

117TH CONGRESS
1ST SESSION

S. 1352

To improve the quality and timeliness of Federal permitting and review processes with respect to critical mineral production on Federal land, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 22, 2021

Ms. MURKOWSKI (for herself, Mr. SULLIVAN, Mr. CRAMER, Mr. RISCH, Mr. TILLIS, Mrs. CAPITO, Mr. CRAPO, Mr. DAINES, and Mr. LANKFORD) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To improve the quality and timeliness of Federal permitting and review processes with respect to critical mineral production on Federal land, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. CRITICAL MINERALS SUPPLY CHAINS AND RE-**
4 **LIABILITY.**

5 (a) DEFINITION OF CRITICAL MINERAL.—In this
6 section, the term “critical mineral” has the meaning given
7 the term in section 7002(a) of the Energy Act of 2020

1 (Public Law 116–260; 134 Stat. 2562; 30 U.S.C.
2 1606(a)).

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

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

8 (2) many critical minerals are only economic to
9 recover when combined with the production of a host
10 mineral;

11 (3) to the maximum extent practicable, the crit-
12 ical mineral needs of the United States should be
13 satisfied by minerals responsibly produced and recy-
14 cled in the United States; and

15 (4) the Federal permitting process has been
16 identified as an impediment to mineral production
17 and the mineral security of the United States.

18 (c) FEDERAL PERMITTING AND REVIEW PERFORM-
19 ANCE IMPROVEMENTS.—To improve the quality and time-
20 liness of Federal permitting and review processes with re-
21 spect to critical mineral production on Federal land, the
22 Secretary of the Interior, acting through the Director of
23 the Bureau of Land Management, and the Secretary of
24 Agriculture, acting through the Chief of the Forest Service
25 (referred to in this section as the “Secretaries”), to the

1 maximum extent practicable, shall complete the Federal
2 permitting and review processes with maximum efficiency
3 and effectiveness, while supporting vital economic growth,
4 by—

5 (1) establishing and adhering to timelines and
6 schedules for the consideration of, and final deci-
7 sions regarding, applications, operating plans, leases,
8 licenses, permits, and other use authorizations for
9 critical mineral-related activities on Federal land;

10 (2) establishing clear, quantifiable, and tem-
11 poral permitting performance goals and tracking
12 progress against those goals;

13 (3) engaging in early collaboration among agen-
14 cies, project sponsors, and affected stakeholders—

15 (A) to incorporate and address the inter-
16 ests of those parties; and

17 (B) to minimize delays;

18 (4) ensuring transparency and accountability by
19 using cost-effective information technology to collect
20 and disseminate information regarding individual
21 projects and agency performance;

22 (5) engaging in early and active consultation
23 with State, local, and Tribal governments—

24 (A) to avoid conflicts or duplication of ef-
25 fort;

1 (B) to resolve concerns; and

2 (C) to allow for concurrent, rather than se-
3 quential, reviews;

4 (6) providing demonstrable improvements in the
5 performance of Federal permitting and review proc-
6 esses, including lower costs and more timely deci-
7 sions;

8 (7) expanding and institutionalizing Federal
9 permitting and review process improvements that
10 have proven effective;

11 (8) developing mechanisms to better commu-
12 nicate priorities and resolve disputes among agencies
13 at the national, regional, State, and local levels; and

14 (9) developing other practices, such as
15 preapplication procedures.

16 (d) REVIEW AND REPORT.—Not later than 1 year
17 after the date of enactment of this Act, the Secretaries
18 shall submit to Congress a report that—

19 (1) identifies additional measures, including
20 regulatory and legislative proposals, if appropriate,
21 that would increase the timeliness of permitting ac-
22 tivities for the exploration and development of do-
23 mestic critical minerals;

24 (2) identifies options, including cost recovery
25 paid by permit applicants, for ensuring adequate

1 staffing and training of Federal entities and per-
2 sonnel responsible for the consideration of applica-
3 tions, operating plans, leases, licenses, permits, and
4 other use authorizations for critical mineral-related
5 activities on Federal land;

6 (3) quantifies the period of time typically re-
7 quired to complete each step associated with the de-
8 velopment and processing of applications, operating
9 plans, leases, licenses, permits, and other use au-
10 thorizations for critical mineral-related activities on
11 Federal land, including by—

12 (A) calculating the range, the mean, the
13 median, the variance, and other statistical
14 measures or representations of the period of
15 time; and

16 (B) taking into account other aspects that
17 affect the period of time that are outside the
18 control of the Executive branch, such as judicial
19 review, applicant decisions, or State and local
20 government involvement; and

21 (4) describes actions carried out pursuant to
22 subsection (c).

23 (e) PERFORMANCE METRIC.—Not later than 90 days
24 after the date of submission of the report under subsection
25 (d), and after providing public notice and an opportunity

1 to comment, the Secretaries, using as a baseline the period
2 of time quantified under paragraph (3) of that subsection,
3 shall develop and publish a performance metric for evalu-
4 ating the progress made by the Executive branch to expe-
5 dite the permitting of activities that will increase explo-
6 ration for, and development of, domestic critical minerals,
7 while maintaining environmental standards.

8 (f) ANNUAL REPORTS.—Not later than the date on
9 which the President submits the first budget of the Presi-
10 dent under section 1105 of title 31, United States Code,
11 after publication of the performance metric required under
12 subsection (e), and annually thereafter, the Secretaries
13 shall submit to Congress a report that—

14 (1) summarizes the implementation of rec-
15 ommendations, measures, and options identified in
16 paragraphs (1) and (2) of subsection (d);

17 (2) using the performance metric developed
18 under subsection (e), describes progress made by the
19 Executive branch, as compared to the baseline devel-
20 oped pursuant to subsection (d)(3), in expediting the
21 permitting of activities that will increase exploration
22 for, and development of, domestic critical minerals;
23 and

24 (3) compares the United States to other coun-
25 tries in terms of permitting efficiency and any other

1 criteria relevant to the globally competitive critical
2 minerals industry.

3 (g) INDIVIDUAL PROJECTS.—Each year, using data
4 contained in the reports submitted under subsection (f),
5 the Director of the Office of Management and Budget
6 shall prioritize inclusion of individual critical mineral
7 projects on the website operated by the Office of Manage-
8 ment and Budget in accordance with section 1122 of title
9 31, United States Code.

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