

118TH CONGRESS  
1ST SESSION

# H. R. 209

To improve the permitting process for mining on Federal land, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

JANUARY 9, 2023

Mr. STAUBER (for himself, Mr. NEWHOUSE, Mr. CRENSHAW, Mrs. BOEBERT, Mr. GRAVES of Louisiana, Mr. CALVERT, Mr. FINSTAD, Mr. OWENS, Mr. MCCLINTOCK, Mrs. FISCHBACH, Mr. STEWART, Ms. TENNEY, Mr. OBERNOLTE, Mr. BENTZ, Mr. RESCHENTHALER, Mr. FULCHER, and Mr. EMMER) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

## A BILL

To improve the permitting process for mining 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. SHORT TITLE.**

4 This Act may be cited as the “Permitting for Mining  
5 Needs Act of 2023”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1           (1) BYPRODUCT.—The term “byproduct” has  
2 the meaning given such term in section 7002(a) of  
3 the Energy Act of 2020 (30 U.S.C. 1606(a)).

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

8           (3) MINERAL.—The term “mineral” means any  
9 mineral of a kind that is locatable (including, but  
10 not limited to, such minerals located on “lands ac-  
11 quired by the United States”, as such term is de-  
12 fined in section 2 of the Mineral Leasing Act for Ac-  
13 quired Lands) under the Act of May 10, 1872  
14 (Chapter 152; 17 Stat. 91).

15           (4) SECRETARY.—Except as otherwise provided,  
16 the term “Secretary” means the Secretary of the In-  
17 terior.

18           (5) STATE.—The term “State” means—

19                   (A) a State;

20                   (B) the District of Columbia;

21                   (C) the Commonwealth of Puerto Rico;

22                   (D) Guam;

23                   (E) American Samoa;

24                   (F) the Commonwealth of the Northern  
25 Mariana Islands; and

1 (G) the United States Virgin Islands.

2 **SEC. 3. MINERALS SUPPLY CHAIN AND RELIABILITY.**

3 Section 40206 of the Infrastructure Investment and  
4 Jobs Act (30 U.S.C. 1607) is amended—

5 (1) in the section heading, by striking “**CRIT-**  
6 **ICAL MINERALS**” and inserting “**MINERALS**”;

7 (2) by amending subsection (a) to read as fol-  
8 lows:

9 “(a) **DEFINITIONS.**—In this section:

10 “(1) **LEAD AGENCY.**—The term ‘lead agency’  
11 means the Federal agency with primary responsi-  
12 bility for issuing a mineral exploration or mine per-  
13 mit or lease for a mineral project.

14 “(2) **MINERAL.**—The term ‘mineral’ has the  
15 meaning given such term in section 2 of the Permit-  
16 ting for Mining Needs Act of 2023.

17 “(3) **MINERAL EXPLORATION OR MINE PER-**  
18 **MIT.**—The term ‘mineral exploration or mine permit’  
19 means—

20 “(A) an authorization of the Bureau of  
21 Land Management or the Forest Service, as ap-  
22 plicable, for exploration for minerals that re-  
23 quires analysis under the National Environ-  
24 mental Policy Act of 1969;

1           “(B) a plan of operations for a mineral  
2 project approved by the Bureau of Land Man-  
3 agement or the Forest Service; or

4           “(C) any other Federal permit or author-  
5 ization for a mineral project.

6           “(4) MINERAL PROJECT.—The term ‘mineral  
7 project’ means a project—

8           “(A) located on—

9                   “(i) a mining claim, millsite claim, or  
10 tunnel site claim for any mineral;

11                   “(ii) lands open to mineral entry; or

12                   “(iii) a Federal mineral lease; and

13           “(B) for the purposes of exploring for or  
14 producing minerals.”;

15           (3) in subsection (b), by striking “critical” each  
16 place such term appears;

17           (4) in subsection (c)—

18                   (A) by striking “critical mineral production  
19 on Federal land” and inserting “mineral  
20 projects”;

21                   (B) by inserting “, and in accordance with  
22 subsection (h)” after “to the maximum extent  
23 practicable”;

24                   (C) by striking “shall complete the” and  
25 inserting “shall complete such”;

1 (D) in paragraph (1), by striking “critical  
2 mineral-related activities on Federal land” and  
3 inserting “mineral projects”;

4 (E) in paragraph (8), by striking the  
5 “and” at the end;

6 (F) in paragraph (9), by striking “proce-  
7 dures.” and inserting “procedures; and”; and

8 (G) by adding at the end the following:

9 “(10) deferring to and relying on baseline data,  
10 analyses, and reviews performed by State agencies  
11 with jurisdiction over the environmental or reclama-  
12 tion permits for the proposed mineral project.”;

13 (5) in subsection (d)—

14 (A) by striking “critical” each place such  
15 term appears; and

16 (B) in paragraph (3), by striking “mineral-  
17 related activities on Federal land” and inserting  
18 “mineral projects”;

19 (6) in subsection (e), by striking “critical”;

20 (7) in subsection (f), by striking “critical” each  
21 place such term appears;

22 (8) in subsection (g), by striking “critical” each  
23 place such term appears; and

24 (9) by adding at the end the following:

25 “(h) OTHER REQUIREMENTS.—

1           “(1) MEMORANDUM OF AGREEMENT.—For pur-  
2           poses of maximizing efficiency and effectiveness of  
3           the Federal permitting and review processes de-  
4           scribed under subsection (c), the lead agency in the  
5           Federal permitting and review processes of a min-  
6           eral project shall (in consultation with any other  
7           Federal agency involved in such Federal permitting  
8           and review processes, and upon request of the  
9           project applicant, an affected State government,  
10          local government, or an Indian Tribe, or other entity  
11          such lead agency determines appropriate) enter into  
12          a memorandum of agreement with a project appli-  
13          cant where requested by applicant to carry out the  
14          activities described in subsection (c).

15           “(2) TIMELINES AND SCHEDULES FOR NEPA  
16          REVIEWS.—

17           “(A) DEADLINES.—Any timelines or  
18           schedules established under subsection (c)(1)  
19           relating to a review under section 102(2)(C) of  
20           the National Environmental Policy Act of 1969  
21           shall require that the review process not ex-  
22           ceed—

23                   “(i) 12 months for an environmental  
24                   assessment; and

1                   “(ii) 24 months for an environmental  
2                   impact statement.

3                   “(B) EXTENSION.—A project applicant  
4                   may enter into 1 or more agreements with a  
5                   lead agency to extend the deadlines described in  
6                   clauses (i) and (ii) of subparagraph (A) by,  
7                   with respect to each such agreement, not more  
8                   than 6 months.

9                   “(C) ADJUSTMENT OF TIMELINES.—At the  
10                  request of a project applicant, the lead agency  
11                  and any other entity which is a signatory to a  
12                  memorandum of agreement under paragraph  
13                  (1) may, by unanimous agreement, adjust—

14                         “(i) any deadlines described in sub-  
15                         paragraph (A); and

16                         “(ii) any deadlines extended under  
17                         subparagraph (B).

18                  “(3) DOCUMENT PREPARED BY PROJECT APPLI-  
19                  CANT.—The lead agency with respect to a mineral  
20                  project may adopt an environmental impact state-  
21                  ment or environmental assessment prepared by or  
22                  for a project applicant with respect to such project  
23                  if such document fulfills the requirements of section  
24                  102(2)(C) of the National Environmental Policy Act  
25                  of 1969.

1           “(4) EFFECT ON PENDING APPLICATIONS.—  
2           Upon a written request by a project applicant, the  
3           requirements of this subsection shall apply to any  
4           application for a mineral exploration or mine permit  
5           or mineral lease that was submitted before the date  
6           of the enactment of the Permitting for Mining  
7           Needs Act of 2023.”.

8   **SEC. 4. FEDERAL REGISTER PROCESS IMPROVEMENT.**

9           Section 7002(f) of the Energy Act of 2020 (30  
10   U.S.C. 1606(f)) is amended—

11           (1) in paragraph (2), by striking “critical” both  
12           places such term appears; and

13           (2) by striking paragraph (4).

14   **SEC. 5. DESIGNATION OF MINING AS A COVERED SECTOR**  
15                   **FOR FEDERAL PERMITTING IMPROVEMENT**  
16                   **PURPOSES.**

17           Section 41001(6)(A) of the FAST Act (42 U.S.C.  
18   4370m(6)(A)) is amended by inserting “minerals produc-  
19   tion,” before “or any other sector”.

20   **SEC. 6. TREATMENT OF ACTIONS UNDER PRESIDENTIAL**  
21                   **DETERMINATION 2022–11 FOR FEDERAL PER-**  
22                   **MITTING IMPROVEMENT PURPOSES.**

23           (a) IN GENERAL.—Except as provided by subsection  
24   (c), an action described in subsection (b) shall be—



1           (1) treated as a covered project, as defined in  
2           section 41001(6) of the Fixing America’s Surface  
3           Transportation Act (42 U.S.C. 4370m(6)), without  
4           regard to the requirements of that section; and

5           (2) included in the Permitting Dashboard main-  
6           tained pursuant to section 41003(b) of that Act (42  
7           13 U.S.C. 4370m–2(b)).

8           (b) ACTIONS DESCRIBED.—An action described in  
9           this subsection is an action taken by the Secretary of De-  
10          fense pursuant to Presidential Determination 2022–11  
11          (87 Fed. Reg. 19775; relating to certain actions under  
12          section 303 of the Defense Production Act of 1950) to  
13          create, maintain, protect, expand, or restore sustainable  
14          and responsible domestic production capabilities  
15          through—

16           (1) supporting feasibility studies for mature  
17           mining, beneficiation, and value-added processing  
18           projects;

19           (2) byproduct and co-product production at ex-  
20           isting mining, mine waste reclamation, and other in-  
21           dustrial facilities;

22           (3) modernization of mining, beneficiation, and  
23           value-added processing to increase productivity, envi-  
24           ronmental sustainability, and workforce safety; or

1           (4) any other activity authorized under section  
2           303(a)(1) of the Defense Production Act of 1950 15  
3           (50 U.S.C. 4533(a)(1)).

4           (c) EXCEPTION.—An action described in subsection  
5 (b) may not be treated as a covered project or be included  
6 in the Permitting Dashboard under subsection (a) if the  
7 project sponsor (as defined in section 41001(18) of the  
8 Fixing America’s Surface Transportation Act (42 U.S.C.  
9 4370m(18))) requests that the action not be treated as  
10 a covered project.

11 **SEC. 7. MINERAL EXPLORATION ACTIVITIES WITH LIMITED**  
12 **SURFACE DISTURBANCE.**

13           Notwithstanding any other provision of law, not later  
14 than 15 calendar days after receiving a notice in such  
15 time, place, and manner as the applicable Secretary deter-  
16 mines appropriate describing the exploration activities and  
17 subsequent reclamation activities, the Secretary of the In-  
18 terior with respect to lands administered by the Secretary,  
19 and the Secretary of Agriculture with respect to National  
20 Forest System lands, shall—

21           (1) review and determine completeness of the  
22 notice; and

23           (2) allow mineral exploration activities other  
24 than casual use to proceed if—

1 (A) the surface disturbance on Federal  
2 land will not exceed 5 acres;

3 (B) the Secretary determines that the no-  
4 tice is complete; and

5 (C) financial assurance is provided.

6 **SEC. 8. USE OF MINING CLAIMS FOR ANCILLARY ACTIVI-**  
7 **TIES.**

8 Section 10101 of the Omnibus Budget Reconciliation  
9 Act of 1993 (30 U.S.C. 28f) is amended by adding at the  
10 end the following:

11 “(e) SECURITY OF TENURE.—

12 “(1) IN GENERAL.—

13 “(A) IN GENERAL.—A claimant shall have  
14 the right to use, occupy, and conduct operations  
15 on public land, with or without the discovery of  
16 a valuable mineral deposit, if—

17 “(i) such claimant makes a timely  
18 payment of the location fee required by  
19 section 10102 and the claim maintenance  
20 fee required by subsection (a); or

21 “(ii) in the case of a claimant who  
22 qualifies for a waiver under subsection (d),  
23 such claimant makes a timely payment of  
24 the location fee and complies with the re-

1           required assessment work under the general  
2           mining laws.

3           “(B) OPERATIONS DEFINED.—For the  
4           purposes of this paragraph, the term ‘oper-  
5           ations’ means—

6                   “(i) any activity or work carried out  
7                   in connection with prospecting, exploration,  
8                   processing, discovery and assessment, de-  
9                   velopment, or extraction with respect to a  
10                  locatable mineral;

11                  “(ii) the reclamation of an area dis-  
12                  turbed by an activity described in subpara-  
13                  graph (A); and

14                  “(iii) any activity reasonably incident  
15                  to an activity described in subparagraphs  
16                  (A) or (B), whether on a mining claim or  
17                  not, including the construction and mainte-  
18                  nance of facilities, roads, transmission  
19                  lines, pipelines, and any other necessary  
20                  infrastructure or means of access on public  
21                  land.

22           “(2) FULFILLMENT OF FEDERAL LAND POLICY  
23           AND MANAGEMENT ACT.—A claimant that fulfills  
24           the requirements of this section and section 10102  
25           shall be deemed to satisfy the requirements of any

1 provision of the Federal Land Policy and Manage-  
2 ment Act that requires the payment of fair market  
3 value to the United States for use of public lands  
4 and resources relating to use of such lands and re-  
5 sources authorized by the general mining laws.

6 “(3) SAVINGS CLAUSE.—Nothing in this sub-  
7 section may be construed to diminish—

8 “(A) the rights of entry, use, and occu-  
9 pancy of a claimant under the general mining  
10 laws; or

11 “(B) the rights of a claimant under the  
12 general mining laws.”.

13 **SEC. 9. ENSURING CONSIDERATION OF URANIUM AS A**  
14 **CRITICAL MINERAL.**

15 (a) IN GENERAL.—Section 7002(a)(3)(B)(i) of the  
16 Energy Act of 2020 (30 U.S.C. 1606(a)(3)(B)(i)) is  
17 amended to read as follows:

18 “(i) oil, oil shale, coal, or natural  
19 gas;”.

20 (b) UPDATE.—Not later than 60 days after the date  
21 of the enactment of this section, the Secretary, acting  
22 through the Director of the United States Geological Sur-  
23 vey, shall publish in the Federal Register an update to  
24 the final list established in section 7002(c)(3) of the En-

1 ergy Act of 2020 (30 U.S.C. 1606(c)(3)) in accordance  
2 with subsection (a) of this section.

3 **SEC. 10. LIMITATION ON JUDICIAL REVIEW.**

4 (a) IN GENERAL.—Notwithstanding any other provi-  
5 sion of law, a claim arising under Federal law seeking ju-  
6 dicial review of a permit, license, or approval issued by  
7 a Federal lead agency for a mining project shall be barred  
8 unless it is filed not later than 120 days after the permit,  
9 license, or approval is final pursuant to the law under  
10 which the agency action is taken, unless a shorter time  
11 is specified in the Federal law pursuant to which judicial  
12 review is allowed.

13 (b) SAVINGS CLAUSE.—Nothing in this section shall  
14 create a right to judicial review or place any limit on filing  
15 a claim that a person has violated the terms of a permit,  
16 license, or approval.

○