AMENDMENT TO RULES COMMITTEE PRINT 117-31

OFFERED BY MR. WALTZ OF FLORIDA

Page 1668, after line 13, insert the following:

SEC. 71104. AMERICAN CRITICAL MINERAL INDEPENDENCE

RESEARCH AND DEVELOPMENT.

(a) Sense of Congress.—It is the sense of Congress that to break from China’s control on the mineral supply chain, the United States should support significant research and development activities to drive innovation in domestic critical minerals production, promote responsible development of critical minerals, and encourage international collaboration to limit the impact of mineral supply disruptions.

(b) Definitions.—In sections 71104, 71105, 71106, 71107, and 71108:

(1) Byproduct.—The term “byproduct” has the meaning given such term in section 7002 of Division Z of the Consolidated Appropriations Act, 2021 (Public Law 116–260).

(2) Critical mineral.—The term “critical mineral” has the meaning given such term in section 7002 of Division Z of the Consolidated Appropriations Act, 2021 (Public Law 116–260).
tions Act, 2021 (Public Law 116–260) except that such term shall not exclude materials described in subsection (a)(3)(B)(iii) of such section.

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

(A) located on—

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

(ii) lands open to mineral entry; or

(iii) a Federal mineral lease; and

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

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

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

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

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

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

(A) an authorization of the Bureau of Land Management or the Forest Service, as applicable, for a premining activity that requires analysis under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B) a plan of operations issued by the Bureau of Land Management or the Forest Service; and
(C) a permit for a project located in an area for which a hardrock mineral permit or lease is available.

(c) Critical Mineral Interagency Subcommittee. In General.—The Critical Minerals Subcommittee of the National Science and Technology Council (referred to in this section as “Subcommittee”) shall coordinate Federal science and technology efforts to ensure secure and reliable supplies of critical minerals to the United States.

(1) Purposes.—The purposes of the Subcommittee shall be—

(A) to advise and assist the Committee on Homeland and National Security and the National Science and Technology Council on United States policies, procedures, and plans as it relates to critical minerals, including—

(i) Federal research, development, and deployment efforts to optimize methods for extractions, concentration, separation, and purification of conventional, secondary, and unconventional sources of critical minerals;

(ii) efficient use and reuse of critical minerals;
(iii) the critical minerals workforce of
the United States; and
(iv) United States private industry in-
vestments in innovation and technology
transfer from federally funded science and
technology;
(B) to identify emerging opportunities,
stimulate international cooperation, and foster
the development of secure and reliable supply
chains of critical minerals;
(C) to ensure the transparency of informa-
tion and data related to critical minerals; and
(D) to provide recommendations on coordi-
nation and collaboration among the research,
development, and deployment programs and ac-
tivities of Federal agencies to promote a secure
and reliable supply of critical minerals nec-
essary to maintain national security, economic
well-being, and industrial production.

(2) RESPONSIBILITIES.—In carrying out sub-
paragraphs (A) and (B), the Subcommittee shall,
taking into account the findings and recommenda-
tions of relevant advisory committees—

(i) provide recommendations on how
Federal agencies may improve the topo-
graphic, geologic, and geophysical mapping
of the United States and improve the
discoverability, accessibility, and usability
of the resulting and existing data, to the
extent permitted by law and subject to app-
propriate limitation for purposes of privacy
and security; assess the progress towards
developing critical minerals recycling and
reprocessing technologies, and technolo-
gical alternatives to critical minerals;

(ii) examine options and provide rec-
ommendations for accessing and developing
critical minerals through investment and
trade with allies and partners of the
United States;

(iii) evaluate and provide rec-
ommendations to incentivize the develop-
ment and use of advances in science and
technology in the private industry;

(iv) assess the need for, and make
recommendations to address, the chal-
genes facing the critical minerals supply
chain workforce of the United States, in-
cluding aging and retiring personnel and
faculty; public perceptions about the na-
ture of mining and mineral processing; and
foreign competition for United States talent; and

(v) develop, and update as necessary,
a strategic plan to guide Federal programs
and activities to enhance scientific and
technical capabilities across critical mineral
supply chains, including a roadmap that
identifies key research and development
needs and coordinates ongoing activities
for source diversification, more efficient
use, recycling, and substitution for critical
minerals; as well as cross-cutting mining
science, data science techniques, manufac-
turing science and engineering, computa-
tional modeling, and environmental health
and safety research and development.

(d) RESEARCH PROGRAM FOR THE RECOVERY OF
CRITICAL MINERALS FROM VARIOUS FORMS OF MINE
WASTE AND METALLURGICAL ACTIVITIES.—

(1) IN GENERAL.—The Secretary of Energy, in
consultation with the Secretary, acting through the
Office of Surface Mining Reclamation and Enforce-
ment Applied Science Program, shall carry out a
grant program—
(A) to research, develop, and assess advanced processing technologies and techniques for the extraction, recovery, and reduction of critical minerals, including rare earth elements, from various forms of mine waste and metallurgical activities, including mine waste piles, abandoned mine land sites, acid mine drainage sludge, byproducts produced through legacy mining and metallurgy activities, or oil shale; and

(B) to determine if there are, and mitigate if present, any potential environmental impacts that could arise from the recovery of critical minerals from these resources.

(2) Authorization of Appropriations.—To carry out the program under paragraph (1) there is authorized to be appropriated to the Secretary of the Energy $15,000,000 for each of fiscal years 2022 through 2026, and to the Secretary of the Interior $10,000,000 for each of fiscal years 2022 through 2026.

(3) Report.—Not later than 1 year after the date of enactment of this Act, the Secretary of Energy, in consultation with the Secretary, shall submit to the Committee on Energy and Natural Resources
of the Senate and the Committee on Natural Resources, the Committee on Science, Space, and Technology, and the Committee on Energy and Commerce of the House of Representatives a report evaluating the research and development of advanced processing technologies for the extraction, recovery, and reduction of critical minerals, including rare earth elements, from mine waste piles, acid mine drainage sludge, byproducts produced through legacy mining and metallurgy activities, or oil shale.

SEC. 71105. AMERICAN CRITICAL MINERAL PERMITTING.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

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

(2) to the maximum extent practicable, the critical mineral needs of the United States should be satisfied by minerals, elements, substances, and materials responsibly produced and recycled in the United States; and

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

(b) COORDINATION ON PERMITTING PROCESS.—
(1) IN GENERAL.—The Secretary, in consultation with appropriate Federal agencies, shall, to the maximum extent practicable, with respect to the Federal permitting and review process for critical mineral projects on Federal land—

(A) establish and adhere to timelines and schedules for the consideration of, and final decisions regarding, applications, operating plans, leases, licenses, permits, and other use authorizations for mineral-related activities on Federal land;

(B) establish clear, quantifiable, and temporal permitting performance goals and tracking progress against those goals;

(C) engage in early collaboration among agencies, project sponsors, and affected stakeholders—

(i) to incorporate and address the interests of each such agency, sponsor, and stakeholder; and

(ii) to minimize delays;

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

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

(F) meet or exceed the performance metrics required by subsection (g);

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

(H) develop mechanisms to better communicate priorities and resolve disputes among agencies at the national, regional, State, and local levels; and

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

(2) CONSIDERATIONS.—In carrying out paragraph (1), the lead agency shall consider deferring to, and relying on, baseline data, analyses, and reviews performed by State agencies with jurisdiction over the proposed critical mineral project.
(3) MEMORANDUM OF AGREEMENT.—The lead agency with respect to a critical mineral project on Federal land, in consultation with any other Federal agency with jurisdiction over such project, shall, upon request of the project sponsor, a State or local government, an Indian Tribe, or other entity such lead agency determines appropriate, establish a memorandum of agreement with the project sponsor, a State or local government, an Indian Tribe, or another entity such lead agency determines appropriate to carry out the activities described in this subsection.

(4) TIME LIMIT FOR PERMITTING PROCESS.—Notwithstanding any other provision of law, and except with agreement of the project sponsor, the total period for all necessary Federal reviews and permit consideration for a critical mineral project on Federal land reasonably expected to produce critical minerals may not exceed—

(A) with respect to a project that requires an environmental assessment under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), 18 months; or
(B) with respect to a project that requires an environmental impact statement under such section, 24 months.

(c) Determination Under National Environmental Policy Act.—

(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 relating to a critical mineral project, the lead agency may deem the requirements of such Act satisfied if the lead agency determines that a State or Federal agency acting under State or Federal law has addressed the following factors:

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

(B) Possible alternatives to issuance of the permit.

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

(D) Any irreversible and irretrievable commitment of resources that would be involved in the proposed action.
(2) PUBLICATION.—The lead agency shall publish a determination under paragraph (1) not later than 90 days after receipt of an application for the permit.

(3) VERIFICATION.—The lead agency shall publish a determination that the factors under paragraph (1) have been sufficiently addressed and public participation has occurred with regard to any authorizing actions before issuing any mineral exploration or mine permit for a critical mineral project.

(d) SCHEDULE FOR PERMITTING PROCESS.—For any critical mineral project for which the lead agency cannot make the determination described in subsection (c), at the request of a project sponsor, 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 sponsor that sets time limits for each part of the permitting process, including—

(1) 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.);
(2) a determination of the scope of any environmental impact statement or similar analysis required under such Act;

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

(4) preparation of any draft environmental impact statement or similar analysis required under such Act;

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

(6) any consultations required under applicable law;

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

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

(9) any final or interim decisions.

(e) ADDRESSING PUBLIC COMMENTS.—As part of the review process of a critical mineral project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the lead agency may not 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) REVIEW AND REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary and the Secretary of Agriculture shall submit to Congress a report that—

(1) identifies additional measures (including regulatory and legislative proposals, as appropriate) that would increase the timeliness of permitting activities for the exploration and development of domestic critical minerals;

(2) identifies options (including cost recovery paid by permit applicants, as appropriate) for ensuring adequate staffing and training of Federal entities and personnel responsible for the consideration of applications, operating plans, leases, licenses, permits, and other use authorizations for critical mineral projects on Federal land;

(3) quantifies the amount of time typically required (including a range derived from minimum and maximum durations, mean, median, variance, and any other statistical measure or representation) the Secretary and the Secretary of Agriculture de-
termine appropriate) to complete each step (including those aspects outside the control of the executive branch, such as judicial review, applicant decisions, or State and local government involvement) associated with the development and processing of applications, operating plans, leases, licenses, permits, and other use authorizations for a mineral exploration or mine permit for a critical mineral project; and

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

(g) PERFORMANCE METRIC.—Not later than 90 days after the date of submission of the report under subsection (f), the Secretary and the Secretary of Agriculture, after providing public notice and an opportunity to comment, shall develop and publish a performance metric for evaluating the progress made by the executive branch to expedite the permitting of critical mineral projects.

(h) ANNUAL REPORTS.—Beginning with the first budget submission by the President under section 1105 of title 31, United States Code, after publication of the performance metric required under subsection (g), and annually thereafter, the Secretary and the Secretary of Agriculture shall jointly submit to Congress a report that—
(1) summarizes the implementation of recommenda-
tions, measures, and options identified in
paragraphs (1) and (2) of subsection (f);

(2) using the performance metric under sub-
section (g), describes progress made by the executive
branch, as compared to the baseline established pur-
suant to subsection (d)(3), on expediting the permit-
ting of activities that will increase exploration for,
and development of, domestic critical minerals; and

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

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

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

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

(2) performing an analysis of regulations applicable to the critical minerals industry that may be outmoded, inefficient, duplicative, or excessively burdensome.

SEC. 71106. AMERICAN CRITICAL MINERAL TECHNOLOGY GRANTS.

(a) IN GENERAL.—The Secretary, in coordination with the Secretary of Energy, shall establish a competitive grant program to conduct studies, research, and demonstration projects relating to the production of critical minerals, including—

(1) studies of mining, mineral extraction efficiency, and related processing technology;

(2) reclamation technology and practices for active mining operations;

(3) the development of remining systems and technologies that facilitate reclamation that fosters the recovery of resources at abandoned mine sites;
(4) investigations of critical mineral extraction methods that reduce environmental and human impacts;

(5) reducing dependence on foreign energy and mineral supplies through increased domestic critical mineral production;

(6) enhancing the competitiveness of United States energy and mineral technology exports;

(7) the extraction or processing of coinciding mineralization, including rare earth elements, within coal, coal processing byproduct, overburden or coal residue;

(8) enhancing technologies and practices related to mitigation of acid mine drainage, reforestation, and revegetation in the reclamation of land and water resources adversely affected by mining;

(9) meeting challenges of extreme mining conditions, such as deeper deposits or offshore or cold region mining; and

(10) mineral economics, including analysis of supply chains, future mineral needs, and unconventional mining resources.

(b) **Minimum Amount for Mining Schools.**—Of amounts expended pursuant to this section, not less than 70 percent shall be expended to enhance and support min-
ing and mineral engineering programs at mining schools
in the United States.

(c) Public Participation.—The Secretary shall
consult with relevant stakeholders and provide a signifi-
cant opportunity for participation by undergraduate and
graduate students at mining schools.

(d) Authorization of Appropriations.—There is
authorized to be appropriated to carry out this title
$10,000,000 for each of fiscal years 2022 through 2032.

(e) Mining School.—In this section, the term “min-
ing school” means a mining, metallurgical, or mineral en-
gineering program or department accredited by the Ac-
creditation Board for Engineering and Technology, Inc.,
that is located at an institution of higher education (as
that term is defined in section 631(a) of the Higher Edu-
cation Act of 1965 (20 U.S.C. 1132(a))) in the United
States.

SEC. 71107. ECONOMIC AND NATIONAL SECURITY ANALYSIS
OF AMERICAN CRITICAL MINERALS.

(a) Resource Assessments Required.—Federal
lands and waters may not be withdrawn from entry under
the mining laws or operation of the mineral leasing and
mineral materials laws unless a quantitative and qual-
tative geophysical and geological mineral resource assess-
ment of the impacted area has been completed during the
10-year period ending on the date of such withdrawal or has been certified as current by the Director of the United States Geological Survey.

(b) NEW INFORMATION.—If a resource assessment completed by the Director of the United States Geological Survey shows that a previously undiscovered deposit is likely present in an area that has been withdrawn from entry under the mining laws or operation of the mineral leasing and mineral materials laws pursuant to—

(1) section 204 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714), the Secretary shall update the existing Resource Management Plan for such area; or

(2) chapter 3203 of title 54, United States Code, the Secretary shall provide recommendations to the President on appropriate measures to reduce unnecessary impacts that the withdrawal may have on critical mineral exploration, development, and other mining activities.

(c) RESOURCE MANAGEMENT PLANS.—Before a resource management plan under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) is updated or completed, the Secretary or Secretary of Agriculture, as applicable, shall, in consultation with the Director of the United States Geological Survey—
(1) review a quantitative and qualitative mineral resource assessment that was completed or updated during the 10-year period ending on the date the resource management plan is updated or completed or is certified as current by the Director of the United States Geological Survey for the geographic area affected by the resource management plan; and

(2) in consultation with the Departments of Commerce and Defense, consider the economic, strategic and national security value of mineral deposits in the impacted geographic area affected by the resource management plan.

(d) PREVIOUSLY UNDISCOVERED DEPOSIT.—In this section, the term “previously undiscovered deposit” means a deposit that has been previously evaluated by the United States Geological Survey and found to be of low mineral potential but upon subsequent evaluation is determined to have recoverable quantities of a critical mineral.

SEC. 71108. CONGRESSIONAL APPROVAL.

(a) MORATORIA.—Notwithstanding any other provision of law, the Secretary may not declare a moratorium on issuing leases, claims, or permits on Federal lands, including on the Outer Continental Shelf, for the mining of
critical minerals, or related activities unless such morato-
rium is authorized by an Act of Congress.

(b) LIMITATION.—Notwithstanding any other provi-
sion of law, the Secretary may not withdraw Federal lands
and waters from entry under the mining laws or operation
of the mineral leasing and mineral materials laws for the
mining of critical minerals without congressional approval
if such withdrawal—

(1) exceeds 5,000 acres in a single withdrawal;

or

(2) is of a parcel the exterior boundary of which
is less than 50 miles away from the exterior bound-
ary of another parcel that was withdrawn during the
1-year period ending on the date of withdrawal of
the parcel at issue.