



**ESSENTIAL
MINERALS**
ASSOCIATION

Permitting Reform



Our nation's permitting system is broken and in need of reforms that will create a stronger domestic minerals supply chain by allowing for greater surety in the ability to develop mineral deposits in the United States. This will lead to more onshoring of manufacturing jobs, particularly if done in combination with strategically developing more processing operations near mineral deposits.

Place proper parameters on judicial review and litigation

- Place parameters of when an approved mining project can be litigated and by whom to prevent projects from languishing for years or decades in costly litigation.
- Use an administrative law board to review permitting complaints. The board would meet regularly throughout the year and rule on all cases within 60 days of hearing.

Legislate SCOTUS Seven Counties decision into law

- Amend NEPA to limit scope of agencies' reviews to only those factors that are within their authority and ability to change.
- Bring definition of "reasonably foreseeable" in line with SCOTUS decision.
- Clarify that impacts far upstream and/or downstream of the actual project are not to be included in review.
- Reaffirm Congress' original intent that NEPA is intended as a process statute, not a roadblock to stop projects.

Prevent a new administration from arbitrarily revoking a permit approved by a prior administration

Permitting reform should expressly prohibit permitting agencies from engaging in political gamesmanship and should instead require the agencies to stand behind their own permitting decisions so that operators can move forward confidently and allocate resources to construct and open mining projects.

Reformat Critical Minerals List

- Merge DOE and DOI lists and require both agencies to make identical information available on public websites and in official communications.
- Create tiers within the new singular list according to priority of mineral as well as domestic deposits of those resources.
- Provide corresponding higher levels of priority and more streamlined permitting processes for minerals in each tier beyond the current deadlines imposed in the Fiscal Responsibility Act.

Reform National Historic Preservation Act (Section 106)

The consultation process under Section 106 of the National Historic Preservation Act (NHPA) is frequently a source of delay and inefficiency for EMA members attempting to provide essential mineral resources necessary for everyday life. EMA advocates for streamlining the Section 106 consultation process and place appropriate parameters on the direct and indirect areas of potential effects.

Modernize the Endangered Species Act

- Eliminate the use of the “blanket 4(d)” rule that allows agencies to place same protections on a threatened species as are used for endangered species.
- Clarify definitions of “habitat” and “critical habitat” to match those in regulations enacted by FWS in 2019-2020.
- Update Section 7 consultation process to match regulations from 2019-2020.

Who is EMA?

EMA is a trade association that represents more than 100 companies that mine, process, or provide services to the minerals industry. These companies produce or process roughly 50 different minerals throughout North America at over 270 facilities. These minerals are the raw material feedstock vital for our country’s manufacturing needs. Virtually every product you use today relies heavily on these minerals.

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