

**AMENDMENT TO H.R. 3938, AS REPORTED
OFFERED BY MR. BARR OF KENTUCKY**

Add at the end the following:

1 **SEC. ____.** **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 for stra-
20 tegic and critical materials through—

1 (1) supporting feasibility studies for mature
2 mining, beneficiation, and value-added processing
3 projects;

4 (2) by-product and co-product production at ex-
5 isting mining, mine waste reclamation, and other in-
6 dustrial facilities;

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

10 (4) any other activity authorized under section
11 303(a)(1) of the Defense Production Act of 1950
12 (50 U.S.C. 4533(a)(1)).

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

