

**H.R.520 - National Strategic and Critical Minerals Production Act**

115th Congress (2017-2018)

**Sponsor:** [Rep. Amodei, Mark E. \[R-NV-2\]](#) (Introduced 01/13/2017)**Committees:** House - Natural Resources**Committee Reports:** [H. Rept. 115-631](#)**Latest Action:** House - 04/11/2018 Placed on the Union Calendar, Calendar No. 482. ([All Actions](#))**Tracker:** **Introduced**Summary(2) **Text(2)** Actions(9) Titles(3) Amendments(0) Cosponsors(36) Committees(1) Related Bills(1)There are 2 versions:  ▾**Text available as:** XML/HTML | [XML/HTML \(new window\)](#) | [TXT](#) | [PDF](#) (PDF provides a complete and accurate display of this text.) ?**Shown Here:****Reported in House (04/11/2018)****Union Calendar No. 482**115TH CONGRESS  
2D SESSION**H. R. 520****[Report No. 115-631]**

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**

JANUARY 13, 2017

Mr. AMODEI introduced the following bill; which was referred to the Committee on Natural Resources

APRIL 11, 2018

Additional sponsors: Mr. WESTERMAN, Mr. COOK, Mr. GOSAR, Mr. DUNCAN of South Carolina, Mrs. MCMORRIS RODGERS, Mr. LAMBORN, Mr. TIPTON, Mr. FLORES, Mr. PEARCE, Mr. YOUNG of Alaska, Mr. LAMALFA, Mr. CRAMER, Mr. LABRADOR, Mr. SENSENBRENNER, Mr. SIMPSON, Mr. MCCLINTOCK, Mr. CULBERSON, Mr. GRAVES of Georgia, Mr. JODY B. HICE of Georgia, Mrs. LOVE, Mr. JOHNSON of Ohio, Mr. SESSIONS, Mr. BISHOP of Michigan, Mr. THOMPSON of Pennsylvania, Mr. COLE, Mr. BARR, Mr. OLSON, Mr. STEWART, Mrs. HARTZLER, Mr. RENACCI, Mr. FLEISCHMANN, Mr. GRAVES of Missouri, Mr. MOONEY of West Virginia, Mr. ROGERS of Kentucky, Ms. CHENEY, and Mr. LATTA

APRIL 11, 2018

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on January 13, 2017]

# 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.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## **SECTION 1. SHORT TITLE.**

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

## **SEC. 2. FINDINGS.**

*Congress finds that—*

*(1) the industrialization of developing nations has driven demand for nonfuel minerals necessary for telecommunications, military technologies, healthcare technologies, and conventional and renewable energy technologies;*

*(2) the availability of minerals and mineral materials are essential for economic growth, national security, technological innovation, and the manufacturing and agricultural supply chain;*

*(3) minerals and mineral materials are critical components of every transportation, water, telecommunications, and energy infrastructure project necessary to modernize the crumbling infrastructure of the United States;*

*(4) the exploration, production, processing, use, and recycling of minerals contribute significantly to the economic well-being, security, and general welfare of the United States; and*

*(5) the United States has vast mineral resources but is becoming increasingly dependent on foreign sources of mineral resources, as demonstrated by the fact that—*

*(A) 25 years ago, the United States was dependent on foreign sources for 45 nonfuel mineral materials, of which—*

*(i) 8 were imported by the United States to fulfill 100 percent of the requirements of the United States for those nonfuel mineral materials; and*

*(ii) 19 were imported by the United States to fulfill greater than 50 percent of the requirements of the United States for those nonfuel mineral materials;*

*(B) by 2015 the import dependence of the United States for nonfuel mineral materials increased from dependence on the import of 45 nonfuel mineral materials to dependence on the import of 47 nonfuel mineral materials, of which—*

*(i) 19 were imported by the United States to fulfill 100 percent of the requirements of the United States for those nonfuel mineral materials; and*

(ii) 22 were imported by the United States to fulfill greater than 50 percent of the requirements of the United States for those nonfuel mineral materials;

(C) according to the Department of Energy, the United States imports greater than 50 percent of the 41 metals and minerals key to clean energy applications;

(D) the United States share of worldwide mineral exploration dollars was 7 percent in 2015, down from 19 percent in the early 1990s;

(E) the 2014 Ranking of Countries for Mining Investment, which ranks 25 major mining countries, found that 7- to 10-year permitting delays are the most significant risk to mining projects in the United States; and

(F) in late 2016, the Government Accountability Office found that—

(i) “the Federal government’s approach to addressing critical materials supply issues has not been consistent with selected key practices for interagency collaboration, such as ensuring that agencies’ roles and responsibilities are clearly defined”; and

(ii) “the Federal critical materials approach faces other limitations, including data limitations and a focus on only a subset of critical materials, a limited focus on domestic production of critical materials, and limited engagement with industry”.

### **SEC. 3. DEFINITIONS.**

*In this Act:*

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

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

(B) an Alaska Native Corporation.

(2) **ALASKA NATIVE CORPORATION.**—The term “Alaska Native Corporation” has the meaning given the term “Native Corporation” in section 3 of the Alaska Native Claims Settlement Act ([43 U.S.C. 1602](#)).

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

(4) **MINERAL EXPLORATION OR MINE PERMIT.**—The term “mineral exploration or mine permit” includes—

(A) an authorization of the Bureau of Land Management or the Forest Service, as applicable, for premining activities that requires an environmental impact statement or similar analysis under the National Environmental Policy Act of 1969 ([42 U.S.C. 4321](#) et seq.);

(B) a plan of operations issued by—

(i) the Bureau of Land Management under subpart 3809 of part 3800 of title 43, Code of Federal Regulations (or successor regulations); or

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

(C) a permit issued under an authority described in section 3503.13 of title 43, Code of Federal Regulations (or successor regulations).

(5) *PROJECT*.—The term “project” means a project for which the issuance of a permit is required to conduct activities for, relating to, or incidental to mineral exploration, mining, beneficiation, processing, or reclamation activities—

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

(B) in conjunction with any Federal mineral (other than coal and oil shale) that is leased under—

(i) the Mineral Leasing Act for Acquired Lands ([30 U.S.C. 351](#) et seq.); or

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

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

(a) *DEFINITION OF STRATEGIC AND CRITICAL MINERALS*.—In this section, the term “strategic and critical minerals” means minerals that are necessary—

(1) for the national defense and national security requirements;

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

(A) pipelines;

(B) refining capacity;

(C) electrical power generation and transmission; and

(D) renewable energy production;

(3) for community resiliency, coastal restoration, and ecological sustainability for the coastal United States;

(4) to support domestic manufacturing, agriculture, housing, telecommunications, healthcare, and transportation infrastructure; or

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

(b) *CONSIDERATION OF CERTAIN DOMESTIC MINES AS INFRASTRUCTURE PROJECTS*.—A domestic mine that, as determined by the lead agency, will provide strategic and critical minerals shall be considered to be an infrastructure project, as described in Executive Order 13807.

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

(a) *IN GENERAL*.—The lead agency shall appoint a project lead within the lead agency, who shall coordinate and consult with cooperating agencies and any other agencies involved in the permitting process, project proponents, and contractors to ensure that cooperating agencies and other agencies involved in the permitting process, project proponents, and contractors—

(1) minimize delays;

(2) set and adhere to timelines and schedules for completion of the permitting process;

(3) set clear permitting goals; and

(4) track progress against those goals.

(b) *DETERMINATION UNDER NEPA*.—

(1) *IN GENERAL*.—To the extent that the National Environmental Policy Act of 1969 ([42 U.S.C. 4321](#) et seq.) applies to the issuance of any mineral exploration or mine permit, the requirements of that Act shall be considered to have been procedurally and substantively satisfied if the lead agency

*determines that any State or Federal agency acting under State or Federal law has addressed or will address the following factors:*

*(A) The environmental impact of the action to be conducted under the permit.*

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

*(C) Possible alternatives to issuance of the permit.*

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

*(E) Any irreversible and irretrievable commitment of resources that would be involved in the proposed action.*

*(F) That public participation will occur during the decisionmaking process for authorizing actions under the permit.*

*(2) WRITTEN REQUIREMENT.—In making a determination under paragraph (1), not later than 90 days after receipt of an application for the permit, the lead agency, in a written record of decision, shall—*

*(A) explain the rationale used in reaching the determination;*

*(B) state the facts in the record that are the basis for the determination; and*

*(C) show that the facts in the record could allow a reasonable person to reach the same determination as the lead agency did.*

*(c) COORDINATION ON PERMITTING PROCESS.—*

*(1) IN GENERAL.—The lead agency shall enhance government coordination for the permitting process by—*

*(A) avoiding duplicative reviews;*

*(B) minimizing paperwork; and*

*(C) engaging other agencies and stakeholders early in the process.*

*(2) CONSIDERATIONS.—In carrying out paragraph (1), the lead agency shall consider—*

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

*(B) to the maximum extent practicable, conducting any consultations or reviews concurrently rather than sequentially if the concurrent consultation or review would expedite the process.*

*(3) MEMORANDUM OF AGENCY AGREEMENT.—If requested at any time by a State or local planning agency, the lead agency, in consultation with other Federal agencies with relevant jurisdiction in the environmental review process, may establish memoranda of agreement with the project sponsor, State and local governments, and other appropriate entities to accomplish the coordination activities described in this subsection.*

*(d) SCHEDULE FOR PERMITTING PROCESS.—*

*(1) IN GENERAL.—For any project for which the lead agency cannot make the determination described subsection (b), at the request of a project proponent, the lead agency, cooperating agencies, and any other agencies involved with the mineral exploration or mine permitting process shall enter*

*into an agreement with the project proponent that sets time limits for each part of the permitting process, including—*

*(A) the decision on whether to prepare an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 ([42 U.S.C. 4321](#) et seq.);*

*(B) a determination of the scope of any environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 ([42 U.S.C. 4321](#) et seq.);*

*(C) the scope of, and schedule for, the baseline studies required to prepare an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 ([42 U.S.C. 4321](#) et seq.);*

*(D) preparation of any draft environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 ([42 U.S.C. 4321](#) et seq.);*

*(E) preparation of a final environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 ([42 U.S.C. 4321](#) et seq.);*

*(F) any consultations required under applicable law;*

*(G) submission and review of any comments required under applicable law;*

*(H) publication of any public notices required under applicable law; and*

*(I) any final or interim decisions.*

*(2) TIME LIMIT FOR PERMITTING PROCESS.—Except if extended by mutual agreement of the project proponent and the lead agency, the time period for the total review process described in paragraph (1) shall not exceed 30 months.*

*(e) LIMITATION ON ADDRESSING PUBLIC COMMENTS.—The lead agency shall not be required to address any agency or public comments that were not submitted—*

*(1) during a public comment period or consultation period provided during the permitting process; or*

*(2) as otherwise required by law.*

*(f) FINANCIAL ASSURANCE.—The lead agency shall determine the amount of financial assurance required for reclamation of a mineral exploration or mining site, on the condition that the financial assurance shall cover the estimated cost if the lead agency were to contract with a third party to reclaim the operations according to the reclamation plan, including construction and maintenance costs for any treatment facilities necessary to meet Federal, State, or tribal environmental standards.*

*(g) PROJECTS WITHIN NATIONAL FORESTS.—With respect to projects on National Forest System land, the lead agency shall—*

*(1) exempt from the requirements of part 294 of title 36, Code of Federal Regulations (or successor regulations)—*

*(A) all areas of identified mineral resources in land use designations, other than nondevelopment land use designations, in existence on the date of enactment of this Act; and*

*(B) all additional routes and areas that the lead agency determines necessary to facilitate the construction, operation, maintenance, and restoration of an area described in paragraph (1); and*

*(2) continue to apply the exemptions described in paragraph (1) after the date on which approval*

*of the minerals plan of operations described in section 3(4)(B)(ii) for the National Forest System land.*

*(h) APPLICATION TO EXISTING PERMIT APPLICATIONS.—*

*(1) IN GENERAL.—This section applies to a mineral exploration or mine permit for which an application was submitted before the date of enactment of this Act if the applicant for the permit submits a written request to the lead agency for the permit.*

*(2) IMPLEMENTATION.—The lead agency shall begin implementing this section with respect to an application described in paragraph (1) not later than 30 days after the date on which the lead agency receives the written request for the permit.*

**SEC. 6. FEDERAL REGISTER PROCESS FOR MINERAL EXPLORATION AND MINING PROJECTS.**

*(a) DEPARTMENTAL REVIEW.—Absent any extraordinary circumstances, as determined by the Secretary of the Interior or the Secretary of Agriculture, as applicable, and except as otherwise required by law, the Secretary of the Interior or the Secretary of Agriculture, as applicable, shall ensure that each Federal Register notice associated with the issuance of a mineral exploration or mine permit and required by law shall be—*

*(1) subject to any required reviews within the Department of the Interior or the Department of Agriculture, as applicable; and*

*(2) published in final form in the Federal Register not later than 45 days after the date of initial preparation of the notice.*

*(b) PREPARATION.—The preparation of any Federal Register notice described in subsection (a) shall be delegated to the organizational level within the lead agency.*

*(c) TRANSMISSION.—All Federal Register notices described in subsection (a) regarding official document availability, announcements of meetings, or notices of intent to undertake an action shall originate in, and be transmitted to the Federal Register from, the office in which, as applicable—*

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

*(2) the activity is initiated.*

**SEC. 7. SECRETARIAL ORDER NOT AFFECTED.**

*This Act shall not apply to any mineral described in Secretarial Order 3324, issued by the Secretary of the Interior on December 3, 2012, in any area to which the order applies.*

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