

AMENDMENT TO RULES COMMITTEE PRINT 117-

31

OFFERED BY MR. STAUBER OF MINNESOTA

Page 1668, after line 13, insert the following:

1 **TITLE XII—ACCESSING**
2 **AMERICA’S CRITICAL MINERALS**

3 **SEC. 71201. PERMITTING.**

4 (a) SENSE OF CONGRESS.—It is the sense of Con-
5 gress that—

6 (1) critical minerals are fundamental to the
7 economy, competitiveness, and security of the United
8 States;

9 (2) to the maximum extent practicable, the crit-
10 ical mineral needs of the United States should be
11 satisfied by minerals, elements, substances, and ma-
12 terials responsibly produced and recycled in the
13 United States; and

14 (3) the current Federal permitting process is an
15 impediment to mineral production and the mineral
16 security of the United States.

17 (b) COORDINATION ON PERMITTING PROCESS.—

18 (1) IN GENERAL.—The Secretary, in consulta-
19 tion with appropriate Federal agencies, shall, to the

1 maximum extent practicable, with respect to the
2 Federal permitting and review process for critical
3 mineral projects on Federal land—

4 (A) establish and adhere to timelines and
5 schedules for the consideration of, and final de-
6 cisions regarding, applications, operating plans,
7 leases, licenses, permits, and other use author-
8 izations for mineral-related activities on Federal
9 land;

10 (B) establish clear, quantifiable, and tem-
11 poral permitting performance goals and track-
12 ing progress against those goals;

13 (C) engage in early collaboration among
14 agencies, project sponsors, and affected stake-
15 holders—

16 (i) to incorporate and address the in-
17 terests of each such agency, sponsor, and
18 stakeholder; and

19 (ii) to minimize delays;

20 (D) ensure transparency and accountability
21 by using cost-effective information technology to
22 collect and disseminate information regarding
23 individual critical mineral projects and agency
24 performance;

1 (E) engage in early and active consultation
2 with State and local governments and Indian
3 Tribes to avoid conflicts or duplication of effort,
4 resolve concerns, and allow for concurrent,
5 rather than sequential, State, local, Tribal, and
6 Federal environmental and regulatory reviews;

7 (F) meet or exceed the performance
8 metrics contained in subsection (g);

9 (G) expand and institutionalize permitting
10 and review process improvements that have
11 proven effective;

12 (H) develop mechanisms to better commu-
13 nicate priorities and resolve disputes among
14 agencies at the national, regional, State, and
15 local levels; and

16 (I) develop other practices to improve the
17 regulatory processes, such as preapplication
18 procedures.

19 (2) CONSIDERATIONS.—In carrying out para-
20 graph (1), the lead agency shall consider deferring
21 to, and relying on, baseline data, analyses, and re-
22 views performed by State agencies with jurisdiction
23 over the proposed critical mineral project.

24 (3) MEMORANDUM OF AGREEMENT.—The lead
25 agency with respect to a critical mineral project on

1 Federal land, in consultation with any other Federal
2 agency with jurisdiction over such project, shall,
3 upon request of the project sponsor, a State or local
4 government, an Indian Tribe, or other entity such
5 lead agency determines appropriate, establish a
6 memorandum of agreement with the project sponsor,
7 a State or local government, an Indian Tribe, or an-
8 other entity such lead agency determines appropriate
9 to carry out the activities described in this sub-
10 section.

11 (4) TIME LIMIT FOR PERMITTING PROCESS.—
12 Notwithstanding any other provision of law, and ex-
13 cept with agreement of the project sponsor, the total
14 period for all necessary Federal reviews and permit
15 consideration for a critical mineral project on Fed-
16 eral land reasonably expected to produce critical
17 minerals may not exceed—

18 (A) with respect to a project that requires
19 an environmental assessment under section
20 102(2)(C) of the National Environmental Policy
21 Act of 1969 (42 U.S.C. 4331(2)(C)), 18
22 months; or

23 (B) with respect to a project that requires
24 an environmental impact statement under such
25 section, 24 months.

1 (c) DETERMINATION UNDER NATIONAL ENVIRON-
2 MENTAL POLICY ACT.—

3 (1) IN GENERAL.—To the extent that the Na-
4 tional Environmental Policy Act of 1969 (42 U.S.C.
5 4321 et seq.) applies to the issuance of any mineral
6 exploration or mine permit relating to a critical min-
7 eral project, the lead agency may deem the require-
8 ments of such Act satisfied if the lead agency deter-
9 mines that a State or Federal agency acting under
10 State or Federal law has addressed the following
11 factors:

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

14 (B) Possible alternatives to issuance of the
15 permit.

16 (C) The relationship between long- and
17 short-term uses of the local environment and
18 the maintenance and enhancement of long-term
19 productivity.

20 (D) Any irreversible and irretrievable com-
21 mitment of resources that would be involved in
22 the proposed action.

23 (2) PUBLICATION.—The lead agency shall pub-
24 lish a determination under paragraph (1) not later

1 than 90 days after receipt of an application for the
2 permit.

3 (3) VERIFICATION.—The lead agency shall pub-
4 lish a determination that the factors under para-
5 graph (1) have been sufficiently addressed and pub-
6 lic participation has occurred with regard to any au-
7 thorizing actions before issuing any mineral explo-
8 ration or mine permit for a critical mineral project.

9 (d) SCHEDULE FOR PERMITTING PROCESS.—For
10 any critical mineral project for which the lead agency can-
11 not make the determination described in subsection (c),
12 at the request of a project sponsor, the lead agency, co-
13 operating agencies, and any other agencies involved with
14 the mineral exploration or mine permitting process shall
15 enter into an agreement with the project sponsor that sets
16 time limits for each part of the permitting process, includ-
17 ing—

18 (1) the decision on whether to prepare an envi-
19 ronmental impact statement or similar analysis re-
20 quired under the National Environmental Policy Act
21 of 1969 (42 U.S.C. 4321 et seq.);

22 (2) a determination of the scope of any environ-
23 mental impact statement or similar analysis required
24 under such Act;

1 (3) the scope of, and schedule for, the baseline
2 studies required to prepare an environmental impact
3 statement or similar analysis required under such
4 Act;

5 (4) preparation of any draft environmental im-
6 pact statement or similar analysis required under
7 such Act;

8 (5) preparation of a final environmental impact
9 statement or similar analysis required under such
10 Act;

11 (6) any consultations required under applicable
12 law;

13 (7) submission and review of any comments re-
14 quired under applicable law;

15 (8) publication of any public notices required
16 under applicable law; and

17 (9) any final or interim decisions.

18 (e) ADDRESSING PUBLIC COMMENTS.—As part of
19 the review process of a critical mineral project under the
20 National Environmental Policy Act of 1969 (42 U.S.C.
21 4321 et seq.), the lead agency may not address any agency
22 or public comments that were not submitted—

23 (1) during a public comment period or consulta-
24 tion period provided during the permitting process;
25 or

1 (2) as otherwise required by law.

2 (f) REVIEW AND REPORT.—Not later than 1 year
3 after the date of enactment of this Act, the Secretary and
4 the Secretary of Agriculture shall submit to Congress a
5 report that—

6 (1) identifies additional measures (including
7 regulatory and legislative proposals, as appropriate)
8 that would increase the timeliness of permitting ac-
9 tivities for the exploration and development of do-
10 mestic critical minerals;

11 (2) identifies options (including cost recovery
12 paid by permit applicants, as appropriate) for ensur-
13 ing adequate staffing and training of Federal enti-
14 ties and personnel responsible for the consideration
15 of applications, operating plans, leases, licenses, per-
16 mits, and other use authorizations for critical min-
17 eral projects on Federal land;

18 (3) quantifies the amount of time typically re-
19 quired (including a range derived from minimum
20 and maximum durations, mean, median, variance,
21 and any other statistical measure or representation
22 the Secretary and the Secretary of Agriculture de-
23 termine appropriate) to complete each step (includ-
24 ing those aspects outside the control of the executive
25 branch, such as judicial review, applicant decisions,

1 or State and local government involvement) associ-
2 ated with the development and processing of applica-
3 tions, operating plans, leases, licenses, permits, and
4 other use authorizations for a mineral exploration or
5 mine permit for a critical mineral project; and

6 (4) describes actions carried out pursuant to
7 subsection (b).

8 (g) PERFORMANCE METRIC.—Not later than 90 days
9 after the date of submission of the report under subsection
10 (e), the Secretary and the Secretary of Agriculture, after
11 providing public notice and an opportunity to comment,
12 shall develop and publish a performance metric for evalu-
13 ating the progress made by the executive branch to expe-
14 dite the permitting of critical mineral projects.

15 (h) ANNUAL REPORTS.—Beginning with the first
16 budget submission by the President under section 1105
17 of title 31, United States Code, after publication of the
18 performance metric required under subsection (f), and an-
19 nually thereafter, the Secretary and the Secretary of Agri-
20 culture shall jointly submit to Congress a report that—

21 (1) summarizes the implementation of rec-
22 ommendations, measures, and options identified in
23 paragraphs (1) and (2) of subsection (f);

24 (2) using the performance metric under sub-
25 section (d), describes progress made by the executive

1 branch, as compared to the baseline established pur-
2 suant to subsection (c)(3), on expediting the permit-
3 ting of activities that will increase exploration for,
4 and development of, domestic critical minerals; and

5 (3) compares the United States to other coun-
6 tries in terms of permitting efficiency and any other
7 criteria relevant to the globally competitive critical
8 minerals industry.

9 (i) INDIVIDUAL PROJECTS.—Using data from the
10 Secretary of Agriculture and the Secretary generated
11 under subsection (g), the Director of the Office of Man-
12 agement and Budget shall prioritize inclusion of individual
13 critical mineral projects on the website operated by the
14 Office of Management and Budget in accordance with sec-
15 tion 1122 of title 31, United States Code.

16 (j) REPORT OF SMALL BUSINESS ADMINISTRA-
17 TION.—Not later than 1 year and 300 days after the date
18 of enactment of this Act, the Administrator of the Small
19 Business Administration shall submit to the Committees
20 on Small Business and Natural Resources of the House
21 of Representatives and Small Business and Entrepreneur-
22 ship and Energy and Natural Resources of the Senate a
23 report that assesses the performance of Federal agencies
24 with respect to—

1 (1) complying with chapter 6 of title 5, United
2 States Code, in promulgating regulations applicable
3 to the critical minerals industry; and

4 (2) performing an analysis of regulations appli-
5 cable to the critical minerals industry that may be
6 outmoded, inefficient, duplicative, or excessively bur-
7 densome.

8 (k) DEFINITIONS.—In this section:

9 (1) BYPRODUCT.—The term “byproduct” has
10 the meaning given such term in section 7002 of the
11 Consolidated Appropriations Act, 2021 (Public Law
12 116–260).

13 (2) CRITICAL MINERAL.—The term “critical
14 mineral” has the meaning given such term in section
15 7002 of the Consolidated Appropriations Act, 2021
16 (Public Law 116–260) except that such term shall
17 not exclude materials described in subsection
18 (a)(3)(B)(iii) of such section.

19 (3) CRITICAL MINERAL PROJECT.—The term
20 “critical mineral project” means a project—

21 (A) located on—

22 (i) a mining claim, millsite claim, or
23 tunnel site claim for any locatable mineral;

24 (ii) lands open to mineral entry; or

25 (iii) a Federal mineral lease; and

1 (B) for the purpose of producing a critical
2 mineral, including—

3 (i) as a byproduct, or a product of a
4 host mineral, or from tailings; or

5 (ii) through an exploration project
6 with respect to which the presence of a by-
7 product is a reasonable expectation, based
8 on known mineral companionship, geologic
9 formation, mineralogy, or other factors.

10 (4) INDIAN TRIBE.—The term “Indian Tribe”
11 has the meaning given such term in section 4 of the
12 Indian Self-Determination and Education Assistance
13 Act (25 U.S.C. 5304).

14 (5) SECRETARY.—The term “Secretary” means
15 the Secretary of the Interior.

16 (6) STATE.—The term “State” means—

17 (A) a State;

18 (B) the District of Columbia;

19 (C) the Commonwealth of Puerto Rico;

20 (D) Guam;

21 (E) American Samoa;

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

24 (G) the United States Virgin Islands.

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

5 (8) MINERAL EXPLORATION OR MINE PER-
6 MIT.—The term “mineral exploration or mine per-
7 mit” means—

8 (A) an authorization of the Bureau of
9 Land Management or the Forest Service, as ap-
10 plicable, for a premining activity that requires
11 analysis under the National Environmental Pol-
12 icy Act of 1969 (42 U.S.C. 4321 et seq.);

13 (B) a plan of operations issued by the Bu-
14 reau of Land Management or the Forest Serv-
15 ice; and

16 (C) a permit for a project located in an
17 area for which a hardrock mineral permit or
18 lease is available.

