

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 4402) 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 10, 2012.—Referred to the House Calendar and ordered to be printed

Mr. BISHOP of Utah, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 726]

The Committee on Rules, having had under consideration House Resolution 726, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 4402, the National Strategic and Critical Minerals Production Act of 2012, under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Natural Resources. The resolution waives all points of order against consideration of the bill. The resolution makes in order as original text for purpose of amendment the amendment in the nature of a substitute consisting of the text of Rules Committee Print 112-26 and provides that it shall be considered as read. The resolution waives all points of order against the amendment in the nature of a substitute made in order as original text. The resolution makes in order only those amendments printed in this report. Each such amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The resolution waives all points of order against the amendments printed in this report. Finally, the resolution provides one motion to recommit with or without instructions.

EXPLANATION OF WAIVERS

Although the resolution waives all points of order against consideration of the bill, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

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COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 330

Motion by Mr. McGovern to report an open rule. Defeated: 4–8

Majority Members	Vote	Minority Members	Vote
Mr. Sessions	Nay	Ms. Slaughter	Yea
Ms. Foxx	Nay	Mr. McGovern	Yea
Mr. Bishop of Utah	Nay	Mr. Hastings of Florida	Yea
Mr. Woodall	Nay	Mr. Polis	Yea
Mr. Nugent	Nay		
Mr. Scott of South Carolina	Nay		
Mr. Webster	Nay		
Mr. Dreier, Chairman	Nay		

Rules Committee record vote No. 331

Motion by Mr. McGovern to make in order and provide the appropriate waivers for amendment #8, offered by Rep. Bonamici (OR), Rep. Waters (CA), Rep. Berman (CA) and Rep. Moran (VA), which would prohibit issuance of mineral exploration or mine permit under the Act to a person found to be in violation of Sections 13(p) or 13(q) of the Securities and Exchange Act of 1934, regarding trafficking in conflict minerals. Defeated: 4–8

Majority Members	Vote	Minority Members	Vote
Mr. Sessions	Nay	Ms. Slaughter	Yea
Ms. Foxx	Nay	Mr. McGovern	Yea
Mr. Bishop of Utah	Nay	Mr. Hastings of Florida	Yea
Mr. Woodall	Nay	Mr. Polis	Yea
Mr. Nugent	Nay		
Mr. Scott of South Carolina	Nay		
Mr. Webster	Nay		
Mr. Dreier, Chairman	Nay		

SUMMARY OF THE AMENDMENTS MADE IN ORDER

1. Tonko (NY): Would narrow the scope of the underlying bill to include strategic and critical minerals only. (10 minutes)

2. Hastings, Alcee (FL): Would give the lead agency, in the event of new or unforeseen information, the authority to extend by two six-month periods the arbitrary 30 month time limit the bill imposes on permit approval. (10 minutes)

3. Markey, Edward (MA): Would require a royalty payment of 12.5% of the value of hardrock minerals mined on federal lands. Revenue generated by the royalty payment would be dedicated to cleaning up abandoned hardrock mines. (10 minutes)

4. Young, Don (AK): Would allow the lead agency, as established under this bill, to exempt existing Mineral Prescriptions for strategic and critical materials within federally administered national forests from the procedures detailed at and all rules promulgated under part 294 of title 36 of the Code of Federal Regulations. In addition, the amendment would extend this exemption to areas integral to access of the Mineral Prescriptions, and the construction, operation, maintenance, and restoration of any existing Mineral Prescriptions. (10 minutes)

5. Cravaack (MN): Would allow projects that have already applied for a permit access to the new expedited process under the bill. (10 minutes)

6. Hastings, Alcee (FL): Would create an exception for non-profit entities and individuals from the outright elimination (found in Section 205 of H.R. 4402) of the shifting of attorneys' fees pursuant to the Equal Access to Justice Act. (10 minutes)

7. Grijalva, Raúl (AZ): Would exempt from the bill any mineral exploration or mining permit a lead agency determines would diminish opportunities for hunting, fishing, grazing, or recreation on public lands. By protecting the status of hunting, fishing, grazing and other recreational uses on federal lands, the amendment will guarantee that the multiple use mandate for federal lands is not compromised by the underlying bill. (10 minutes)

TEXT OF AMENDMENTS MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE TONKO OF NEW YORK OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 3, beginning at line 7, strike paragraph (1) and insert the following:

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

(A) means—

(i) minerals and mineral groups identified as critical by the National Research Council in the report entitled “Minerals, Critical Minerals, and the U.S. Economy”, dated 2008; and

(ii) additional minerals identified by the Secretary of the Interior based on the National Research Council criteria in such report; and

(B) shall not include sand, gravel, or clay.

Page 4, strike lines 1 through 6 and insert the following:

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

(A) means a mineral exploration or mine permit for strategic and critical minerals; and

(B) includes any plan of operation for strategic and critical minerals that is issued by the Bureau of Land Management and the Forest Service.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HASTINGS OF FLORIDA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 7, strike lines 8 through 10 and insert the following:

(e)(1) In no case should the total review process described in subsection (d) exceed 30 months unless—

(A) agreed to by the signatories of the agreement, or

(B) the lead agency has determined that an adequate review has not been completed due to issues arising not contained in the permit application or otherwise unforeseen by the signatories at the time of submittal of the permit application.

(2) In a case described in paragraph (1)(B)—

(A) the lead agency may extend the total review process by 6 months;

(B) if, at the end of that 6-month period, the issues referred to in paragraph (1)(B) have not been adequately addressed, the lead agency may extend the total review process by an additional 6 months;

(C) if at the end of that additional 6-month period the issues referred to in paragraph (1)(B) have not been adequately addressed, the lead agency shall issue its final determination on the permit application.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MARKEY OF MASSACHUSETTS OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 7, after line 22, insert the following new subsection:

(h) The lead agency with responsibility for issuing a mineral exploration or mine permit for hardrock minerals on Federal land after the date of enactment of this Act shall require a royalty payment of 12.5 percent of the value of the minerals produced pursuant to the permit. Amounts received by the United States as such royalties shall be available to the Secretary of the Interior, subject to the availability of appropriations and in addition to amounts otherwise available, for abandoned hardrock mine lands reclamation.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE YOUNG OF ALASKA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 7, after line 22, insert the following:

(h) With respect to strategic and critical materials within a federally administered unit of the National Forest System, the lead agency shall—

(1) exempt all areas of identified mineral resources 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 procedures detailed at and all rules promulgated under part 294 of title 36, Code of Federal Regulations;

(2) apply such exemption to all additional routes and areas that the lead agency finds necessary to facilitate 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 approval of the Minerals Plan of Operations for the unit of the National Forest System.

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CRAVAACK OF MINNESOTA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 7, after line 22, insert the following:

(h) 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.

6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HASTINGS OF FLORIDA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 10, line 4, before “Sections” insert “(a) IN GENERAL.—”.

Page 10, after line 9, add the following:

(b) LIMITATION ON APPLICATION.—Subsection (a) does not apply to a covered civil action filed by—

(1) a not-for-profit organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; or

(2) an individual.

7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GRIJALVA OF ARIZONA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Add at the end the following:

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. PROTECTION OF HUNTING, FISHING, GRAZING, AND RECREATION.

This Act shall not apply with respect to any mineral exploration or mining permit a lead agency determines would diminish opportunities for hunting, fishing, grazing, or recreation on public lands.