

118TH CONGRESS
1ST SESSION

H. R. 5021

To prohibit the sale or transfer of certain critical minerals to foreign entities
of concern.

IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2023

Ms. MCCOLLUM introduced the following bill; which was referred to the
Committee on Natural Resources

A BILL

To prohibit the sale or transfer of certain critical minerals
to foreign entities of concern.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Securing American
5 Critical Minerals Act of 2023”.

1 **SEC. 2. PROHIBITION OF SALE OF CRITICAL MINERALS TO**
2 **FOREIGN ENTITIES OF CONCERN BY PER-**
3 **SONS CONDUCTING CERTAIN MINERAL AC-**
4 **TIVITIES ON FEDERAL LAND.**

5 (a) IN GENERAL.—No operator may sell or transfer
6 any covered mineral to a foreign entity of concern.

7 (b) AUTHORITY TO DENY AUTHORIZATION.—Not-
8 withstanding any other provision of law, the Secretary
9 may decline to issue or renew any covered authorization
10 to any person if—

11 (1) such person is a foreign entity of concern;

12 (2) such person has violated subsection (a);

13 (3) any report made available to the public
14 under subsection (d) by such person is incomplete or
15 inaccurate; or

16 (4) the issuance of such authorization would
17 negatively affect the national security of the United
18 States through the subsequent sale or transfer of
19 any product resulting from the issuance of such au-
20 thorization to a foreign entity of concern.

21 (c) ADMINISTRATIVE, CIVIL, AND CRIMINAL PEN-
22 ALTIES.—The Secretary, in consultation with the Sec-
23 retary of Commerce and such other Federal agencies as
24 the Secretary determines appropriate, shall establish by
25 regulation such administrative, civil, and criminal pen-

1 alties as the Secretary determines, after such consultation,
2 appropriate for—

3 (1) a violation of subsection (a); and

4 (2) a failure to submit a complete and accurate
5 report under subsection (d).

6 (d) REPORTING REQUIREMENT.—Each operator
7 shall make available to the public a report, not later than
8 June 30 of each calendar year that succeeds a calendar
9 year in which such person sold or transferred a covered
10 mineral, that with respect to the preceding calendar
11 year—

12 (1) identifies the covered mineral such operator
13 extracted, produced, or refined on Federal land and
14 the location of each such activity with respect to
15 each covered mineral;

16 (2) identifies the purchaser or transferee of any
17 covered mineral sold or transferred by such operator;
18 and

19 (3) includes a certification that the operator
20 has determined that such purchaser or transferee is
21 not a foreign entity of concern.

22 (e) ADMINISTRATIVE FEE.—The Secretary shall in-
23 clude in each covered authorization issued after the date
24 of the enactment of this section a requirement to pay a
25 fee in such amount as the Secretary determines appro-

1 piate to provide amounts sufficient to administer this sec-
2 tion with respect to each fiscal year.

3 (f) ANNUAL REPORT.—The Secretary shall publish
4 and submit to Congress an annual report summarizing
5 with respect to each covered mineral—

6 (1) the aggregate contents of reports filed
7 under subsection (d);

8 (2) the number and types of covered authoriza-
9 tions denied under subsection (b); and

10 (3) the number and types of penalties imposed
11 under subsection (c).

12 (g) AVAILABILITY OF FUNDS.—Any fee collected
13 under subsection (e) shall be made available to the Sec-
14 retary to carry out this section and shall remain available
15 until expended.

16 (h) DEFINITIONS.—In this section:

17 (1) COVERED AUTHORIZATION.—The term
18 “covered authorization” means any permit, claim,
19 lease, or other authorization issued by the Secretary
20 of the Interior relating to covered mineral activities.

21 (2) COVERED MINERAL.—The term “covered
22 mineral” means a critical mineral (as such term is
23 defined in section 7002 of the Energy Act of 2020
24 (30 U.S.C. 1606)) extracted, produced, or refined on
25 Federal land.

1 (3) COVERED MINERAL ACTIVITIES.—The term
2 “covered mineral activities” means the extraction,
3 production, or refinement of a covered mineral on
4 Federal land.

5 (4) FOREIGN ENTITY OF CONCERN.—The term
6 “foreign entity of concern” has the meaning given
7 such term in section 9901 of the William M. (Mac)
8 Thornberry National Defense Authorization Act for
9 Fiscal Year 2021 (15 U.S.C. 4651).

10 (5) OPERATOR.—The term “operator” means a
11 person that conducts covered mineral activities or a
12 related person (within the meaning of section 267(b)
13 of the Internal Revenue Code of 1986) of such per-
14 son.

15 (6) SECRETARY.—The term “Secretary” means
16 the Secretary of the Interior.

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