

- 17 (1) minimize delays;
- 18 (2) set and adhere to timelines and schedules
- 19 for completion of the permitting process;
- 20 (3) set clear permitting goals; and
- 21 (4) track progress against those goals.

22 (b) DETERMINATION UNDER THE NATIONAL ENVI-
 23 RONMENTAL POLICY ACT OF 1969.—

24 (1) IN GENERAL.—To the extent that section
 25 102(2)(C) of the National Environmental Policy Act

1 of 1969 (42 U.S.C. 4332(2)(C)) applies to the
2 issuance of any mineral exploration or mine permit,
3 the requirements of such section shall be deemed
4 satisfied if the lead agency determines that a State
5 or Federal agency acting under State or Federal law
6 has addressed or will address the following factors:

7 (A) The environmental impact of the ac-
8 tion to be conducted under the permit.

9 (B) Possible adverse environmental effects
10 of actions under the permit.

11 (C) Possible alternatives to issuance of the
12 permit.

13 (D) The relationship between long- and
14 short-term uses of the local environment and
15 the maintenance and enhancement of long-term
16 productivity.

17 (E) Any irreversible and irretrievable com-
18 mitment of resources that would be involved in
19 the proposed action.

20 (F) The ability of the public to participate
21 during the decision-making process for author-
22 izing actions under the permit.

23 (2) WRITTEN REQUIREMENT.—In making a de-
24 termination under paragraph (1), not later than 90
25 days after receipt of an application for the permit,

1 the lead agency, in a written record of decision,
2 shall—

3 (A) explain the rationale used in reaching
4 the determination; and

5 (B) state the facts in the record that are
6 the basis for the determination.

7 (c) COORDINATION ON PERMITTING PROCESS.—

8 (1) IN GENERAL.—The lead agency shall en-
9 hance government coordination for the permitting
10 process by—

11 (A) avoiding duplicative reviews;

12 (B) minimizing paperwork; and

13 (C) engaging other agencies and stake-
14 holders early in the process.

15 (2) CONSIDERATIONS.—In carrying out para-
16 graph (1), the lead agency shall consider—

17 (A) deferring to, and relying on, baseline
18 data, analyses, and reviews performed by State
19 agencies with jurisdiction over the proposed
20 project; and

21 (B) to the maximum extent practicable,
22 conducting any consultations or reviews concu-
23 rently rather than sequentially if concurrent
24 consultation or review would expedite the proc-
25 ess.

1 (3) MEMORANDUM OF AGENCY AGREEMENT.—

2 At the request of a State or local planning agency,
3 the lead agency, in consultation with other Federal
4 agencies with relevant jurisdiction in the environ-
5 mental review process, may establish memoranda of
6 agreement with the project sponsor, State and local
7 governments, and other appropriate entities to ac-
8 complish the coordination activities described in this
9 subsection.

10 (d) SCHEDULE FOR PERMITTING PROCESS.—

11 (1) IN GENERAL.—For any project for which
12 the requirements of section 102(2)(C) of the Na-
13 tional Environmental Policy Act of 1969 (42 U.S.C.
14 4332(2)(C)) are not deemed satisfied by the lead
15 agency under subsection (b), at the request of a
16 project proponent, the lead agency, cooperating
17 agencies, and any other agencies involved with the
18 mineral exploration or mine permitting process shall
19 enter into an agreement with the project proponent
20 that sets time limits for each part of the permitting
21 process, including—

22 (A) the decision on whether to prepare an
23 environmental impact statement or similar anal-
24 ysis required under section 102(2)(C) of the

1 National Environmental Policy Act of 1969 (42
2 U.S.C. 4332(2)(C));

3 (B) a determination of the scope of any en-
4 vironmental impact statement or similar anal-
5 ysis required under such section;

6 (C) the scope of, and schedule for, the
7 baseline studies required to prepare an environ-
8 mental impact statement or similar analysis re-
9 quired under such section;

10 (D) preparation of any draft environmental
11 impact statement or similar analysis required
12 under such section;

13 (E) preparation of a final environmental
14 impact statement or similar analysis required
15 under such section;

16 (F) any consultations required under appli-
17 cable law;

18 (G) submission and review of any com-
19 ments required under applicable law;

20 (H) publication of any public notices re-
21 quired under applicable law; and

22 (I) any final or interim decisions relating
23 to such project.

24 (2) TIME LIMIT FOR PERMITTING PROCESS.—

25 Except if extended by mutual agreement of the

1 project proponent and the lead agency, the time pe-
2 riod for the total review process described in para-
3 graph (1) may not exceed 30 months.

4 (e) LIMITATION ON ADDRESSING PUBLIC COM-
5 MENTS.—The lead agency is not required to address any
6 agency or public comments that were not submitted—

7 (1) during a public comment period or consulta-
8 tion period provided during the permitting process;
9 or

10 (2) as otherwise required by law.

11 (f) FINANCIAL ASSURANCE.—Notwithstanding any
12 other provision of law, the lead agency shall determine the
13 amount of financial assurance required for reclamation of
14 a mineral exploration or mining site. Such amount shall
15 be sufficient to cover the estimated cost of contracting
16 with a third party to reclaim the operations according to
17 the reclamation plan, including construction and mainte-
18 nance costs for any treatment facilities necessary to meet
19 Federal, State, and Tribal environmental standards.

20 (g) PROJECTS WITHIN NATIONAL FORESTS.—With
21 respect to projects on National Forest System land (as
22 defined in section 11(a) of the Forest and Rangeland Re-
23 newable Resources Planning Act of 1974 (16 U.S.C.
24 1609(a))) the lead agency shall—

1 (1) exempt from the requirements of part 294
2 of title 36, Code of Federal Regulations (or suc-
3 cessor regulations)—

4 (A) all areas of identified mineral re-
5 sources in land use designations, other than
6 nondevelopment land use designations, in exist-
7 ence on the date of enactment of this Act; and

8 (B) all additional routes or areas that the
9 lead agency determines necessary to facilitate
10 the construction, operation, maintenance, and
11 restoration of an area described in subpara-
12 graph (A); and

13 (2) continue to apply the exemptions described
14 in paragraph (1) after the date on which approval
15 of the minerals plan of operations described in sec-
16 tion 3(4)(B)(ii) for the National Forest System land.

17 (h) APPLICATION TO EXISTING PERMIT APPLICA-
18 TIONS.—

19 (1) IN GENERAL.—Upon written request by an
20 applicant to the lead agency, this section shall apply
21 to a mineral exploration or mine permit for which an
22 application was submitted before the date of enact-
23 ment of this Act.

24 (2) IMPLEMENTATION.—This section applies to
25 a request for a mineral exploration or mine permit

1 submitted on a date that is not less than 30 days
2 after the date of enactment of this Act.

3 **SEC. 6. SECRETARIAL ORDER NOT AFFECTED.**

4 This Act shall not apply to any mineral described in
5 Secretarial Order 3324, issued by the Secretary of the In-
6 terior on December 3, 2012, in any area to which the
7 order applies.

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