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2D SESSION

S. 3525

To encourage the extraction and processing of rare earth metals in the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 19 (legislative day, JANUARY 18), 2022

Mr. COTTON introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To encourage the extraction and processing of rare earth metals in the United States, 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 “Restoring Essential
5 Energy and Security Holdings Onshore for Rare Earths
6 Act of 2022” or the “REEShore Act of 2022”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means—

4 (A) the Committee on Armed Services, the
5 Committee on Foreign Relations, the Com-
6 mittee on Finance, and the Select Committee
7 on Intelligence of the Senate; and

8 (B) the Committee on Armed Services, the
9 Committee on Foreign Affairs, the Committee
10 on Ways and Means, and the Permanent Select
11 Committee on Intelligence of the House of Rep-
12 resentatives.

13 (2) PROCESSED OR REFINED.—The term “proc-
14 essed or refined” means any process by which raw
15 rare earth metals are changed, mixed, or otherwise
16 manipulated to render the metal usable for manufac-
17 turing everyday items, including computer chips or
18 circuit boards.

19 (3) RARE EARTH METALS.—The term “rare
20 earth metals” means beryllium, cerium, cobalt, dys-
21 prosium, erbium, europium, gadolinium, graphite,
22 holmium, lanthanum, lithium, lutetium, manganese,
23 neodymium, praseodymium, promethium, samarium,
24 scandium, tantalum, terbium, thulium, tungsten, yt-
25 terbium, and yttrium.

1 **SEC. 3. ESTABLISHMENT OF STRATEGIC RARE EARTH**
2 **METAL AND RARE EARTH METAL PRODUCTS**
3 **RESERVE.**

4 (a) FINDINGS.—Congress finds that the storage of
5 substantial quantities of rare earth metals and rare earth
6 metal products will—

7 (1) diminish the vulnerability of the United
8 States to the effects of a severe supply chain inter-
9 ruption; and

10 (2) provide limited protection from the short-
11 term consequences of an interruption in supplies of
12 rare earth metal products, particularly such prod-
13 ucts required for defense manufacturing and use.

14 (b) STATEMENT OF POLICY.—It is the policy of the
15 United States to provide for the establishment of a stra-
16 tegic rare earth metals and rare earth metal products re-
17 serve.

18 (c) REPORT REQUIRED.—

19 (1) IN GENERAL.—Not later than 270 days
20 after the date of the enactment of this Act, the Sec-
21 retary of the Interior and the Secretary of Defense
22 shall jointly submit the appropriate congressional
23 committees a report describing—

24 (A) the strategic requirements of the
25 United States regarding stockpiles of rare earth

1 metals and processed and refined rare earth
2 metal products; and

3 (B) the requirements for such metals and
4 products to support the United States for one
5 year in the event of a supply disruption.

6 (2) CONSIDERATIONS.—In developing the re-
7 port required by paragraph (1), the Secretary of the
8 Interior and the Secretary of Defense shall take into
9 consideration the needs of the Armed Forces of the
10 United States, the defense industrial and technology
11 sectors, and any places, organizations, physical in-
12 frastructure, or digital infrastructure designated as
13 critical to the national security of the United States.

14 (d) IMPLEMENTATION.—Not later than 3 years after
15 submission of the report required by subsection (c), the
16 Secretary of the Interior shall take such actions as are
17 necessary to procure all types of rare earth metals and
18 processed and refined rare earth metal products in appro-
19 priate quantities to support the strategic requirements de-
20 scribed in the report.

21 (e) REASSESSMENT OF REQUIREMENTS.—The Sec-
22 retary of the Interior and the Secretary of Defense shall—

23 (1) jointly reassess the strategic requirements
24 described in paragraph (1) of subsection (c) and the

1 considerations described in paragraph (2) of that
2 subsection; and

3 (2) not less frequently than annually, submit to
4 the appropriate congressional committees a report
5 on—

6 (A) that reassessment; and

7 (B) describing any activities relating to the
8 establishment or use of a strategic rare earth
9 metals and rare earth metal products reserve
10 during the preceding year.

11 **SEC. 4. DISCLOSURES CONCERNING RARE EARTH METALS**
12 **BY CONTRACTORS OF DEPARTMENT OF DE-**
13 **FENSE.**

14 (a) **REQUIREMENT.**—The Secretary of Defense shall
15 require that any contractor that provides to the Depart-
16 ment of Defense a system with a rare earth metal perma-
17 nent magnet disclose, along with delivery of the system,
18 the provenance of the magnet.

19 (b) **ELEMENTS.**—A disclosure under subsection (a)
20 shall include an identification of the country or countries
21 in which—

22 (1) the rare earth metals used in the magnet
23 were mined;

24 (2) the rare earth metals were refined into ox-
25 ides;

1 (3) the rare earth metals were made into metals
2 and alloys; and

3 (4) the magnet was sintered or bonded and
4 magnetized.

5 (c) IMPLEMENTATION OF SUPPLY CHAIN TRACKING
6 SYSTEM.—If a contractor cannot make the disclosure re-
7 quired by subsection (a) with respect to a magnet, the Sec-
8 retary shall require the contractor to establish and imple-
9 ment a supply chain tracking system in order to make the
10 disclosure not later than 180 days after providing the
11 magnet to the Department of Defense.

12 (d) REPORT REQUIRED.—Not later than December
13 31, 2022, and annually thereafter, the Secretary of De-
14 fense, after consultation with the Secretary of Commerce
15 and the Secretary of the Interior, shall submit to the ap-
16 propriate congressional committees a report that in-
17 cludes—

18 (1) a summary of the disclosures made under
19 this section;

20 (2) an assessment of the extent of reliance by
21 the United States on foreign countries, and espe-
22 cially countries that are not allies of the United
23 States, for rare earth metals;

1 (3) a determination with respect to which sys-
2 tems are of the greatest concern for interruptions of
3 rare earth metal supply chains; and

4 (4) any suggestions for legislation or funding
5 that would mitigate supply chain security gaps.

6 **SEC. 5. RESTRICTION ON USE OF CHINESE-MADE RARE**
7 **EARTH METALS IN MILITARY TECH-**
8 **NOLOGIES.**

9 (a) IN GENERAL.—The Secretary of Defense shall re-
10 quire that, for any contract entered into or renewed on
11 or after December 31, 2026, for the procurement of a sys-
12 tem the export of which is restricted or controlled under
13 the Arms Export Control Act (22 U.S.C. 2751 et seq.),
14 no rare earth metals processed or refined in the People’s
15 Republic of China may be included in the system.

16 (b) WAIVER.—The Secretary may waive the restric-
17 tion under subsection (a) upon a determination that—

18 (1) rare earth metals of sufficient quantity and
19 quality are not available at reasonable prices from
20 sources outside of the People’s Republic of China;
21 and

22 (2) such a waiver is in the interests of national
23 security.

1 **SEC. 6. COMPLIANCE WITH CONTRACTING REQUIREMENTS.**

2 (a) IN GENERAL.—Not later than September 30,
3 2022, and every 2 years thereafter, the Comptroller Gen-
4 eral of the United States shall audit the extent of compli-
5 ance or noncompliance with the requirements of sections
6 4 and 5 of this Act, and section 2533c of title 10, United
7 States Code, through a random sampling of contracts en-
8 tered into by the Department of Defense during the 2-
9 year period preceding the audit.

10 (b) REPORT REQUIRED.—Not later than 30 days
11 after the completion of an audit under subsection (a), the
12 Comptroller General shall submit to the appropriate con-
13 gressional committees an assessment of—

14 (1) the inclusion by the Department of Defense
15 of necessary contracting clauses in relevant con-
16 tracts; and

17 (2) compliance by contractors of the Depart-
18 ment with sections 4 and 5 of this Act and section
19 2533c of title 10, United States Code.

20 (c) REFERRAL.—The Comptroller General shall pro-
21 vide the Department of Justice with the resources and au-
22 thorities needed for any enforcement actions against enti-
23 ties that have failed to comply with the requirements of
24 section 4 or 5 of this Act or section 2533c of title 10,
25 United States Code.

1 **SEC. 7. INVESTIGATION OF UNFAIR TRADE PRACTICES.**

2 (a) IN GENERAL.—Not later than 90 days after the
3 date of the enactment of this Act, the United States Trade
4 Representative, in coordination with the Secretary of Com-
5 merce, shall initiate an investigation under title III of the
6 Trade Act of 1974 (19 U.S.C. 2411 et seq.) to determine
7 whether acts, policies, and practices of the Government of
8 the People’s Republic of China related to technology trans-
9 fer, intellectual property, or innovation with respect to
10 rare earth metal mining, separation, metallization,
11 alloying, or magnet manufacturing, or related processes,
12 are acts, policies, and practices described in subsection (a)
13 or (b) of section 301 of that Act (19 U.S.C. 2411).

14 (b) REPORT REQUIRED.—

15 (1) IN GENERAL.—Not later than 180 days
16 after initiating the investigation required by sub-
17 section (a), the Trade Representative shall submit to
18 the appropriate congressional committees a report
19 assessing the necessity of trade enforcement actions
20 to deter the Government of the People’s Republic of
21 China from further interference in the rare earth
22 metals market.

23 (2) ELEMENTS.—The report required by para-
24 graph (1) shall include—

1 (A) a summary of actions taken by the
2 Government of the People's Republic of China
3 to disrupt supply chains for rare earth metals;

4 (B) a summary of the world market for
5 rare earth metals at each stage of the supply
6 chain, including the ability of producers in the
7 United States and countries that are allies of
8 the United States to meet the national security
9 and commercial needs of the United States;

10 (C) determinations with respect to whether
11 further action under title III of the Trade Act
12 of 1974 (19 U.S.C. 2411 et seq.), section 232
13 of the Trade Expansion Act of 1962 (19 U.S.C.
14 1862), or any other provision of law is nec-
15 essary to deter the Government of the People's
16 Republic of China from further interference in
17 the rare earth metals market; and

18 (D) recommendations for such other au-
19 thorities as the Secretary considers necessary to
20 deter the Government of the People's Republic
21 of China from further interference in the rare
22 earth metals market.

1 **SEC. 8. PRODUCTION IN AND USES OF RARE EARTH MET-**
2 **ALS BY UNITED STATES ALLIES.**

3 (a) **POLICY.**—It shall be the policy of the United
4 States to encourage countries that are allies of the United
5 States to eliminate their dependence on non-allied coun-
6 tries for rare earth metals to the maximum extent prac-
7 ticable.

8 (b) **REPORT REQUIRED.**—Not later than December
9 31, 2022, and annually thereafter, the Secretary of De-
10 fense, in coordination with the Secretary of State, shall
11 submit to the appropriate congressional committees a re-
12 port—

13 (1) describing in detail the discussions of such
14 Secretaries with countries that are allies of the
15 United States concerning supply chain security for
16 rare earth metals;

17 (2) assessing the likelihood of those countries
18 discontinuing the use of rare earth metals from the
19 People’s Republic of China or other countries that
20 such Secretaries deem to be of concern; and

21 (3) assessing initiatives in other countries to in-
22 crease rare earth metals production capabilities.

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