U.S. Chamber of Commerce

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Submitted via Regulations.gov

Mr. James Mosley
U.S. Geological Survey
2201 Sunrise Valley Dr.
Reston, VA 20192

Re: 2021 Draft List of Critical Minerals, 86 FR 62199 (Nov. 9, 2021); Docket No. DOI-2021-0013-0002

Dear Mr. Mosley:

The U.S. Chamber of Commerce ("the Chamber") appreciates the opportunity to comment on the U.S. Geological Survey's (USGS) 2021 Draft List of Critical Minerals.

Critical minerals are fundamental components to many emerging and important U.S. industries, including defense, aerospace, renewable energies, semiconductors, electric vehicles, medical equipment, and consumer goods. The U.S. previously led the world in the production and processing of certain critical minerals, but today we rely on certain countries for most of our supply. The Chamber's membership includes companies across the strategic and end-to-end critical mineral supply chain, including those involved in exploration, extraction, processing, end-product manufacturing, and recycling. Our comments are informed by this cross-sector perspective and underscore the importance of a robust critical mineral strategy.

The Chamber is committed to working with the Administration to promote common sense policies that will enable the U.S. and its allies to maintain a resilient strategic and critical mineral supply chain through a more robust approach to designating, producing, and processing critical minerals.

With regards to the draft list, we suggest that while reviewing methods for designation and overall policy towards critical minerals, the USGS take the following suggestions into account:

Ensure That Critical Minerals Designations Are Appropriately Broad, and That the Designation Process Includes Consideration of Strategic Minerals and Their Applications. While the new draft list of critical minerals takes an important step in including minerals such as nickel, zinc, and potash, it still fails to include minerals such as copper, silver, gold, and molybdenum that are also essential to many industries critical to the U.S. economy. Among these, copper stands out in particular due to its importance in the development of electric vehicles and other clean energy technologies that are expected to lead to significantly increased

demand over the next decade, as well as its unique properties that make at least four other critical minerals byproducts of copper extraction.[1]

When copper was not designated in the original 2018 list, its economic significance was acknowledged. However, copper was not listed due to the "combination of domestic reserves and reliable foreign sources adequate to meet foreseeable domestic consumption."[2]

This exclusion turned out to be shortsighted. Supply chain vulnerabilities exposed by the COVID-19 pandemic—paired with the growing demand forecasts for copper associated with electric vehicle and other clean energy goals—illustrate that a critical minerals designation and a subsequent strategic plan to ensure secure and reliable supplies are both warranted.

A May 2021 IEA report on "The Role of Critical Minerals in Clean Energy Transitions" estimated that copper demand for electric grid lines will more than double by 2040, and noted that the "response from policy makers and companies will determine whether critical minerals remain a vital enabler for clean energy transitions or become a bottleneck in the process."[3]

The U.S. government should advance the broader conversation and address minerals based on their importance to – and applications for - certain products, as well as their ability to serve as gateways to other critical mineral co-products.

Fund Critical Mineral-related Research. The Administration should continue to work with Congress to build on recent funding for initiatives authorized in Title VII of the Energy Act of 2020 and other programs that will develop a robust domestic strategic and critical mineral sector to include increasing mapping availability for U.S. production.[4] In particular, the Chamber appreciates strong support included in the recently passed Infrastructure Investment and Jobs Act to begin addressing these challenges, including $320 million for the Earth Mapping Resources Initiative at USGS, as well as funding to ensure mine waste is catalogued and characterized for the occurrence of critical minerals. We also look forward to working with the Administration on implementation of an IIJA pilot program at the Department of Energy providing $100 million for projects that process, recycle, or develop critical minerals.

Permitting Reform. The federal government must reduce the delays and uncertainties associated with the permitting process to approve critical mineral mining projects and infrastructure. In particular, the Administration should focus on implementation of the National Environmental Policy Act (NEPA) and careful consideration of any changes to the 2020 NEPA regulations, which made important reforms to the NEPA process. Some provisions are being

[1] McGroarty, Daniel. (2018). Department of the Interior Comment on FR Doc 2018-03219: Primary minerals, gateways & co-products: articulated chart of DOI's 35 critical minerals. Comment DOI-2018-0001-0303.
[2] https://www.federalregister.gov/documents/2018/05/18/2018-10667/final-list-of-critical-minerals-2018
[3] IEA, World Energy Outlook Special Report, "The Role of Critical Minerals in Clean Energy Transitions." May 2021
[4] Energy Act of 2020. https://science.house.gov/imo/media/doc/Energy%20Act%20of%202020.pdf

reintroduced in legislation like the American Critical Mineral Independence Act.[5] The Administration should also look at ways to advance bipartisan legislation like the House's Reclaiming American Rare Earths (RARE) Act that includes important permitting reforms.[6]

Promote Investment in Domestic Supply Chains. The Administration should support legislation that promotes the ability of U.S. companies to successfully enter the strategic and critical minerals market through pilot projects, tax incentives for the purchase or acquisition of critical minerals extracted from deposits in the U.S. and U.S.-licensed deposit areas, and allowances for property used for mining and processing. The Administration should also support policies that address multipliers for products that were extracted, refined, or processed, and manufactured in the U.S. This would decrease the cost of capital for companies across the value chain.

Pursue a Multilateral Effort to Diversify Supply Chains. The Administration should work with allies to develop cooperative agreements and use the National Technology and Industrial Base (NTIB) statutes to encourage close allies and partner nations to become producers of strategic and critical mineral. Countries might include the European Union, Australia, Canada, the U.K., New Zealand, Japan, South Korea, and others rich in minerals like South Africa and Argentina.[7] The Department of Commerce explicitly addressed cooperation in its Critical Minerals Strategy, but further international engagement on the issue is needed.[8]

Promote Environmentally Sound Domestic Production. The federal government should openly support and broadcast the importance of environmentally sound domestic U.S. mining as a key pillar to securing a critical material supply chain. Given America's vast supply of mineral sands and carbon-based resources, we should increase focus on feedstocks associated with recycling and reprocessing mineral sands and coal-based waste and byproducts, as well as waste permanent magnets and lithium ion batteries. This could serve the dual purpose of restoring and establishing a sustainable, domestic supply chain while at the same time bringing real, feasible solutions to existing environmental challenges and revitalizing regions of the country that will be most severely impacted by the trend of transitioning away from fossil fuels.

Streamline Review of Investment from Trusted Nations. Congress gave the Committee on Foreign Investment in the United States (CFIUS) the ability to streamline its review process to allow companies from trusted nations to undertake investment in sensitive sectors, including critical minerals mining and refinement. However, CFIUS has yet to use this authority to establish such a streamlined process. The Chamber believes it is important that foreign investment from trusted nations be encouraged to make investments in exploration, mining, and metallurgical technologies.

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[5] American Critical Mineral Independence Act. https://republicansscience.house.gov/sites/republicans.science.house.gov/files/american_critical_mineral_independence_act.pdf

[6] Reclaiming American Rare Earths (RARE) Act. https://www.congress.gov/bill/117th-congress/house-bill/2688

[7] South Africa currently supplies about 70% of the global iridium mine supply. Demand for iridium has risen significantly due to its applicability in the electrical and electrochemical sector and its use to support key technologies like 5G and medical devices.

[8] U.S. Department of Commerce. Critical Minerals Strategy. https://www.commerce.gov/sites/default/files/2020-01/Critical_Minerals_Strategy_Final.pdf

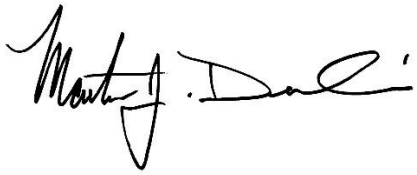
Invest in Deep-Sea Mineral Extraction. The U.S. should support investment in additional processing capabilities and provide research and development incentives to support environmentally responsible deep-sea minerals extraction, including polymetallic nodules, as part of the strategic and critical mineral supply chain. The U.S. should closely examine opportunities for the use of renewable energy and seawater to support the development of environmentally sound processing capabilities.

Preserve Access to Foreign Markets. While geopolitical relationships with some countries may be complex and even tenuous at times, access to these countries' markets is critical for U.S. companies. The Chamber requests that the Administration take a measured approach that focuses on diversification of supply chains, rather than decoupling.[9]

While we appreciate the USGS's willingness to refine the system used for designating critical minerals, we believe the agency's overall approach should be informed by a holistic and meaningful policy rationale, and should not be unduly confined by an overly strict adherence to a single methodology for designation (as no methodology, however complex, can appropriately account for all relevant factors). Designations should be aimed at protecting the American economy and supply chain as broadly as possible. The Administration should focus strongly on driving immediate as well as long-term increases in responsible domestic mineral production and ensuring the availability of foreign markets. Among other things, we strongly believe that America's overall policy goals in this area are best served by expanding critical minerals designations to include minerals not currently listed, whose use and byproducts are imperative to industries such as clean energy, technology, medicine, defense, and aerospace.

Thank you for considering our comments.

Sincerely,



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