



Policy Resolution 2022-08

National Minerals Policy

A. BACKGROUND

1. Federal lands account for as much as 86 percent of the land area in certain western states. These same states account for 75 percent of our nation's metals production. Few countries are as blessed with the abundance of minerals and metals as is the United States.
2. The Mining and Minerals Policy Act of 1970 formally recognized the importance of mining and domestic minerals production as a policy of the United States, including "the development of economically sound and stable domestic mining, minerals, metal and mineral reclamation industries," "the orderly and economic development of mineral resources ... to help assure satisfaction of industrial, security and environmental needs," "mining, mineral and metallurgical research," "... including the use and recycling of scrap to promote the wise and efficient use of our natural and reclaimable resources; the study and development of methods for the disposal, control and reclamation of mineral waste products, and the reclamation of mined land, so as to lessen adverse impacts of mineral extraction."
3. Access to domestic minerals is increasingly important to decrease our reliance on foreign sources. Twenty-five years ago, the United States was dependent on foreign sources for 45 nonfuel mineral materials. The U.S. imported 100 percent of the Nation's requirements for 8 of these and imported more than 50 percent of the Nation's needs for another 19. By 2014, U.S. import dependence for nonfuel mineral materials had risen significantly from 45 to 65 commodities. The United States imported 100 percent of the Nation's requirements for 19 of these, imported more than 50 percent of the Nation's needs for another 24.
4. A major factor contributing to the U.S. reliance on foreign sources of minerals is a duplicative and inefficient mine permitting system that discourages development of domestic resources. While processes have improved, it can take seven to 10 years in the United States to navigate this cumbersome federal process to bring a mine into production. The same process takes approximately two years in countries that have comparable environmental standards, such as Canada and Australia. Targeted reforms to the mine permitting system are necessary to ensure a domestic supply of minerals which is sufficient to meet the rapidly growing demand.
5. Ensuring timely access to domestic minerals will strengthen our economy and keep us competitive globally as demand for minerals continues to grow, especially for manufacturing and construction. Our antiquated and duplicative permitting process discourages investment and jeopardizes the growth of downstream industries, related jobs and technological innovation that all depend on a secure and reliable mineral supply chain. Permitting delays also impede the United States' ability to meet growing demand for consumer electronics and energy technologies – both of which require minerals and metals in their manufacture.

6. Transitioning to a renewable energy economy will require a 400 to 600 percent increase in the supply of critical minerals like lithium, graphite, cobalt and nickel, either from recycled sources or new mineral development. Expanding the new or recycled domestic supply and processing capacity for critical minerals is essential to increasing the supply of renewable energy technologies such as electric vehicle batteries, solar panels, and wind turbines. Critical minerals also have non-energy applications, and increasing demand for critical minerals in the energy sector has the potential to create scarcity in the supply chain for other sectors such as consumer electronics, causing price inflation.
7. As innovations continue to occur in defense and energy industries, it is imperative that we limit our reliance on foreign markets for the rare earth minerals that support a wide range of applications throughout these important sectors. Current opportunities exist to establish domestic end-to-end rare earth material mines, and priority should be given to identifying policies that minimize foreign dependence on rare earth minerals.
8. The Mining Law has provided the framework for developing hardrock minerals on the public lands. It has been supplemented by a large body of federal, state, tribal and local environmental and reclamation laws and regulations (including regulations promulgated by the federal land management agencies) to assure protection of the environment, wildlife and cultural resources during mineral exploration and development and to ensure reclamation of lands after active mining ceases. Supplements added to the existing framework for developing hardrock minerals on public lands should reflect, and respect, traditional understanding of jurisdiction.
9. The National Academy of Sciences' National Research Council, after a comprehensive review of these laws and regulations at the direction of the Congress, concluded that existing laws and regulations are "complicated but generally effective." It also identified "specific issues or 'gaps' in existing..." regulations intended to protect the environment."
10. Hardrock mining operations on both public and private lands in the western states are subject to federal environmental laws under both the U.S. Environmental Protection Agency (EPA) and the Army Corps of Engineers. In most states, the Clean Water Act, the Clean Air Act, the Toxic Substances Control Act, the Resource Conservation and Recovery Act, and the Safe Drinking Water Act are administered by state environmental agencies with oversight by EPA. Hardrock mining operations are also subject to regulatory programs for the protection of plants and wildlife, including the Endangered Species Act, the Migratory Bird Treaty Act, and the Bald Eagle Protection Act.
11. Furthermore, the modern hardrock mining industry is extensively regulated by the federal government on U.S. Bureau of Land Management- and U.S. Forest Service-administered lands. These regulations include review of the mining plan of operations, comprehensive permit, design, operations, closure, reclamation requirements, corrective action and financial assurance requirements, to ensure that the mining operations will not result in unnecessary or undue degradation of public lands.
12. The western states also extensively regulate hardrock mining operations on both private and public lands (state and federal), and uniformly impose permit and stringent design and operating standards, as well as financial assurances to ensure that hardrock mining operations are conducted in a manner that is protective of human health and the environment, and that, at closure, the mined lands are returned to a safe, stable condition for productive post-mining use.

13. Under the federal Mining Law, no royalties are owed to the federal or state governments for hardrock minerals extracted from federal public lands. However, such mining operations, which are most often located in rural areas lacking economic opportunities, can result in significant high-wage employment, royalties from private and state lands, increased state and local tax revenues and development of infrastructure necessary to support communities.

B. GOVERNORS' POLICY STATEMENT

1. Now is the time to build on the 1970 Mining and Minerals Policy Act with legislation and policies that will unlock our mineral potential to ensure access to the metals that are critical to U.S. economic and national security – providing vital base materials for electronics, telecommunications, satellites, aircraft, manufacturing and alternative energy technologies (particularly wind, solar, and electric vehicle batteries).
2. Western Governors recognize that the minerals mining industry is an important component to both local and national economies. Reliable supplies of minerals and metals play a critical role in meeting our economic and national security needs.
3. WGA commends efforts by the United States Geological Survey and state geological surveys to identify potential, critical minerals deposits for alternative energy technologies and other consumer products vital to modern society.
4. Congress, in consultation with the states, should develop a National Minerals Policy that truly enables mineral exploration and development in a manner that balances the nation's industrial and security needs with adequate protection of natural resources and the environment. Without reducing environmental or other protections afforded by current laws and regulations, any policy must address the length of the mine permitting process to ensure we can develop and provide the domestic resources that are critical to our national and economic security. Any policy should also take into account the potential impacts (including potential environmental effects) of mining operations and should maintain policies and procedures in place to mitigate any impacts.
5. A National Minerals Policy should address permitting delays, patenting, maintenance fees, an equitable government revenue mechanism, and the development of a clean-up fund and program for reclaiming abandoned hard rock mines. Relevant stakeholders, including the mining industry, should continue to work with Congress to determine the elements of a royalty system that is workable and fair.
6. New financial assurance requirements imposed upon the hardrock mining industry under Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Section 108(b) would duplicate or supplant existing and proven state financial assurance regulations in this area. This is of particular concern to the western states, because CERCLA is a non-delegable federal program that provides no opportunity for implementation through state environmental agencies. The western states have developed deep experience in mine permitting, regulation, and closure. Federal preemption of state bonding programs will threaten these effective state programs.
7. The federal government should take an active role, working with western states, in the development of national minerals policies that recognizes the importance of a domestic

supply of minerals for our country while also protecting water resources which are particularly sensitive to the impacts of mining.

8. Western Governors encourage the Council on Environmental Quality to pursue improvements to National Environmental Policy Act (NEPA) regulations and policies that will provide certainty and predictability in the NEPA process. Protracted completion of NEPA reviews and excessive NEPA litigation cause delays and impose unreasonable costs on a wide range of projects on federal lands. Western Governors support timely NEPA reviews and policies that provide clear guidance as to the scope of impacts of any major federal action. Reforming NEPA procedures is an important step toward securing a reliable, domestic source of critical minerals. Such NEPA reforms should also ensure that western states with significant amounts of public land are not put at a competitive disadvantage relative to other states.
9. The United States holds approximately 55 million surface acres and 59 million acres of subsurface mineral estate in trust for tribal nations, and federal government has a responsibility to protect, administer, and account for the natural resources that it holds in trust on behalf of tribes. Tribes that are seeking to make use of trust resources deserve to be able to do so without diminution of their value caused by the federal government's actions. Governors support meaningful government-to-government consultation with Tribal sovereigns intending to make use of trust resources, and support efforts to avoid delays in approving rights-of-way applications for linear infrastructure to support mine operations, or other delays affecting mineral development that may constitute a failure to uphold this trust responsibility and affect tribes' ability to benefit from their mineral resources.

C. **GOVERNORS' MANAGEMENT DIRECTIVE**

1. The Governors direct the WGA staff, where appropriate, to work with Congressional committees of jurisdiction and the Executive Branch to achieve the objectives of this resolution.
2. Furthermore, the Governors direct WGA staff to develop, as appropriate and timely, detailed annual work plans to advance the policy positions and goals contained in this resolution. Those work plans shall be presented to, and approved by, Western Governors prior to implementation. WGA staff shall keep the Governors informed, on a regular basis, of their progress in implementing approved annual work plans.

This resolution will expire in June 2025. Western Governors enact new policy resolutions and amend existing resolutions on a semiannual basis. Please consult <http://www.westgov.org/resolutions> for the most current copy of a resolution and a list of all current WGA policy resolutions.