

117TH CONGRESS
2D SESSION

H. R. 8928

To improve the permitting process for mining on Federal land, and for
other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 20, 2022

Mr. STAUBER (for himself and Mr. WESTERMAN) introduced the following bill;
which was referred to the Committee on Natural Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To improve the permitting process for mining on Federal
land, 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 “Permitting for Mining
5 Needs Act of 2022”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) SECRETARY.—Except as otherwise provided,
 2 the term “Secretary” means the Secretary of the In-
 3 terior.

4 (2) STATE.—The term “State” means—

5 (A) a State;

6 (B) the District of Columbia;

7 (C) the Commonwealth of Puerto Rico;

8 (D) Guam;

9 (E) American Samoa;

10 (F) the Commonwealth of the Northern
 11 Mariana Islands; and

12 (G) the United States Virgin Islands.

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

17 **SEC. 3. MINERALS SUPPLY CHAIN AND RELIABILITY.**

18 Section 40206 of the Infrastructure Investment and
 19 Jobs Act (30 U.S.C. 1607) is amended—

20 (1) in the section heading, by striking “Critical
 21 minerals” and inserting “Minerals”;

22 (2) in subsection (a)—

23 (A) in the heading by striking “DEFINI-
 24 TION OF CRITICAL MINERAL” and inserting
 25 “DEFINITIONS”;

1 (B) by striking “section,” and inserting
2 “section:”;

3 (C) by striking “the term ‘critical mineral’
4 has the meaning given the term in section
5 7002(a) of the Energy Act of 2020 (30 U.S.C.
6 1606(a))” and inserting the following:

7 “(1) MINERAL.—The term ‘mineral’ means any
8 mineral of a kind that is locatable (including such
9 minerals located on lands acquired by the United
10 States, as such term is defined in section 102 of the
11 Mineral Leasing Act for Acquired Lands) under the
12 Act of May 10, 1872 (Chapter 152; 17 Stat. 91).”;
13 and

14 (D) by adding at the end the following:

15 “(2) MINERAL EXPLORATION OR MINE PER-
16 MIT.—The term ‘mineral exploration or mine permit’
17 means—

18 “(A) an authorization of the Bureau of
19 Land Management or the Forest Service, as ap-
20 plicable, for exploration for minerals that re-
21 quires analysis under the National Environ-
22 mental Policy Act of 1969 (42 U.S.C. 4321 et
23 seq.);

1 “(B) a plan of operations for a mineral
2 project approved by the Bureau of Land Man-
3 agement or the Forest Service; or

4 “(C) any other permit or authorization for
5 a mineral project.

6 “(3) MINERAL PROJECT.—The term ‘mineral
7 project’ means a project—

8 “(A) located on—

9 “(i) a mining claim, millsite claim, or
10 tunnel site claim for any mineral;

11 “(ii) lands open to mineral entry; or

12 “(iii) a Federal mineral lease; and

13 “(B) for the purposes of exploring for or
14 producing minerals.

15 “(4) LEAD AGENCY.—The term ‘lead agency’
16 means the Federal agency with primary responsi-
17 bility for issuing a mineral exploration or mine per-
18 mit for a mineral project.”;

19 (3) in subsection (b), by striking “critical” each
20 place it appears;

21 (4) in subsection (c)—

22 (A) by striking “critical mineral production
23 on Federal land” and inserting “mineral
24 projects”;

1 (B) by inserting “, and in accordance with
2 subsection (h)” after “to the maximum extent
3 practicable”;

4 (C) by striking “shall complete the” and
5 inserting “shall complete such”;

6 (D) in paragraph (1), by striking “critical
7 mineral-related activities on Federal land” and
8 inserting “mineral projects”;

9 (E) in paragraph (8), by striking the
10 “and” at the end;

11 (F) in paragraph (9), by striking “proce-
12 dures.” and inserting “procedures; and”; and

13 (G) by adding at the end the following:

14 “(10) deferring to and relying on baseline data,
15 analyses, and reviews performed by State agencies
16 with jurisdiction over the environmental or reclama-
17 tion permits for the proposed mineral project.”;

18 (5) in subsection (d)—

19 (A) by striking “critical” each place it ap-
20 pears; and

21 (B) in paragraph (3), by striking “mineral-
22 related activities on Federal land” and inserting
23 “mineral projects”;

24 (6) in subsection (e), by striking “critical”;

1 (7) in subsection (f), by striking “critical” each
2 place it appears;

3 (8) in subsection (g), by striking “critical” each
4 place it appears; and

5 (9) by adding at the end the following:

6 “(h) OTHER REQUIREMENTS.—

7 “(1) MEMORANDUM OF AGREEMENT.—For pur-
8 poses of maximizing efficiency and effectiveness of
9 the Federal permitting and review processes de-
10 scribed under subsection (c), the lead agency in the
11 Federal permitting and review processes of a min-
12 eral project shall (in consultation with any other
13 Federal agency involved in such Federal permitting
14 and review processes, and upon request of the
15 project applicant, an affected State government,
16 local government, or an Indian Tribe, or other entity
17 such lead agency determines appropriate) enter into
18 a memorandum of agreement to carry out the activi-
19 ties described in subsection (c).

20 “(2) TIMELINES AND SCHEDULES FOR NEPA
21 REVIEWS.—

22 “(A) DEADLINES.—Any timelines or
23 schedules established under subsection (c)(1)
24 relating to a review under section 102(2)(C) of
25 the National Environmental Policy Act of 1969

1 shall require that the review process not ex-
2 ceed—

3 “(i) 18 months for an environmental
4 assessment; and

5 “(ii) 24 months for an environmental
6 impact statement.

7 “(B) EXTENSION.—A project applicant
8 may enter into 1 or more agreements with a
9 lead agency to extend the deadlines described in
10 clauses (i) and (ii) of subparagraph (A) by,
11 with respect to each such agreement, not more
12 than 6 months.

13 “(C) ADJUSTMENT OF TIMELINES.—At the
14 request of a project applicant, the lead agency
15 and any other entity which is a signatory to a
16 memorandum of agreement under paragraph
17 (1) may, by unanimous agreement, adjust—

18 “(i) any deadlines described in sub-
19 paragraph (A); and

20 “(ii) any deadlines extended under
21 subparagraph (B).

22 “(3) EFFECT ON PENDING APPLICATIONS.—
23 Upon a written request by a project applicant, the
24 requirements of this subsection shall apply to any
25 application for a mineral exploration or mine permit

1 that was submitted before the date of enactment of
2 the Permitting for Mining Needs Act of 2022.”.

3 **SEC. 4. LIMITATION ON JUDICIAL REVIEW.**

4 (a) IN GENERAL.—Notwithstanding any other provi-
5 sion of law, a claim arising under Federal law seeking ju-
6 dicial review of a permit, license, or approval issued by
7 a Federal lead agency for a mining project shall be barred
8 unless it is filed not later than 1 year after the permit,
9 license, or approval is final pursuant to the law under
10 which the agency action is taken, unless a shorter time
11 is specified in the Federal law pursuant to which judicial
12 review is allowed.

13 (b) SAVINGS CLAUSE.—Nothing in this section shall
14 create a right to judicial review or place any limit on filing
15 a claim that a person has violated the terms of a permit,
16 license, or approval.

17 **SEC. 5. FEDERAL REGISTER PROCESS IMPROVEMENT.**

18 Section 7002(f) of the Energy Act of 2020 (30
19 U.S.C. 1606(f)) is amended—

20 (1) in paragraph (2), by striking “critical” both
21 places such term appears; and

22 (2) by striking paragraph (4).

1 **SEC. 6. TREATMENT OF ACTIONS UNDER PRESIDENTIAL**
2 **DETERMINATION 2022–11 FOR FEDERAL PER-**
3 **MITTING IMPROVEMENT PURPOSES.**

4 (a) IN GENERAL.—Except as provided by subsection
5 (c), an action described in subsection (b) shall be—

6 (1) treated as a covered project, as defined in
7 section 41001(6) of the Fixing America’s Surface
8 Transportation Act (42 U.S.C. 4370m(6)), without
9 regard to the requirements of that section; and

10 (2) included in the Permitting Dashboard main-
11 tained pursuant to section 41003(b) of that Act (42
12 U.S.C. 4370m–2(b)).

13 (b) ACTIONS DESCRIBED.—An action described in
14 this subsection is an action taken by the Secretary of De-
15 fense pursuant to Presidential Determination 2022–11
16 (87 Fed. Reg. 19775; relating to certain actions under
17 section 303 of the Defense Production Act of 1950) to
18 create, maintain, protect, expand, or restore sustainable
19 and responsible domestic production capabilities
20 through—

21 (1) supporting feasibility studies for mature
22 mining, beneficiation, and value-added processing
23 projects;

24 (2) by-product and co-product production at ex-
25 isting mining, mine waste reclamation, and other in-
26 dustrial facilities;

1 (3) modernization of mining, beneficiation, and
2 value-added processing to increase productivity, envi-
3 ronmental sustainability, and workforce safety; or

4 (4) any other activity authorized under section
5 14 303(a)(1) of the Defense Production Act of 1950
6 15 (50 U.S.C. 4533(a)(1)).

7 (c) EXCEPTION.—An action described in subsection
8 (b) may not be treated as a covered project or be included
9 in the Permitting Dashboard under subsection (a) if the
10 project sponsor (as defined in section 41001(18) of the
11 Fixing America’s Surface Transportation Act (42 U.S.C.
12 21 4370m(18))) requests that the action not be treated
13 as a covered project.

14 **SEC. 7. MINERAL EXPLORATION ACTIVITIES WITH LIMITED**
15 **SURFACE DISTURBANCE.**

16 Notwithstanding any other provision of law, the Sec-
17 retary, with respect to lands administered by the Sec-
18 retary, and the Secretary of Agriculture with respect to
19 National Forest System lands, shall allow mineral explo-
20 ration activities other than casual use to proceed after re-
21 ceiving a notice in such time, place, and manner as the
22 applicable Secretary determines appropriate, describing
23 the exploration activities and subsequent reclamation ac-
24 tivities if—

1 (1) the surface disturbance on Federal land will
2 not exceed 5 acres;

3 (2) the Secretary determines that the notice is
4 complete; and

5 (3) the exploration activities are not on Federal
6 land that has been previously reclaimed.

7 **SEC. 8. USE OF MINING CLAIMS FOR ANCILLARY ACTIVITIES.**
8

9 Section 10101 of the Omnibus Budget Reconciliation
10 Act of 1993 (30 U.S.C. 28f) is amended by adding at the
11 end the following:

12 “(e) SECURITY OF TENURE.—

13 “(1) IN GENERAL.—A claimant shall have the
14 right to use and occupy public land, before and after
15 the discovery of a valuable mineral deposit, in order
16 to prospect, mine, conduct processing operations, or
17 carry out other activities reasonably incident to such
18 activities if—

19 “(A) such claimant makes a timely pay-
20 ment of the location fee required by section
21 10102(g) and the claim maintenance fee re-
22 quired by subsection (a); or

23 “(B) in the case of a claimant who quali-
24 fies for a waiver under subsection (d), such
25 claimant makes a timely payment of the loca-

1 tion fee and complies with the required assess-
2 ment work under the general mining laws.

3 “(2) FULFILLMENT OF FEDERAL LAND POLICY
4 AND MANAGEMENT ACT.—A claimant that fulfills
5 the requirements of this section and section
6 10102(g) shall be deemed to satisfy the require-
7 ments of any provision of the Federal Land Policy
8 and Management Act that requires the payment of
9 fair market value to the United States for use of
10 public lands and resources relating to use of such
11 lands and resources authorized by the general min-
12 ing laws.

13 “(3) SAVINGS CLAUSE.—Nothing in this sub-
14 section may be construed to diminish—

15 “(A) the rights of entry, use, and occu-
16 pancy of a claimant under the general mining
17 laws; or

18 “(B) the rights of a claimant under the
19 general mining laws.”.

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