To require the Secretary of the Interior and the Secretary of Agriculture to more efficiently develop domestic sources of the minerals and mineral materials of strategic and critical importance to United States economic and national security and manufacturing competitiveness.
A BILL

To require the Secretary of the Interior and the Secretary of Agriculture to more efficiently develop domestic sources of the minerals and mineral materials of strategic and critical importance to United States economic and national security and manufacturing competitiveness.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.
This Act may be cited as the “National Strategic and
Critical Minerals Production Act of 2013”.

SEC. 2. FINDINGS.
Congress finds the following:

(1) The industrialization of China and India
has driven demand for nonfuel mineral commodities,
sparking a period of resource nationalism exemplified
by China’s reduction in exports of rare-earth elements
necessary for telecommunications, military tech-
nologies, healthcare technologies, and conventional
and renewable energy technologies.

(2) The availability of minerals and mineral
materials are essential for economic growth, national
security, technological innovation, and the manufac-
turing and agricultural supply chain.

(3) The exploration, production, processing, use,
and recycling of minerals contribute significantly to
the economic well-being, security and general welfare
of the Nation.

(4) The United States has vast mineral re-
sources, but is becoming increasingly dependent upon
foreign sources of these mineral materials, as dem-
donstrated by the following:

   (A) Twenty-five years ago the United States
was dependent on foreign sources for 30 nonfuel
mineral materials, 6 of which the United States
imported 100 percent of the Nation’s require-
ments, and for another 16 commodities the
United States imported more than 60 percent of
the Nation’s needs.

   (B) By 2011 the United States import de-
pendence for nonfuel mineral materials had more
than doubled from 30 to 67 commodities, 19 of
which the United States imported 100 percent of
the Nation’s requirements, and for another 24
commodities, imported more than 50 percent of
the Nation’s needs.

   (C) The United States share of worldwide
mineral exploration dollars was 8 percent in
2011, down from 19 percent in the early 1990s.

   (D) In the 2012 Ranking of Countries for
Mining Investment, out of 25 major mining
countries, the United States ranked last with
Papua New Guinea in permitting delays, and
towards the bottom regarding government take
and social issues affecting mining.
SEC. 3. DEFINITIONS.

In this Act:

(1) STRATEGIC AND CRITICAL MINERALS.—The term “strategic and critical minerals” means minerals that are necessary—

(A) for national defense and national security requirements;

(B) for the Nation’s energy infrastructure, including pipelines, refining capacity, electrical power generation and transmission, and renewable energy production;

(C) to support domestic manufacturing, agriculture, housing, telecommunications, healthcare, and transportation infrastructure; or

(D) for the Nation’s economic security and balance of trade.

(2) AGENCY.—The term “agency” means any agency, department, or other unit of Federal, State, local, or tribal government, or Alaska Native Corporation.

(3) MINERAL EXPLORATION OR MINE PERMIT.—The term “mineral exploration or mine permit” includes plans of operation issued by the Bureau of Land Management and the Forest Service pursuant to 43 C.F.R. 3809 and 36 C.F.R. 228A or the authorities listed in 43 C.F.R. 3503.13, respectively.
TITLE I—DEVELOPMENT OF DOMESTIC SOURCES OF STRATEGIC AND CRITICAL MINERALS

SEC. 101. IMPROVING DEVELOPMENT OF STRATEGIC AND CRITICAL MINERALS.

Domestic mines that will provide strategic and critical minerals shall be considered an “infrastructure project” as described in Presidential Order “Improving Performance of Federal Permitting and Review of Infrastructure Projects” dated March 22, 2012.

SEC. 102. RESPONSIBILITIES OF THE LEAD AGENCY.

(a) In General.—The lead agency with responsibility for issuing a mineral exploration or mine permit shall appoint a project lead who shall coordinate and consult with cooperating agencies and any other agency involved in the permitting process, project proponents and contractors to ensure that agencies minimize delays, set and adhere to timelines and schedules for completion of the permitting process, set clear permitting goals and track progress against those goals.

(b) Determination Under NEPA.—To the extent that the National Environmental Policy Act of 1969 applies to any mineral exploration or mine permit, the lead agency with responsibility for issuing a mineral exploration or
mine permit shall determine that the action to approve the
exploration or mine permit does not constitute a major Fed-
eral action significantly affecting the quality of the human
environment within the meaning of the National Environ-
mental Policy Act of 1969 if the procedural and substantive
safeguards of the permitting process alone, any applicable
State permitting process alone, or a combination of the two
processes together provide an adequate mechanism to ensure
that environmental factors are taken into account.

(c) COORDINATION ON PERMITTING PROCESS.—The
lead agency with responsibility for issuing a mineral explo-
ration or mine permit shall enhance government coordina-
tion for the permitting process by avoiding duplicative re-
views, minimizing paperwork and engaging other agencies
and stakeholders early in the process. The lead agency shall
consider the following best practices:

(1) Deferring to and relying upon baseline data,
analyses and reviews performed by State agencies
with jurisdiction over the proposed project.

(2) Conducting any consultations or reviews con-
currently rather than sequentially to the extent prac-
 ticable and when such concurrent review will expedite
rather than delay a decision.

(d) SCHEDULE FOR PERMITTING PROCESS.—At the
request of a project proponent, 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 proponent that sets time limits for each part of the permitting process including the following:

(1) The decision on whether to prepare a document required under the National Environmental Policy Act of 1969.

(2) A determination of the scope of any document required under the National Environmental Policy Act of 1969.

(3) The scope of and schedule for the baseline studies required to prepare a document required under the National Environmental Policy Act of 1969.

(4) Preparation of any draft document required under the National Environmental Policy Act of 1969.


(6) Consultations required under applicable laws.

(7) Submission and review of any comments required under applicable law.
(8) Publication of any public notices required under applicable law.

(9) A final or any interim decisions.

(e) Time Limit for Permitting Process.—In no case should the total review process described in subsection (d) exceed 30 months unless agreed to by the signatories of the agreement.

(f) Limitation on Addressing Public Comments.—The lead agency is not required to address agency or public comments that were not submitted during any public comment periods or consultation periods provided during the permitting process or as otherwise required by law.

(g) Financial Assurance.—The lead agency will determine the amount of financial assurance for reclamation of a mineral exploration or mining site, which must cover the estimated cost if the lead agency were to contract with a third party to reclaim the operations according to the reclamation plan, including construction and maintenance costs for any treatment facilities necessary to meet Federal, State or tribal environmental standards.

(h) Application to Existing Permit Applications.—This section shall apply with respect to a mineral exploration or mine permit for which an application was submitted before the date of the enactment of this Act if
the applicant for the permit submits a written request to
the lead agency for the permit. The lead agency shall begin
implementing this section with respect to such application
within 30 days after receiving such written request.

(i) Strategic and Critical Minerals Within Na-
tional Forests.—With respect to strategic and critical
minerals within a federally administered unit of the Na-
tional Forest System, the lead agency shall—

(1) exempt all areas of identified mineral re-

sources in Land Use Designations, other than Non-
Development Land Use Designations, in existence as
of the date of the enactment of this Act from the pro-
cedures detailed at and all rules promulgated under
part 294 of title 36, Code for Federal Regulations;

(2) apply such exemption to all additional routes

and areas that the lead agency finds necessary to fa-
cilitate the construction, operation, maintenance, and
restoration of the areas of identified mineral resources
described in paragraph (1); and

(3) continue to apply such exemptions after ap-

proval of the Minerals Plan of Operations for the unit
of the National Forest System.

SEC. 103. CONSERVATION OF THE RESOURCE.

In evaluating and issuing any mineral exploration or
mine permit, the priority of the lead agency shall be to
maximize the development of the mineral resource, while mitigating environmental impacts, so that more of the mineral resource can be brought to the market place.

SEC. 104. FEDERAL REGISTER PROCESS FOR MINERAL EXPLORATION AND MINING PROJECTS.

(a) Preparation of Federal Notices for Mineral Exploration and Mine Development Projects.—The preparation of Federal Register notices required by law associated with the issuance of a mineral exploration or mine permit shall be delegated to the organization level within the agency responsible for issuing the mineral exploration or mine permit. All Federal Register notices regarding official document availability, announcements of meetings, or notices of intent to undertake an action shall be originated and transmitted to the Federal Register from the office where documents are held, meetings are held, or the activity is initiated.

(b) Departmental Review of Federal Register Notices for Mineral Exploration and Mining Projects.—Absent any extraordinary circumstance or except as otherwise required by any Act of Congress, each Federal Register notice described in subsection (a) shall undergo any required reviews within the Department of the Interior or the Department of Agriculture and be published in...
its final form in the Federal Register no later than 30 days after its initial preparation.

TITLE II—JUDICIAL REVIEW OF AGENCY ACTIONS RELATING TO EXPLORATION AND MINE PERMITS

SEC. 201. DEFINITIONS FOR TITLE.

In this title the term “covered civil action” means a civil action against the Federal Government containing a claim under section 702 of title 5, United States Code, regarding agency action affecting a mineral exploration or mine permit.

SEC. 202. TIMELY FILINGS.

A covered civil action is barred unless filed no later than the end of the 60-day period beginning on the date of the final Federal agency action to which it relates.

SEC. 203. RIGHT TO INTERVENE.

The holder of any mineral exploration or mine permit may intervene as of right in any covered civil action by a person affecting rights or obligations of the permit holder under the permit.

SEC. 204. EXPEDITION IN HEARING AND DETERMINING THE ACTION.

The court shall endeavor to hear and determine any covered civil action as expeditiously as possible.
SEC. 205. LIMITATION ON PROSPECTIVE RELIEF.

In a covered civil action, the court shall not grant or approve any prospective relief unless the court finds that such relief is narrowly drawn, extends no further than necessary to correct the violation of a legal requirement, and is the least intrusive means necessary to correct that violation.

SEC. 206. LIMITATION ON ATTORNEYS’ FEES.

Sections 504 of title 5, United States Code, and 2412 of title 28, United States Code (together commonly called the Equal Access to Justice Act) do not apply to a covered civil action, nor shall any party in such a covered civil action receive payment from the Federal Government for their attorneys’ fees, expenses, and other court costs.
To require the Secretary of the Interior and the Secretary of Agriculture to more efficiently develop domestic sources of the minerals and mineral materials of strategic and critical importance to United States economic and national security and manufacturing competitiveness.

JULY 8, 2013

Reported from the Committee on Natural Resources with an amendment

July 8, 2013

The Committee on the Judiciary discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed.