

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 520
OFFERED BY _____

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “National Strategic and
3 Critical Minerals Production Act”.

4 SEC. 2. DEFINITIONS.

5 In this Act:

6 (1) **CRITICAL MINERAL.**—

7 (A) **IN GENERAL.**—Except as provided in
8 subparagraph (B), the term “critical mineral”
9 means any mineral, element, substance, or ma-
10 terial designated as critical pursuant to section
11 3.

12 (B) **EXCLUSIONS.**—The term “critical
13 mineral” does not include—

14 (i) fuel minerals, including oil, natural
15 gas, or any other fossil fuels; or

16 (ii) water, ice, or snow.

17 (2) **CRITICAL MINERAL MANUFACTURING.**—The
18 term “critical mineral manufacturing” means—

1 (A) the exploration, development, mining,
2 production, processing, refining, alloying, sepa-
3 ration, concentration, magnetic sintering, melt-
4 ing, or beneficiation of critical minerals within
5 the United States;

6 (B) the fabrication, assembly, or produc-
7 tion, within the United States, of equipment,
8 components, or other goods with energy tech-
9 nology-, defense-, agriculture-, consumer elec-
10 tronics-, or health care-related applications; or

11 (C) any other value-added, manufacturing-
12 related use of critical minerals undertaken with-
13 in the United States.

14 (4) SECRETARY.—Except as otherwise provided
15 in this Act, the term “Secretary” means the Sec-
16 retary of the Interior.

17 (5) STATE.—The term “State” means—

18 (A) a State;

19 (B) the District of Columbia;

20 (C) the Commonwealth of Puerto Rico;

21 (D) Guam;

22 (E) American Samoa;

23 (F) the Commonwealth of the Northern
24 Mariana Islands; and

25 (G) the United States Virgin Islands.

1 **SEC. 3. CRITICAL MINERAL DESIGNATIONS.**

2 (a) DRAFT METHODOLOGY.—Not later than 90 days
3 after the date of enactment of this Act, the Secretary (act-
4 ing through the Director of the United States Geological
5 Survey) (referred to in this section as the “Secretary”),
6 in consultation with relevant Federal agencies and enti-
7 ties, shall publish in the Federal Register for public com-
8 ment a draft methodology for determining which minerals
9 qualify as critical minerals based on an assessment of
10 whether the minerals are—

11 (1) subject to potential supply restrictions (in-
12 cluding restrictions associated with foreign political
13 risk, abrupt demand growth, military conflict, violent
14 unrest, anti-competitive or protectionist behaviors,
15 and other risks throughout the supply chain); and

16 (2) important in use (including energy tech-
17 nology-, defense-, currency-, agriculture-, consumer
18 electronics-, and health care-related applications).

19 (b) AVAILABILITY OF DATA.—If available data is in-
20 sufficient to provide a quantitative basis for the method-
21 ology developed under this section, qualitative evidence
22 may be used to the extent necessary.

23 (c) FINAL METHODOLOGY.—After reviewing public
24 comments on the draft methodology under subsection (a)
25 and updating the draft methodology as appropriate, not
26 later than 270 days after the date of enactment of this

1 Act, the Secretary shall publish in the Federal Register
2 a description of the final methodology for determining
3 which minerals qualify as critical minerals.

4 (d) DESIGNATIONS.—

5 (1) IN GENERAL.—For purposes of carrying out
6 this Act, the Secretary shall maintain a list of min-
7 erals and elements designated as critical, pursuant
8 to the methodology under subsection (c).

9 (2) INITIAL LIST.—Subject to paragraph (1),
10 not later than 1 year after the date of enactment of
11 this Act, the Secretary shall publish in the Federal
12 Register an initial list of minerals designated as crit-
13 ical pursuant to the final methodology under sub-
14 section (c) for the purpose of carrying out this Act.

15 (3) INCLUSIONS.—Notwithstanding the criteria
16 under subsection (c), the Secretary may designate
17 and include on the list any mineral or element deter-
18 mined by another Federal agency to be strategic and
19 critical to the defense or national security of the
20 United States.

21 (e) SUBSEQUENT REVIEW.—

22 (1) IN GENERAL.—The Secretary shall review
23 the methodology and designations under subsections
24 (c) and (d) at least every 3 years, or more frequently
25 as the Secretary considers to be appropriate.

1 (2) REVISIONS.—Subject to subsection (d)(1),
2 the Secretary may—

3 (A) revise the methodology described in
4 this section;

5 (B) determine that minerals or elements
6 previously determined to be critical minerals are
7 no longer critical minerals; and

8 (C) designate additional minerals or ele-
9 ments as critical minerals.

10 (f) NOTICE.—On finalization of the methodology
11 under subsection (c), the list under subsection (d), or any
12 revision to the methodology or list under subsection (e),
13 the Secretary shall submit to Congress written notice of
14 the action.

15 **SEC. 4. RESOURCE ASSESSMENT.**

16 (a) IN GENERAL.—Not later than 4 years after the
17 date of enactment of this Act, in consultation with applica-
18 ble State (including geological surveys), local, academic,
19 industry, and other entities, the Secretary shall complete
20 a comprehensive national assessment of each critical min-
21 eral that—

22 (1) identifies and quantifies known critical min-
23 eral resources, using all available public and private
24 information and datasets, including exploration his-
25 tories; and

1 (2) provides a quantitative and qualitative as-
2 sessment of undiscovered critical mineral resources
3 throughout the United States, including probability
4 estimates of tonnage and grade, using all available
5 public and private information and datasets, includ-
6 ing exploration histories.

7 (b) SUPPLEMENTARY INFORMATION.—In carrying
8 out this section, the Secretary may carry out surveys and
9 field work (including drilling, remote sensing, geophysical
10 surveys, geological mapping, and geochemical sampling
11 and analysis) to supplement existing information and
12 datasets available for determining the existence of critical
13 minerals in the United States.

14 (c) TECHNICAL ASSISTANCE.—At the request of the
15 Governor of a State or the head of an Indian tribe, the
16 Secretary may provide technical assistance to State gov-
17 ernments and Indian tribes conducting critical mineral re-
18 source assessments on non-Federal land.

19 (d) PRIORITIZATION.—

20 (1) IN GENERAL.—The Secretary may sequence
21 the completion of resource assessments for each crit-
22 ical mineral such that critical minerals considered to
23 be most critical under the methodology established
24 under section 3 are completed first.

1 (2) REPORTING.—During the period beginning
2 not later than 1 year after the date of enactment of
3 this Act and ending on the date of completion of all
4 of the assessments required under this section, the
5 Secretary shall submit to Congress on an annual
6 basis an interim report that—

7 (A) identifies the sequence and schedule
8 for completion of the assessments if the Sec-
9 retary sequences the assessments; or

10 (B) describes the progress of the assess-
11 ments if the Secretary does not sequence the
12 assessments.

13 (e) UPDATES.—The Secretary may periodically up-
14 date the assessments conducted under this section based
15 on—

16 (1) the generation of new information or
17 datasets by the Federal Government; or

18 (2) the receipt of new information or datasets
19 from critical mineral producers, State geological sur-
20 veys, academic institutions, trade associations, or
21 other persons.

22 (f) ADDITIONAL SURVEYS.—The Secretary shall com-
23 plete a resource assessment for each additional mineral
24 or element subsequently designated as a critical mineral

1 under section 3(e)(2) not later than 2 years after the des-
2 ignation of the mineral or element.

3 (g) REPORT.—Not later than 2 years after the date
4 of enactment of this Act, the Secretary shall submit to
5 Congress a report describing the status of geological sur-
6 veying of Federal land for any mineral commodity—

7 (1) for which the United States was dependent
8 on a foreign country for more than 25 percent of the
9 United States supply, as depicted in the report
10 issued by the United States Geological Survey enti-
11 tled “Mineral Commodity Summaries 2017”; but

12 (2) that is not designated as a critical mineral
13 under section 3.

14 **SEC. 5. PERMITTING.**

15 (a) PERFORMANCE IMPROVEMENTS.—To improve
16 the quality and timeliness of decisions, the Secretary (act-
17 ing through the Director of the Bureau of Land Manage-
18 ment) and the Secretary of Agriculture (acting through
19 the Chief of the Forest Service) (referred to in this section
20 as the “Secretaries”) shall, to the maximum extent prac-
21 ticable, with respect to critical mineral production on Fed-
22 eral land, complete Federal permitting and review proc-
23 esses with maximum efficiency and effectiveness, while
24 supporting vital economic growth, by—

1 (1) establishing and adhering to timelines and
2 schedules for the consideration of, and final deci-
3 sions regarding, applications, operating plans, leases,
4 licenses, permits, and other use authorizations for
5 mineral-related activities on Federal land;

6 (2) establishing clear, quantifiable, and tem-
7 poral permitting performance goals and tracking
8 progress against those goals;

9 (3) engaging in early collaboration among agen-
10 cies, project sponsors, and affected stakeholders—

11 (A) to incorporate and address the inter-
12 ests of those parties; and

13 (B) to minimize delays;

14 (4) ensuring transparency and accountability by
15 using cost-effective information technology to collect
16 and disseminate information regarding individual
17 projects and agency performance;

18 (5) engaging in early and active consultation
19 with State, local, and Indian tribal governments to
20 avoid conflicts or duplication of effort, resolve con-
21 cerns, and allow for concurrent, rather than sequen-
22 tial, reviews;

23 (6) providing demonstrable improvements in the
24 performance of Federal permitting and review proc-

1 esses, including lower costs and more timely deci-
2 sions;

3 (7) expanding and institutionalizing permitting
4 and review process improvements that have proven
5 effective;

6 (8) developing mechanisms to better commu-
7 nicate priorities and resolve disputes among agencies
8 at the national, regional, State, and local levels; and

9 (9) developing other practices, such as
10 preapplication procedures.

11 (b) REVIEW AND REPORT.—Not later than 1 year
12 after the date of enactment of this Act, the Secretaries
13 shall submit to Congress a report that—

14 (1) identifies additional measures (including
15 regulatory and legislative proposals, as appropriate)
16 that would increase the timeliness of permitting ac-
17 tivities for the exploration and development of do-
18 mestic critical minerals;

19 (2) identifies options (including cost recovery
20 paid by permit applicants) for ensuring adequate
21 staffing and training of Federal entities and per-
22 sonnel responsible for the consideration of applica-
23 tions, operating plans, leases, licenses, permits, and
24 other use authorizations for critical mineral-related
25 activities on Federal land;

1 (3) quantifies the amount of time typically re-
2 quired (including range derived from minimum and
3 maximum durations, mean, median, variance, and
4 other statistical measures or representations) to
5 complete each step (including those aspects outside
6 the control of the executive branch, such as judicial
7 review, applicant decisions, or State and local gov-
8 ernment involvement) associated with the develop-
9 ment and processing of applications, operating
10 plans, leases, licenses, permits, and other use au-
11 thorizations for critical mineral-related activities on
12 Federal land, which shall serve as a baseline for the
13 performance metric under subsection (c); and

14 (4) describes actions carried out pursuant to
15 subsection (a).

16 (c) PERFORMANCE METRIC.—Not later than 90 days
17 after the date of submission of the report under subsection
18 (b), the Secretaries, after providing public notice and an
19 opportunity to comment, shall develop and publish a per-
20 formance metric for evaluating the progress made by the
21 executive branch to expedite the permitting of activities
22 that will increase exploration for, and development of, do-
23 mestic critical minerals, while maintaining environmental
24 standards.

1 (d) ANNUAL REPORTS.—Beginning with the first
2 budget submission by the President under section 1105
3 of title 31, United States Code, after publication of the
4 performance metric required under subsection (c), and an-
5 nually thereafter, the Secretaries shall submit to Congress
6 a report that—

7 (1) summarizes the implementation of rec-
8 ommendations, measures, and options identified in
9 paragraphs (1) and (2) of subsection (b);

10 (2) using the performance metric under sub-
11 section (c), describes progress made by the executive
12 branch, as compared to the baseline established pur-
13 suant to subsection (b)(3), on expediting the permit-
14 ting of activities that will increase exploration for,
15 and development of, domestic critical minerals; and

16 (3) compares the United States to other coun-
17 tries in terms of permitting efficiency and any other
18 criteria relevant to the globally competitive critical
19 minerals industry.

20 (e) INDIVIDUAL PROJECTS.—Using data from the
21 Secretaries generated under subsection (d), the Director
22 of the Office of Management and Budget shall prioritize
23 inclusion of individual critical mineral projects on the
24 website operated by the Office of Management and Budget

1 in accordance with section 1122 of title 31, United States
2 Code.

3 **SEC. 6. FEDERAL REGISTER PROCESS.**

4 (a) DEPARTMENTAL REVIEW.—Absent any extraor-
5 dinary circumstance, and except as otherwise required by
6 law, the Secretary and the Secretary of Agriculture shall
7 ensure that each Federal Register notice described in sub-
8 section (b) shall be—

9 (1) subject to any required reviews within the
10 Department of the Interior or the Department of
11 Agriculture; and

12 (2) published in final form in the Federal Reg-
13 ister not later than 45 days after the date of initial
14 preparation of the notice.

15 (b) PREPARATION.—The preparation of Federal Reg-
16 ister notices required by law associated with the issuance
17 of a critical mineral exploration or mine permit shall be
18 delegated to the organizational level within the agency re-
19 sponsible for issuing the critical mineral exploration or
20 mine permit.

21 (c) TRANSMISSION.—All Federal Register notices re-
22 garding official document availability, announcements of
23 meetings, or notices of intent to undertake an action shall
24 be originated in, and transmitted to the Federal Register
25 from, the office in which, as applicable—

1 (1) the documents or meetings are held; or

2 (2) the activity is initiated.

3 **SEC. 7. ANALYSIS AND FORECASTING.**

4 (a) CAPABILITIES.—In order to evaluate existing crit-
5 ical mineral policies and inform future actions that may
6 be taken to avoid supply shortages, mitigate price vola-
7 tility, and prepare for demand growth and other market
8 shifts, the Secretary, in consultation with the Energy In-
9 formation Administration, academic institutions, and oth-
10 ers in order to maximize the application of existing com-
11 petencies related to developing and maintaining computer-
12 models and similar analytical tools, shall conduct and pub-
13 lish the results of an annual report that includes—

14 (1) as part of the annually published Mineral
15 Commodity Summaries from the United States Geo-
16 logical Survey, a comprehensive review of critical
17 mineral production, consumption, and recycling pat-
18 terns, including—

19 (A) the quantity of each critical mineral
20 domestically produced during the preceding
21 year;

22 (B) the quantity of each critical mineral
23 domestically consumed during the preceding
24 year;

1 (C) market price data or other price data
2 for each critical mineral;

3 (D) an assessment of—

4 (i) critical mineral requirements to
5 meet the national security, energy, eco-
6 nomic, industrial, technological, and other
7 needs of the United States during the pre-
8 ceding year;

9 (ii) the reliance of the United States
10 on foreign sources to meet those needs
11 during the preceding year; and

12 (iii) the implications of any supply
13 shortages, restrictions, or disruptions dur-
14 ing the preceding year;

15 (E) the quantity of each critical mineral
16 domestically recycled during the preceding year;

17 (F) the market penetration during the pre-
18 ceding year of alternatives to each critical min-
19 eral;

20 (G) a discussion of international trends as-
21 sociated with the discovery, production, con-
22 sumption, use, costs of production, prices, and
23 recycling of each critical mineral as well as the
24 development of alternatives to critical minerals;
25 and

1 (H) such other data, analyses, and evalua-
2 tions as the Secretary finds are necessary to
3 achieve the purposes of this section; and

4 (2) a comprehensive forecast, entitled the “An-
5 nual Critical Minerals Outlook”, of projected critical
6 mineral production, consumption, and recycling pat-
7 terns, including—

8 (A) the quantity of each critical mineral
9 projected to be domestically produced over the
10 subsequent 1-year, 5-year, and 10-year periods;

11 (B) the quantity of each critical mineral
12 projected to be domestically consumed over the
13 subsequent 1-year, 5-year, and 10-year periods;

14 (C) an assessment of—

15 (i) critical mineral requirements to
16 meet projected national security, energy,
17 economic, industrial, technological, and
18 other needs of the United States;

19 (ii) the projected reliance of the
20 United States on foreign sources to meet
21 those needs; and

22 (iii) the projected implications of po-
23 tential supply shortages, restrictions, or
24 disruptions;

1 (D) the quantity of each critical mineral
2 projected to be domestically recycled over the
3 subsequent 1-year, 5-year, and 10-year periods;

4 (E) the market penetration of alternatives
5 to each critical mineral projected to take place
6 over the subsequent 1-year, 5-year, and 10-year
7 periods;

8 (F) a discussion of reasonably foreseeable
9 international trends associated with the dis-
10 covery, production, consumption, use, costs of
11 production, and recycling of each critical min-
12 eral as well as the development of alternatives
13 to critical minerals; and

14 (G) such other projections relating to each
15 critical mineral as the Secretary determines to
16 be necessary to achieve the purposes of this sec-
17 tion.

18 (b) PROPRIETARY INFORMATION.—In preparing a re-
19 port described in subsection (a), the Secretary shall en-
20 sure, consistent with section 5(f) of the National Materials
21 and Minerals Policy, Research and Development Act of
22 1980 (30 U.S.C. 1604(f)), that—

23 (1) no person uses the information and data
24 collected for the report for a purpose other than the
25 development of or reporting of aggregate data in a

1 manner such that the identity of the person or firm
2 who supplied the information is not discernible and
3 is not material to the intended uses of the informa-
4 tion;

5 (2) no person discloses any information or data
6 collected for the report unless the information or
7 data has been transformed into a statistical or ag-
8 gregate form that does not allow the identification of
9 the person or firm who supplied particular informa-
10 tion; and

11 (3) procedures are established to require the
12 withholding of any information or data collected for
13 the report if the Secretary determines that with-
14 holding is necessary to protect proprietary informa-
15 tion, including any trade secrets or other confiden-
16 tial information.

17 **SEC. 8. SECRETARIAL ORDER NOT AFFECTED.**

18 This Act shall not apply to any mineral described in
19 Secretarial Order 3324, issued by the Secretary of the In-
20 terior on December 3, 2012, in any area to which the
21 order applies.

