

New Executive Order Benefits Mining and Mineral Processing Companies

On September 30, 2020, President Trump signed Executive Order (EO) [13953](#) (85 Fed. Reg. 62,539 (Oct. 5, 2020)), entitled “Addressing the Threat to the Domestic Supply Chain from Reliance on Critical Minerals from Foreign Adversaries.” This EO builds upon EO [13817](#) (82 Fed. Reg. 60,835 (Dec. 26, 2017)), entitled “A Federal Strategy to Secure and Reliable Supplies of Critical Minerals.” EO 13817 required the Secretary of the Interior to:

1. identify minerals “critical” to the national defense and economy,
2. increase activity at all levels of the supply chain for such critical minerals, and
3. streamline leasing and permitting processes. On May 18, 2018 (83 Fed. Reg. 23,295), the U.S. Department of the Interior (DOI) published a final [list](#) of 35 critical minerals.

EO 13953 states the broad goal of the United States “enhanc[ing] its mining and processing capacity, including for minerals not identified as critical minerals and not included within the national emergency declared in this order.” (emphasis added). According to the EO, “a stronger domestic mining and mineral processing industry fosters a healthier and faster-growing economy for the United States,” with mining and mineral processing “provid[ing] jobs to hundreds of thousands of Americans whose daily work allows our country and the world to ‘Buy American’ for critical technology.”

The EO sets a number of ambitious deadlines, including:

- Within 30 days, each head of a relevant agency must prepare a report identifying all legal authorities and appropriations that the agency can use to meet the goal of “prioritiz[ing] the expansion and protection of the domestic supply chain for minerals and the establishment of secure critical minerals supply chains.”
- Within 60 days, the Secretary of the Interior must prepare a report evaluating the United States’ “undue reliance on critical minerals, in processed and unprocessed form, from foreign adversaries.”
- Within 60 days, the Director of the Office of Science and Technology Policy must prepare a report “describ[ing] the current state of research and development activities undertaken by the Federal Government that relate to the mapping, extraction, processing, and use of minerals that identifies future research and development needs and funding opportunities to strengthen domestic supply chains for minerals.”

- **By January 1, 2021** (and every 180 days thereafter), the Secretary of the Interior must inform the President “of the threat posed by our Nation’s reliance on critical minerals, in processed and unprocessed form, from foreign adversaries and recommend any additional actions necessary to address that threat.”
- A requirement that the Secretary of Agriculture, the Secretary of Commerce, the Administrator of EPA, and the Secretary of the Army “use all available authorities to accelerate the issuance of permits and the completion of projects in connection with expanding and protecting the domestic supply chain for minerals.”
- A requirement that the Secretary of the Interior and the Administrator of EPA examine all available authorities of their respective agencies to “identify any such authorities that could be used to accelerate and encourage the development and reuse of historic coal waste areas, material on historic mining sites, and abandoned mining sites for the recovery of critical minerals.” (emphasis added).

Finally, EO 13953 amends EO 13817 with a requirement for DOI to periodically update its list of critical minerals “to reflect current data on supply, demand, and concentration of production, as well as current policy priorities.”

EO 13953 creates several opportunities for mining and mineral processing companies to advocate for favorable regulations that remove impediments to the mining and processing of their commodities and provides another opportunity to advocate to DOI for the expansion of the list of critical minerals to include minerals not presently identified as such.

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