

Showing Current Law as Amended by H.R. 8446

[new text highlighted in yellow; text to be deleted bracketed and highlighted in blue]

Section 7002 of The Energy Act of 2020

§1606. Mineral security

(a) Definitions

In this section:

(1) Byproduct

The term "byproduct" means a critical mineral-

(A) the recovery of which depends on the production of a host mineral that is not designated as a critical mineral; and

(B) that exists in sufficient quantities to be recovered during processing or refining.

(2) Critical material

The term "critical material" means-

(A) any non-fuel mineral, element, substance, or material that the Secretary of Energy determines-

(i) has a high risk of a supply chain disruption; and

(ii) serves an essential function in 1 or more energy technologies, including technologies that produce, transmit, store, and conserve energy; or

(B) a critical mineral.

(3) Critical mineral

[A] In general

The term "critical mineral" means any mineral, element, substance, or material designated as critical by the Secretary under subsection (c).]

(A) In general

The term 'critical mineral' means-

(i) any mineral, element, substance, or material designated as critical by the Secretary under subsection (c); and

(ii) a critical mineral as determined by the Secretary of Energy under paragraph (2)(A).

(B) Exclusions

The term "critical mineral" does not include-

(i) fuel minerals;

(ii) water, ice, or snow;

(iii) common varieties of sand, gravel, stone, pumice, cinders, and clay.

(4) Indian Tribe

The term "Indian Tribe" has the meaning given the term in section 5304 of title 25.

(5) Secretary

The term "Secretary" means the Secretary of the Interior.

(6) State

The term "State" means-

(A) a State;

- (B) the District of Columbia;
- (C) the Commonwealth of Puerto Rico;
- (D) Guam;
- (E) American Samoa;
- (F) the Commonwealth of the Northern Mariana Islands; and
- (G) the United States Virgin Islands.

(7) Institution of higher education

The term "institution of higher education" means-

- (A) an institution of higher education (as defined in [section 1001\(a\) of title 20](#)); or
- (B) a postsecondary vocational institution (as defined in [section 1002\(c\) of title 20](#)).

(b) Omitted

(c) Critical mineral designations

(1) Draft methodology and list

The Secretary, acting through the Director of the United States Geological Survey (referred to in this subsection as the "Secretary"), shall publish in the Federal Register for public comment-

- (A) a description of the draft methodology used to identify a draft list of critical minerals;
- (B) a draft list of minerals, elements, substances, and materials that qualify as critical minerals; and
- (C) a draft list of critical minerals recovered as byproducts and their host minerals.

(2) Availability of data

If available data is insufficient to provide a quantitative basis for the methodology developed under this subsection, qualitative evidence may be used to the extent necessary.

(3) Final methodology and list

After reviewing public comments on the draft methodology and the draft lists published under paragraph (1) and updating the methodology and lists as appropriate, not later than 45 days after the date on which the public comment period with respect to the draft methodology and draft lists closes, the Secretary shall publish in the Federal Register-

- (A) a description of the final methodology for determining which minerals, elements, substances, and materials qualify as critical minerals;
- (B) the final list of critical minerals; and
- (C) the final list of critical minerals recovered as byproducts and their host minerals.

(4) Designations

(A) In general

For purposes of carrying out this subsection, the Secretary shall maintain a list of minerals, elements, substances, and materials designated as critical, pursuant to the final methodology published under paragraph (3), that the Secretary determines-

- (i) are essential to the economic or national security of the United States;
- (ii) the supply chain of which is vulnerable to disruption (including restrictions associated with foreign political risk, abrupt demand growth, military conflict, violent unrest, anti-competitive or protectionist behaviors, and other risks throughout the supply chain); and
- (iii) serve an essential function in the manufacturing of a product (including energy technology-, defense-, currency-, agriculture-, consumer electronics-, and health care-related applications), the absence of which would have significant consequences for the economic or national security of the United States.

(B) Inclusions

Notwithstanding the criteria under paragraph (3), the Secretary may designate and include on the list any mineral, element, substance, or material determined by another Federal agency to be strategic and critical to the defense or national security of the United States.

(C) Required consultation

The Secretary shall consult with the Secretaries of Defense, Commerce, Agriculture, and Energy and the United States Trade Representative in designating minerals, elements, substances, and materials as critical under this paragraph.

(5) Subsequent review

(A) In general

The Secretary, in consultation with the Secretaries of Defense, Commerce, Agriculture, and Energy and the United States Trade Representative, shall review the methodology and list under paragraph (3) and the designations under paragraph (4) at least every 3 years, or more frequently as the Secretary considers to be appropriate.

(B) Revisions

Subject to paragraph (4)(A), the Secretary may-

- (i) revise the methodology described in this subsection;
- (ii) determine that minerals, elements, substances, and materials previously determined to be critical minerals are no longer critical minerals; and
- (iii) designate additional minerals, elements, substances, or materials as critical minerals.

(C) Inclusion of critical materials

Not later than 45 days after the date on which the Secretary of Energy determines a non-fuel mineral, element, substance, or material to be a critical mineral under subsection (a)(2)(A), the Secretary shall update the list of critical minerals published under paragraph (3) to include such critical mineral.

(6) Notice

On finalization of the methodology and the list under paragraph (3), or any revision to the methodology or list under paragraph (5), the Secretary shall submit to Congress written notice of the action.