

NATIONAL STRATEGIC AND CRITICAL MINERALS POLICY  
ACT OF 2011

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OCTOBER 14, 2011.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

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Mr. HASTINGS of Washington, from the Committee on Natural  
Resources, submitted the following

R E P O R T

[To accompany H.R. 2011]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2011) to require the Secretary of the Interior to conduct an assessment of the capability of the Nation to meet our current and future demands for the minerals critical to United States manufacturing competitiveness and economic and national security in a time of expanding resource nationalism, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “National Strategic and Critical Minerals Policy Act of 2011”.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) the availability of minerals and metals is essential for economic growth, national security, technological innovation, and the manufacturing and agricultural supply chain;

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

(3) the industrialization of China and India has driven demand for nonfuel mineral commodities, sparking a period of resource nationalism exemplified by China’s reduction and stoppage of exports of rare-earth mineral elements necessary for telecommunications, military technologies, medical devices, agricultural production, and renewable energy technologies;

(4) the United States has vast mineral resources but is becoming increasingly dependent upon foreign sources;

(5) 25 years ago the United States was dependent on foreign sources for 30 nonfuel mineral materials, 6 of which were entirely imported to meet the Nation's requirements and another 16 of which were imported to meet more than 60 percent of the Nation's needs;

(6) by 2010, United States import dependence for nonfuel mineral materials more than doubled from 30 to 67 commodities, 18 commodities were imported entirely to meet the Nation's requirements, and another 25 commodities required imports of more than 50 percent;

(7) the United States lacks a coherent national policy to assure the availability of minerals essential to manufacturing, national economic well-being and security, agricultural production, and global economic competitiveness; and

(8) the Nation's ability to compete and innovate requires proper planning and preparation today to meet tomorrow's mineral needs.

**SEC. 3. CONGRESSIONAL DECLARATION OF POLICY.**

(a) **IN GENERAL.**—It is the continuing policy of the United States to promote an adequate and stable supply of minerals to maintain our Nation's economic well-being, security, and manufacturing, industrial, energy, agricultural, and technological capabilities.

(b) **POLICY GOALS.**—Implementation of the policy set forth in subsection (a) requires that the Federal Government coordinate the Federal departments and agencies responsible for ensuring that supply, to—

(1) facilitate the availability, development, and production of domestic mineral resources to meet national needs, including the demands of the Nation's manufacturing and agricultural industries;

(2) promote and encourage the development of economically and environmentally sound, safe, and stable domestic mining, minerals, metals, processing, and minerals recycling industries;

(3) establish an assessment capability for identifying the mineral demands, supply, and needs of our Nation; and

(4) minimize duplication, needless paperwork, and delays in the administration of Federal and State laws and regulations, and issuance of permits and authorizations necessary to explore, develop, and produce minerals and construct and operate mineral-related facilities.

**SEC. 4. SECRETARY OF THE INTERIOR REPORT ON ACCESS AND AUTHORIZATIONS FOR MINERAL DEVELOPMENT.**

(a) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior, through the Bureau of Land Management and the United States Geological Survey, and in consultation with the Secretary of Agriculture (through the Forest Service Mineral and Geology Management Division), the Secretary of Defense, the Secretary of Commerce, and the heads of other appropriate Federal agencies, shall prepare, submit to Congress, and make available to the public a report that includes—

(1) an inventory of the nonfossil-fuel mineral potential of lands under the jurisdiction of the Bureau of Land Management and the Forest Service and an identification of all such lands that have been withdrawn, segregated, or otherwise restricted from mineral exploration and development;

(2) an assessment of—

(A) the mineral requirements to meet current and emerging national security, economic, industrial manufacturing, technological, agricultural, and social needs;

(B) the Nation's reliance on foreign sources to meet those needs; and

(C) the implications of mineral supply shortages or disruptions;

(3) a detailed description of the time required to process mineral applications, operating plans, leases, licenses, permits, and other use authorizations for mineral-related activities on lands under the jurisdiction of the Bureau of Land Management and the Forest Service, and identification of measures that would streamline the processing of such applications, such as elimination of overlapping requirements or set deadlines;

(4) an itemized list of all use authorizations referred to in paragraph (3) for which applications are pending before the Bureau of Land Management and the Forest Service, and the length of time each of those applications has been pending;

(5) an assessment of the impact of litigation on processing or issuing mineral exploration and mine permits, identification of the statutes the litigation was brought under, and the cost to the agency or the Federal Government, including for payments of attorney fees;

(6) an update of the 2009 Economic Impact of the Department of the Interior's Programs and Activities report to include locatable minerals;

(7) an assessment of the Federal workforce with educational degrees and expertise in economic geology, geochemistry, mining, industrial minerals, metallurgy, metallurgical engineering, and mining engineering, including—

(A) retirement eligibility and agency plans for retention, recruitment, and succession planning;

(B) comparison of the existing Federal salaries and recruitment and retention bonuses with the salaries, recruitment incentives, and retention packages normally offered in the mineral industry; and

(C) examination of the differences between Federal and private financial packages for early-, mid-, and late-career workers; and

(8) an inventory of rare earth element potential on the Federal lands, and impediments or restrictions on the exploration or development of those rare earth elements, and recommendations to lift the impediments or restrictions while maintaining environmental safeguards.

(b) **PROGRESS REPORTS.**—Not later than one year after the date of enactment of this Act, and each year thereafter for the following two years, the Secretary of the Interior shall submit to Congress and make available to the public a report that describes the progress made in reaching the policy goals described in section 3(b), including—

(1) efforts to increase access to domestic supplies of minerals, and facilitation of their production; and

(2) implementation of recommendations contained in—

(A) the National Research Council reports—

(i) Minerals, Critical Minerals, and the U.S. Economy;

(ii) Managing Minerals for a Twenty-First Century Military; and

(iii) the current workforce study authorized in sections 385 and 1830 of the Energy Policy Act of 2005 (119 Stat. 744, 1137);

(B) the Department of Energy Critical Minerals Strategy I and II; and

(C) the Department of Defense assessment and plan for critical rare earth elements in defense applications required under section 843 of the National Defense Appropriations Act for Fiscal Year 2011.

#### **SEC. 5. NATIONAL MINERAL ASSESSMENT.**

For the first National Mineral Assessment conducted after the date of enactment of this Act, the United States Geological Survey shall include mineral assessments for those mineral commodities important to the Nation's energy infrastructure, manufacturing and agricultural industries, and to the national defense. Priority should be given to minerals that are critical based on the impact of a potential supply restriction and the likelihood of a supply restriction.

#### **SEC. 6. GLOBAL MINERAL ASSESSMENT.**

The United States Geological Survey is directed to expand the current Global Mineral Assessment to include mineral assessments for rare earth elements and other minerals that are critical based on the impact of a potential supply restriction and the likelihood of a supply restriction. Assessments conducted under this section shall include an analysis, developed with participation by the National Minerals Information Center and in consultation with appropriate agencies, of the rare earth elements or other critical minerals supply chain and associated processes and products, including mining, processing, recycling, separation, metal production, alloy production, and manufacturing of products sold to end users. In conducting the assessment, the United States Geological Survey should coordinate with the heads of foreign geologic surveys when possible.

#### **SEC. 7. DEFINITIONS.**

In this Act—

(1) **INVENTORY.**—The term “inventory” means an accounting of known mineral occurrences and mineral deposits, including documentation of identified resources.

(2) **MINERAL ASSESSMENT.**—The term “mineral assessment” means an assessment of undiscovered mineral resources that includes a qualitative assessment and a quantitative assessment of such resources.

(3) **QUALITATIVE ASSESSMENT.**—The term “qualitative assessment” means a geologic-based delineation (mapping) of areas permissive for the occurrence of undiscovered mineral resources, based on all available geotechnical data including geology, geophysics, geochemistry, remote sensing, and mineral localities data.

(4) **QUANTITATIVE ASSESSMENT.**—The term “quantitative assessment” means a probabilistic estimate of the quantity and quality by tonnage and grade of undiscovered mineral resources in areas delineated as permissive for occurrence in a qualitative assessment.

**SEC. 8. APPLICABILITY OF OTHER STATUTORY MINING POLICIES.**

Nothing in this Act shall be construed as affecting any provision of or requirement under the Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a).

Amend the title so as to read:

A bill to require the Secretary of the Interior to conduct an assessment of the capability of the Nation to meet our current and future demands for the minerals critical to United States manufacturing and agricultural competitiveness and economic and national security in a time of expanding resource nationalism, and for other purposes.

**PURPOSE OF THE BILL**

The purpose of H.R. 2011, as ordered reported, is to require the Secretary of the Interior to conduct an assessment of the capability of the Nation to meet our current and future demands for the minerals critical to United States manufacturing and agricultural competitiveness and economic and national security in a time of expanding resource nationalism.

**BACKGROUND AND NEED FOR LEGISLATION**

Strategic and critical minerals are essential to our economy, livelihood and national security. Renewable energy, national defense equipment, agriculture and everyday items such as televisions, telephones, computers and light bulbs are all dependent on minerals. Currently the United States relies on foreign sources for a majority of our non-fuel mineral materials and, according to the United States Geological Survey, is 100 percent dependent on foreign sources for rare earth minerals.

Mining of mineral resources creates tangible value, introducing new money into the Nation's economic system. Additional tangible value is added to the raw mined product through manufacturing, construction, and other uses. Harvesting domestic mineral resources contributes to local economies, and to the Nation's overall economic security.

According to the National Research Council, one of the primary advantages the United States possesses over its strongest industrial competitors is its domestic resource base. The United States is among the world's largest producer of many important metals and minerals, particularly copper, gold, lead, molybdenum, silver, and zinc; and it still has substantial domestic reserves of these metals. Yet U.S. mineral exploration stagnated or declined during most of the 1990s and 2000s while global mineral exploration trends were strongly positive.

In the early 1990s, the U.S. received 20 percent of the worldwide exploration budget; today it hovers around eight percent. Without increased domestic exploration, significant declines in U.S. mineral production are unavoidable as current reserves are exhausted.

The lack of exploration expenditures and other factors has led to an increased import dependency for non-fuel mineral materials. For example, 25 years ago the United States was dependent on foreign sources for 30 non-fuel mineral materials, six of which were entirely imported to meet the Nation's requirements and another 16 of which were imported to meet more than 60 percent of the Nation's needs. By 2010, U.S. import dependence for non-fuel mineral materials more than doubled from 30 to 67 commodities: 18 commodities were imported entirely to meet the Nation's requirements,

and another 25 commodities required imports of more than 50 percent.

Factors contributing to the decline in domestic mineral exploration activities and other downward trends in the domestic mining industry during the late 1990s are directly related to the regulatory and administrative changes made during that time, including revisions to the 3809 Regulations and the Millsite and Ancillary Use Opinions.

Working through the permitting process also became more cumbersome, as federal and state agencies with land management and regulatory responsibilities over mineral exploration and development projects worked at cross purposes to one another. Legal challenges to Records of Decision by anti-mining groups also contributed to the delays and uncertainties in obtaining the necessary permits for exploration and development. Because of these impediments, the United States is ranked 25th out of 25 major mining countries in permitting, averaging 7 to 10 years for final approval.

Currently the United States lacks a coherent national policy to assure domestic availability of minerals essential for national economic well-being, national security, and global economic competitiveness. H.R. 2011 will help remedy this by providing essential facts to help us strengthen and improve our national mineral policy.

#### COMMITTEE ACTION

H.R. 2011 was introduced on May 26, 2011, by Congressman Doug Lamborn (R-CO). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Energy and Mineral Resources. On June 3, 2011, the Subcommittee on Energy and Mineral Resources held a hearing on the bill. On July 20, 2011, the Natural Resources Committee met to consider the bill. The Subcommittee on Energy and Mineral Resources was discharged by unanimous consent. Congressman Steve Southerland (R-FL) and Congresswoman Kristi Noem (R-SD) offered an amendment; the amendment was adopted by unanimous consent. Congressman Doug Lamborn (R-CO) offered an amendment; the amendment was adopted by unanimous consent. The bill, as amended, was then ordered favorably reported to the House of Representatives by unanimous consent.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

This Act may be cited as the “National Strategic and Critical Minerals Policy Act of 2011.”

##### *Section 2. Findings*

The bill includes the following findings: The industrialization of China and India has driven demand for nonfuel mineral commodities, sparking a period of resource nationalism exemplified by China’s reduction and stoppage of exports of rare-earth mineral elements necessary for telecommunications, military technologies, medical devices, agricultural production, and renewable energy technologies. The availability of minerals and metals is essential for economic growth, national security, technological innovation,

agriculture, and the manufacturing supply chain. Exploration, production, processing, use, and recycling of minerals contribute significantly to the economic well-being, security, and general welfare of the Nation.

*Section 3. Congressional declaration of policy*

It is the continuing policy of the United States to promote an adequate and stable supply of minerals to maintain our Nation's economic well-being, security, and manufacturing, industrial, energy, agricultural, and technological capabilities.

*Section 4. Secretary of the Interior report on access and authorizations for mineral development*

Subsection (a) directs the Secretary of the Interior to coordinate a government-wide inventory of the Nation's non-fuel mineral resources and to identify any restrictions that may inhibit development of the resources required to meet current and future strategic and critical mineral needs.

These requirements are similar to Section 604 of the Energy Policy and Conservation Act of 2000 (EPCA), as amended by Section 364 of the Energy Policy Act of 2005, which required an inventory of all onshore federal lands to identify U.S. Geological Survey (USGS) estimates of the oil and gas resources underlying federal lands and the extent and nature of any restrictions or impediments to the development of the resources.

The Department of the Interior owns the analytical tools developed for the EPCA studies and can use those tools to implement these provisions.

Subsection (a) further requires the Secretary of the Interior to evaluate factors impacting domestic mineral development, including workforce, access, permitting and duplicative regulatory requirements, as well as identify areas for improvement.

The section directs the Secretary of the Interior to assemble the report within six months to include a specific inventory of the rare earth element potential on federal lands, impediments or restrictions on the exploration or development of rare earth elements, and recommendations to lift the impediments or restrictions while maintaining environmental safeguards.

Finally, the section requires an annual progress report, beginning one year after the date of enactment of the Act, for the following two years, outlining the progress made in reaching the policy goals described in the bill and National Research Council, Department of Energy and Department of Defense reports on aspects of domestic mineral policy.

*Section 5. National Mineral Assessment*

USGS is currently developing models to be used in its upcoming National Mineral Assessment scheduled to begin in Fiscal Year 2013. This section provides guidance to USGS on what mineral commodities to focus on for the upcoming planned assessment.

*Section 6. Global Mineral Assessment*

USGS is currently working on a Global Mineral Assessment. This section directs USGS to expand its Global Mineral Assessment to include "rare earth elements and other minerals that are critical

based on the impact of a potential supply restriction and the likelihood of a supply restriction.”

*Section 7. Definitions*

This section defines the following terms: “inventory,” “mineral assessment,” and the components of a “mineral assessment”—“qualitative assessment” and “quantitative assessment.” These definitions were included to clarify the requirements of Sections 4, 5 and 6.

*Section 8. Applicability of other statutory mining policies*

This section declares that this Act will not affect any provision of the Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a).

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources’ oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

*H.R. 2011—National Strategic and Critical Minerals Policy Act of 2011*

Summary: H.R. 2011 would require the Secretary of the Interior to assess the capability of the United States to meet the demand for certain minerals used for manufacturing, agricultural, and national security purposes. The bill also would require the Secretary to complete a comprehensive report related to domestic production of certain minerals.

Based on information provided by the United States Geological Survey (USGS) and the Bureau of Land Management (BLM), CBO estimates that implementing the legislation would cost \$18 million over the 2012–2016 period, assuming appropriation of the necessary amounts. Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 2011 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2011 is shown in the following table. The costs

of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	2012	2013	2014	2015	2016	2012–2016
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Mineral Assessments:						
Estimated Authorization Level .....	3	3	3	3	3	15
Estimated Outlays .....	3	3	3	3	3	15
Mineral Report:						
Estimated Authorization Level .....	1	1	1	0	0	3
Estimated Outlays .....	1	1	1	0	0	3
Total Proposed Changes:						
Estimated Authorization Level .....	4	4	4	3	3	18
Estimated Outlays .....	4	4	4	3	3	18

**Basis of estimate:** For this estimate, CBO assumes that the legislation will be enacted near the end of 2011 and that the necessary amounts will be appropriated for each fiscal year. Estimated outlays are based on historical spending patterns for similar USGS activities.

H.R. 2011 would require USGS to expand its ongoing global mineral assessment and its upcoming national mineral assessment to include certain minerals used for manufacturing, agricultural, and national security purposes. USGS began working on the global assessment in 2001, it will include assessments of three mineral commodities, and will be completed in 2012 under current law. The bill would require the agency to complete a global assessment of at least six additional commodities. Based on information from the agency regarding the cost and time required to complete the ongoing global assessment, CBO estimates that expanding that assessment would cost about \$3 million a year over the next 10 years and \$15 million over the 2012–2016 period. Those amounts would be used to pay for additional staff, contract costs, and international travel.

The bill also would require the Department of the Interior to gather data related to mineral production from multiple federal agencies and to complete a report that would be updated annually through 2014. Based on information regarding the costs of similar activities and assuming appropriation of the necessary amounts, CBO estimates that implementing this provision would cost about \$1 million a year over the 2012–2014 period. Those amounts would be used to develop data tracking systems and to hire additional staff to gather, input, analyze, and update the data.

**Pay-As-You-Go considerations:** None.

**Intergovernmental and private-sector impact:** H.R. 2011 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

**Estimate prepared by:** Federal costs: Jeff LaFave; Impact on state, local, and tribal governments: Melissa Merrell; Impact on the private sector: Amy Petz.

**Estimate approved by:** Peter H. Fontaine, Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representa-



tives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new credit authority, or an increase or decrease in revenues or tax expenditures. Based on information provided by the United States Geological Survey and the Bureau of Land Management, CBO estimates that implementing the legislation would cost \$18 million over the 2012–2016 period, assuming appropriation of the necessary amounts. Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

3. General Performance Goals and Objectives. This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

#### EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

#### COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

#### PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

#### CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

