

AMENDMENT TO RULES COMMITTEE PRINT 115-

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OFFERED BY MR. AMODEI OF NEVADA

Add at the end the following:

1 **DIVISION E—NATIONAL STRA-**
2 **TEGIC AND CRITICAL MIN-**
3 **ERALS PRODUCTION**

4 **SEC. 4801. FINDINGS.**

5 Congress finds that—

6 (1) in agreement with Executive Order 13806,
7 a healthy manufacturing and defense industrial base
8 and resilient supply chains are essential to the eco-
9 nomic strength and national security of the United
10 States. Modern supply chains, however are often
11 long and the ability of the United States to manu-
12 facture or obtain goods critical to national security
13 could be hampered by an inability to obtain various
14 essential components, which themselves may not be
15 directly related to national security;

16 (2) in agreement with Executive Order 13817,
17 the United States is heavily reliant on imports of
18 certain mineral commodities that are vital to the Na-
19 tion's security and economic prosperity;

1 (3) this dependency of the United States on for-
2 foreign sources creates a strategic vulnerability for both
3 its economy and military to adverse foreign govern-
4 ment actions, natural disaster, and other events that
5 can disrupt supply of these key minerals. Increased
6 private-sector domestic exploration, production, recy-
7 cling, and reprocessing of critical minerals, and sup-
8 port for efforts to identify more commonly available
9 technological alternatives to these minerals, will re-
10 duce our dependence on imports, preserve our lead-
11 ership in technological innovation, support job cre-
12 ation, improve national security and balance of
13 trade, and enhance the technological superiority and
14 readiness of our Armed Forces, which are among the
15 Nation's most significant consumers of critical min-
16 erals;

17 (4) the industrialization of developing nations
18 has driven demand for nonfuel minerals necessary
19 for telecommunications, military technologies,
20 healthcare technologies, and conventional and renew-
21 able energy technologies;

22 (5) the availability of minerals and mineral ma-
23 terials are essential for economic growth, national
24 security, technological innovation, and the manufac-
25 turing and agricultural supply chain;

1 (6) minerals and mineral materials are critical
2 components of every transportation, water, tele-
3 communications, and energy infrastructure project
4 necessary to modernize the crumbling infrastructure
5 of the United States;

6 (7) the exploration, production, processing, use,
7 and recycling of minerals contribute significantly to
8 the economic well-being, security, and general wel-
9 fare of the United States; and

10 (8) the United States has vast mineral re-
11 sources but is becoming increasingly dependent on
12 foreign sources of mineral resources, as dem-
13 onstrated by the fact that—

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

17 (i) 8 were imported by the United
18 States to fulfill 100 percent of the require-
19 ments of the United States for those
20 nonfuel mineral materials; and

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

1 (B) by 2015 the import dependence of the
2 United States for nonfuel mineral materials in-
3 creased from dependence on the import of 45
4 nonfuel mineral materials to dependence on the
5 import of 47 nonfuel mineral materials, of
6 which—

7 (i) 19 were imported by the United
8 States to fulfill 100 percent of the require-
9 ments of the United States for those
10 nonfuel mineral materials; and

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

15 (C) according to the Department of En-
16 ergy, the United States imports greater than 50
17 percent of the 41 metals and minerals key to
18 clean energy applications;

19 (D) the United States share of worldwide
20 mineral exploration dollars was 7 percent in
21 2015, down from 19 percent in the early 1990s;

22 (E) the 2014 Ranking of Countries for
23 Mining Investment, which ranks 25 major min-
24 ing countries, found that 7- to 10-year permit-

1 ting delays are the most significant risk to min-
2 ing projects in the United States; and

3 (F) in late 2016, the Government Account-
4 ability Office found that—

5 (i) “the Federal government’s ap-
6 proach to addressing critical materials sup-
7 ply issues has not been consistent with se-
8 lected key practices for interagency col-
9 laboration, such as ensuring that agencies’
10 roles and responsibilities are clearly de-
11 fined”; and

12 (ii) “the Federal critical materials ap-
13 proach faces other limitations, including
14 data limitations and a focus on only a sub-
15 set of critical materials, a limited focus on
16 domestic production of critical materials,
17 and limited engagement with industry”.

18 **SEC. 4802. DEFINITIONS.**

19 In this division:

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

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

23 (B) an Alaska Native Corporation.

24 (2) ALASKA NATIVE CORPORATION.—The term
25 “Alaska Native Corporation” has the meaning given

1 the term “Native Corporation” in section 3 of the
2 Alaska Native Claims Settlement Act (43 U.S.C.
3 1602).

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

8 (4) MINERAL EXPLORATION OR MINE PER-
9 MIT.—The term “mineral exploration or mine per-
10 mit” includes—

11 (A) an authorization of the Bureau of
12 Land Management or the Forest Service, as ap-
13 plicable, for premining activities that requires
14 an environmental impact statement or similar
15 analysis under the National Environmental Pol-
16 icy Act of 1969 (42 U.S.C. 4321 et seq.);

17 (B) a plan of operations issued by—

18 (i) the Bureau of Land Management
19 under subpart 3809 of part 3800 of title
20 43, Code of Federal Regulations (or suc-
21 cessor regulations); or

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

1 (C) a permit issued under an authority de-
2 scribed in section 3503.13 of title 43, Code of
3 Federal regulations (or successor regulations).

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

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

11 (B) in conjunction with any Federal min-
12 eral (other than coal and oil shale) that is
13 leased under—

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

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

19 **SEC. 4803. IMPROVING DEVELOPMENT OF STRATEGIC AND**
20 **CRITICAL MINERALS.**

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

24 (1) for the national defense and national secu-
25 rity requirements, including supply chain resiliency;

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

3 (A) pipelines;

4 (B) refining capacity;

5 (C) electrical power generation and trans-
6 mission; and

7 (D) renewable energy production;

8 (3) for community resiliency, coastal restora-
9 tion, and ecological sustainability for the coastal
10 United States;

11 (4) to support domestic manufacturing, agri-
12 culture, housing, telecommunications, healthcare,
13 and transportation infrastructure; or

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

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

21 **SEC. 4804. RESPONSIBILITIES OF THE LEAD AGENCY.**

22 (a) **IN GENERAL.**—The lead agency shall appoint a
23 project lead within the lead agency, who shall coordinate
24 and consult with cooperating agencies and any other agen-
25 cies involved in the permitting process, project proponents,

1 and contractors to ensure that cooperating agencies and
2 other agencies involved in the permitting process, project
3 proponents, and contractors—

4 (1) minimize delays;

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

7 (3) set clear permitting goals; and

8 (4) track progress against those goals.

9 (b) DETERMINATION UNDER NEPA.—

10 (1) IN GENERAL.—To the extent that the Na-
11 tional Environmental Policy Act of 1969 (42 U.S.C.
12 4321 et seq.) applies to the issuance of any mineral
13 exploration or mine permit, the requirements of that
14 Act shall be considered to have been procedurally
15 and substantively satisfied if the lead agency deter-
16 mines that any State or Federal agency acting under
17 State or Federal law has addressed or will address
18 the following factors:

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

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

23 (C) Possible alternatives to issuance of the
24 permit.

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

5 (E) Any irreversible and irretrievable com-
6 mitment of resources that would be involved in
7 the proposed action.

8 (F) That public participation will occur
9 during the decisionmaking process for author-
10 izing actions under the permit.

11 (2) WRITTEN REQUIREMENT.—In making a de-
12 termination under paragraph (1), not later than 90
13 days after receipt of an application for the permit,
14 the lead agency, in a written record of decision,
15 shall—

16 (A) explain the rationale used in reaching
17 the determination;

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

20 (C) show that the facts in the record could
21 allow a reasonable person to reach the same de-
22 termination as the lead agency did.

23 (c) COORDINATION ON PERMITTING PROCESS.—

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

4 (A) avoiding duplicative reviews;

5 (B) minimizing paperwork; and

6 (C) engaging other agencies and stake-
7 holders early in the process.

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

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

14 (B) to the maximum extent practicable,
15 conducting any consultations or reviews concu-
16 rently rather than sequentially if the concurrent
17 consultation or review would expedite the proc-
18 ess.

19 (3) MEMORANDUM OF AGENCY AGREEMENT.—

20 If requested at any time by a State or local planning
21 agency, the lead agency, in consultation with other
22 Federal agencies with relevant jurisdiction in the en-
23 vironmental review process, may establish memo-
24 randa of agreement with the project sponsor, State
25 and local governments, and other appropriate enti-

1 ties to accomplish the coordination activities de-
2 scribed in this subsection.

3 (d) SCHEDULE FOR PERMITTING PROCESS.—

4 (1) IN GENERAL.—For any project for which
5 the lead agency cannot make the determination de-
6 scribed subsection (b), at the request of a project
7 proponent, the lead agency, cooperating agencies,
8 and any other agencies involved with the mineral ex-
9 ploration or mine permitting process shall enter into
10 an agreement with the project proponent that sets
11 time limits for each part of the permitting process,
12 including—

13 (A) the decision on whether to prepare an
14 environmental impact statement or similar anal-
15 ysis required under the National Environmental
16 Policy Act of 1969 (42 U.S.C. 4321 et seq.);

17 (B) a determination of the scope of any en-
18 vironmental impact statement or similar anal-
19 ysis required under the National Environmental
20 Policy Act of 1969 (42 U.S.C. 4321 et seq.);

21 (C) the scope of, and schedule for, the
22 baseline studies required to prepare an environ-
23 mental impact statement or similar analysis re-
24 quired under the National Environmental Pol-
25 icy Act of 1969 (42 U.S.C. 4321 et seq.);

1 (D) preparation of any draft environmental
2 impact statement or similar analysis required
3 under the National Environmental Policy Act of
4 1969 (42 U.S.C. 4321 et seq.);

5 (E) preparation of a final environmental
6 impact statement or similar analysis required
7 under the National Environmental Policy Act of
8 1969 (42 U.S.C. 4321 et seq.);

9 (F) any consultations required under appli-
10 cable law;

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

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

15 (I) any final or interim decisions.

16 (2) TIME LIMIT FOR PERMITTING PROCESS.—
17 Except if extended by mutual agreement of the
18 project proponent and the lead agency, the time pe-
19 riod for the total review process described in para-
20 graph (1) shall not exceed 30 months.

21 (e) LIMITATION ON ADDRESSING PUBLIC COM-
22 MENTS.—The lead agency shall not be required to address
23 any agency or public comments that were not submitted—

1 (1) during a public comment period or consulta-
2 tion period provided during the permitting process;
3 or

4 (2) as otherwise required by law.

5 (f) FINANCIAL ASSURANCE.—The lead agency shall
6 determine the amount of financial assurance required for
7 reclamation of a mineral exploration or mining site, on the
8 condition that the financial assurance shall cover the esti-
9 mated cost if the lead agency were to contract with a third
10 party to reclaim the operations according to the reclama-
11 tion plan, including construction and maintenance costs
12 for any treatment facilities necessary to meet Federal,
13 State, or tribal environmental standards.

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

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

20 (A) all areas of identified mineral re-
21 sources in land use designations, other than
22 nondevelopment land use designations, in exist-
23 ence on the date of enactment of this division;
24 and

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

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

10 (h) APPLICATION TO EXISTING PERMIT APPLICA-
11 TIONS.—

12 (1) IN GENERAL.—This section applies to a
13 mineral exploration or mine permit for which an ap-
14 plication was submitted before the date of enactment
15 of this division if the applicant for the permit sub-
16 mits a written request to the lead agency for the
17 permit.

18 (2) IMPLEMENTATION.—The lead agency shall
19 begin implementing this section with respect to an
20 application described in paragraph (1) not later than
21 30 days after the date on which the lead agency re-
22 ceives the written request for the permit.

1 **SEC. 4805. FEDERAL REGISTER PROCESS FOR MINERAL EX-**
2 **PLORATION AND MINING PROJECTS.**

3 (a) DEPARTMENTAL REVIEW.—Absent any extraor-
4 dinary circumstances, as determined by the Secretary of
5 the Interior or the Secretary of Agriculture, as applicable,
6 and except as otherwise required by law, the Secretary of
7 the Interior or the Secretary of Agriculture, as applicable,
8 shall ensure that each Federal Register notice associated
9 with the issuance of a mineral exploration or mine permit
10 and required by law shall be—

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

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

17 (b) PREPARATION.—The preparation of any Federal
18 Register notice described in subsection (a) shall be dele-
19 gated to the organizational level within the lead agency.

20 (c) TRANSMISSION.—All Federal Register notices de-
21 scribed in subsection (a) regarding official document avail-
22 ability, announcements of meetings, or notices of intent
23 to undertake an action shall originate in, and be trans-
24 mitted to the Federal Register from, the office in which,
25 as applicable—

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

1 (2) the activity is initiated.

2 **SEC. 4806. SECRETARIAL ORDER NOT AFFECTED.**

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

