

Attachment 2: Framing Slides

Interagency Consultation on Tribal Critical Minerals Initiative

White House Council on Native American Affairs

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Hosted By



- U.S. Department of the Interior (Co-Chair WHCNAACM Working Group)
- U.S. Department of Energy (Co-Chair WHCNAACM Working Group)
- U.S. Environmental Protection Agency
- U.S. Department of Commerce
- U.S. Department of Defense Army Corps of Engineers

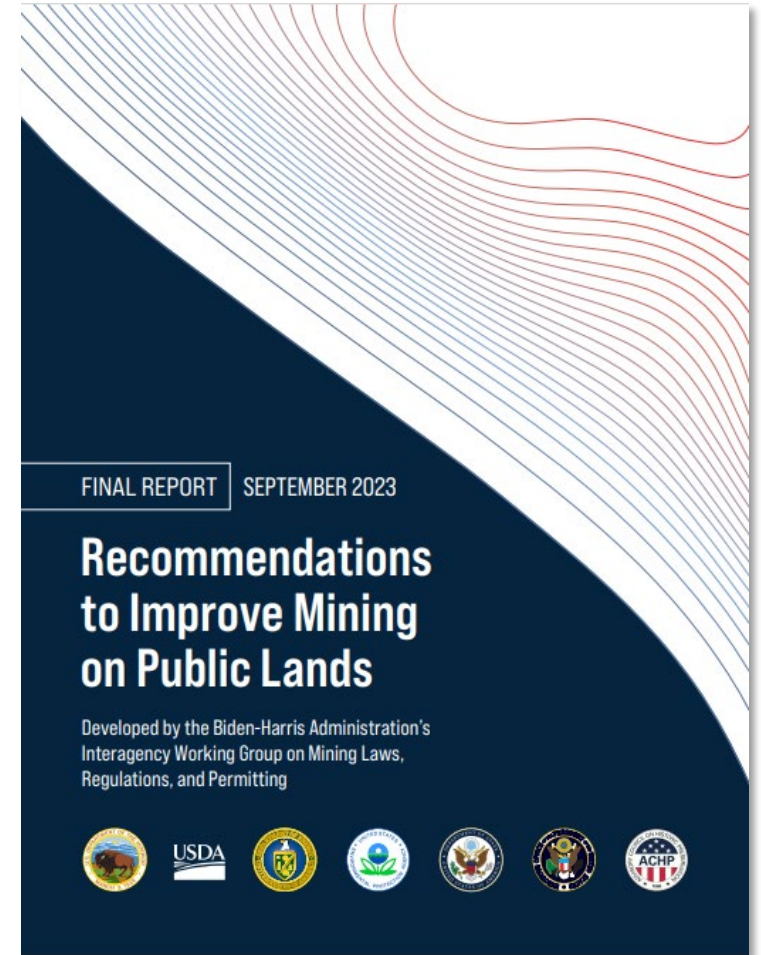
Agenda

- Housekeeping
- Context & Background on Critical Minerals Initiative
- Summary of policy & regulatory recommendations from the September 2023 interagency report “Recommendations to Improve Mining on Public Lands”
- Questions & Tribal Leader feedback

Tribal Critical Minerals Initiative

- Biden Administration pursuing a responsible domestic supply chain of critical minerals for national defense and climate goals.
- Many critical minerals may be found near or on Tribal lands.
- Do not want to repeat the harms of past between Tribes, US Government and industry.
- Meaningful Tribal feedback early and often driving this discussion in partnership with the federal government.
- First step in prioritizing & informing implementation of reforms recommended in the 2023 report of improving mining of public lands.
- DOI is in the process of implementing some recommendations.
- Facilitating opportunities for Tribes for economic development in the sector, while maintaining environmental protections.
- Refer to online version of this report, link below:

<https://www.doi.gov/media/document/mriwg-report-final-508-pdf>



Recommendation Summary

Legend: ○ not started yet

◐ initial discussions

● implementation underway

Report Pg #	Recommendation	Legislative	Regulatory	Federal/Agency Policies
Access to and Use of Federal Lands				
99	Amend the 1872 General Mining Law to permanently end patenting of Federal lands	○		
99	Congress should develop a leasing system to provide access to hardrock minerals on public lands	○		
100	Once a leasing system is established, prepare a programmatic Environmental Impact Statement to incorporate mining into land use planning processes	○		
100	Conduct one or more pilot projects exploring innovating ways to integrate mining into land use planning processes			○
101	Amend Interior and USFS regulations and policy to provide for consistent implementation of the Mining Law and access to minerals		○	
101	Provide the BLM and USFS with authority to debar an operator based on past poor performance	○		
102	Create a new administrative withdrawal process that allows for conditional development	○		
102	Reemphasize the importance of mineral potential reports in land use planning decisions			○
103	Ancillary uses and mill sites	○		6

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Report Pg #	Recommendation	Legislative	Regulatory	Federal/Agency Policies
Fair Return and Diligent Development				
104	Place a royalty on commercial production from mines on Federal lands	○		
104	Congress should increase claim maintenance fees	○		
105	Create a BLM system whereby claim maintenance fees escalate if no exploration or production occurs on a claim after a certain period of time	○		
105	Congress should create a reclamation fee to generate additional revenue for abandoned hardrock mine remediation	○		
105	Designate uses for additional revenue generated from the above recommendations	○		
106	Create a Revenue Sharing Program to Help States and Local Governments Address the Impacts that Result from Hardrock Mineral Development on Federal Lands	○		
106	Reform the Small Miner Waiver (SMW) program	○		

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Report Pg #	Recommendation	Legislative	Regulatory	Federal/Agency Policies
Permitting Process				
107	Update and adopt the BLM-NV permitting process model as standard operating procedure nationwide.			●
107	Require BLM and USFS to share baseline reports with EPA, other applicable Federal cooperating agencies, and Tribal governments when implementing recommendation 1 above.			●
108	Develop and publicly share and track project schedules.			○
108	Develop consistent policy and regulations regarding application information requirements.		○	◐
109	Require pre-application meetings		○	
110	Include USACE and EPA in pre-application meetings.			●
110	Prioritize plans that maximize best environmental and social practices.	○	○	○
112	Incentivize or require social impact and community benefit planning documents.		○	○
112	Require the development of a Climate Change Adaptation Plan		○	
113	Improve the use of cooperating agencies			◐
113	Provide more specific procedures for engaging with communities with EJ concerns during and outside of the plan approval and NEPA process			◐
114	Develop more robust policies for stakeholder engagement			◐
114	Maintain a forum for interagency federal mine permitting experts			◐
115	Promote a Circular Economy			◐ ⁸

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Report Pg #	Recommendation	Legislative	Regulatory	Federal/Agency Policies
Increasing Transparency				
116	Create a mining and mine permitting presentation guide to improve public understanding of mining and the mine approval process			○
117	Develop a user-friendly website that enables the public to easily see and identify all proposed, operating, reclaimed, and unreclaimed mineral exploration and production operations in a given area			○
117	Amend Interior and USFS regulations to expand notice level (and exploration and mine plan) review time and notification requirements		○	◐
118	Make compliance performance records available to the public			○

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Report pg#	Recommendation	Legislative	Regulatory	Federal/Agency Policies
Tribal Consultation & Engagement				
119	Enact legislation to require meaningful, robust, and early consultation between the Federal government and Tribal governments	○		
120	Improve Agency Consultation Procedures and Training			◐
120	Provide adequate resources for Tribal consultation	○		
120	Issue new policy guidance on NHPA implementation			○
121	Provide additional protections for Tribal cultural sites, sacred sites, and resources	○	○	
122	Develop a system for automatic Tribal notification when notices or plans are proposed in an area of Tribal interest			◐
122	Require exploration plans instead of notices when operations would impact Tribal resources or treaty rights, listed species, etc.		○	
122	Incorporate Indigenous Knowledge (IK) during the environmental and permitting review for an exploration plan, mine plan of operations, or associated permit			◐
123	Invite Tribes to participate as cooperating agencies in the NEPA process			◐
123	Include Tribes in pre-application meetings, and allow Tribes to review baseline information in updating and expanding the BLM Nevada permitting process			●
123	Include Tribes in the determination of appropriate financial assurance levels and post-mining land use		○	
124	Provide funding to Tribal Governments to allow them to more effectively engage in reviews of mining proposals and shared monitoring of operating mines	○		◐
125	Encourage additional Federal and private sector support for Tribally-led assistance organizations	○		◐

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Report Pg #	Recommendation	Legislative	Regulatory	Federal/Agency Policies
Operational Standards				
126	Require adherence to the Global Industry Standard on Tailings Management (GISTM)		○	
126	Improve the standard of care and provide consistency in Interior and USFS regulations		○	
127	Improve enforcement resources, authorities, and tools	○		

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Mine Closure / Reclamation				
128	Enact Good Samaritan protections	○		
129	Encourage remining and reprocessing of previously disturbed sites	○		◐
130	Prohibit mine operations that would result in the need for perpetual water treatment	○		
131	Strengthen review of mines left in extended non-operating status		○	○
131	Enact reforms to financial assurances laws	○		
132	Review agency reclamation assumptions for unforeseen costs as part of bonding estimate			○
133	Strengthen requirements for financial assurance instruments		○	
134	Revise MOUs for governing bonding roles and responsibilities and bond release reviews		○	○
134	Develop a Reclamation Handbook			○

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Report Pg #	Recommendation	Legislative	Regulatory	Federal/Agency Policies
Government & Private Sector Capacity				
135	Provide adequate resource support for Federal permitting agencies and historic preservation offices	○		
135	Build out the Federal database of mineral data and reporting requirements	○	○	○
138	Increase Federal investments in new technologies for data collection	○		○
138	Increase Federal support and investment in research	○		
139	Create a grant program for mining schools	○		
140	Provide the USFS and FWS with full cost recovery authority	○	○	

Questions

Questions

1. Of the recommendations in the *Recommendations to Improve Mining on Public Lands* report (the Mining Report) that do not require legislation, which are your highest priorities?
 2. What regulatory, policy changes or other actions would you most like to see BLM, USFS, or other federal agencies make that may not be in the Mining Report's recommendations?
 3. In terms of engagement or government-to-government consultations regarding mining projects, what types of assistance or resources would best support your Tribe—financial aid, technical expertise, or both, or others?
 4. Do you believe that mining companies should provide financial assistance directly to potentially impacted Tribes to assist in engagement, mine plan review, or other areas? If so, how should this assistance be structured to ensure impartiality?
 5. Are you familiar with agreements entered into between Tribes and mining companies such as Tribal Benefit Agreements, Partnership Agreements, Good Neighbor Agreements, or other similar types? What provisions or practices do you believe are the most useful in those agreements (Tribal hiring requirements, profit sharing, grievance mechanisms, transparency of environmental monitoring data, etc.)? What sort of assistance would your Tribe need to enter into negotiations on such types of agreements?
- Biden-Harris Administration's Interagency Working Group on Mining Laws, Regulations, and Permitting (2023), *Final Report: Recommendations to Improve Mining on Public Lands*, found at <https://www.doi.gov/sites/doi.gov/files/mriwg-report-final-508.pdf>

Questions

6. The Mining Report recommended that BLM set up a system similar to the Federal Communications Commission's (FCC's) (<https://www.fcc.gov/wireless/systems-utilities/tower-construction-notifications/tower-construction-notifications-0>) to provide automated notifications to Tribes of exploration proposals. If you are familiar with the FCC system, what features would you wish to retain or modify for a similar system in mining exploration? If you are not familiar with the FCC system, what features would you want an automated system to have?
7. How do you think independent Tribally led organizations could enhance consultation and technical review processes for Tribes confronted with mining proposals?
8. Are there other best practices for Tribal engagement in mining proposals that we should try to encourage or require?

Next Steps: Tribal Leader and ANC Leader Input

WHCNAA Critical Minerals working group is seeking Tribal leader and ANC leader input on the proposed recommendations for the Critical Minerals Initiative:

- Sessions held:
 - Lower 48 Tribes - July 30
 - All Tribes – August 13
 - Alaskan Villages – August 20
 - ANCs – August 21
 - Deadline for written comments will be August 31, 2024.

Next Steps

- The WHCNAA Critical Minerals Working Group will include Tribal consultation input in making decisions about which recommendations to implement.
- The White House National Economic Council (NEC) & WHCNAA will invite Tribes to a joint workshop with Tribes and the mining industry in later this year.

Contact Us

Submit comments or contact us at whcnaa@bia.gov for these consultations.

Closing Remarks

Addendum

Agency Roles

Department of Energy

DOE has funding via grants and loans for research and development of a US critical mineral supply chain:



- Battery Material Processing & Recycling Grants



Fossil Energy and Carbon Management

- Research on “Mines of the Future” including enhanced recycling, life cycle, and sourcing of critical minerals from wastes like coal ash.
- Fossil Energy & Carbon Management Tribal Working Group launching 2024



- Title XVII program can provide loan guarantees for all segments of the critical mineral supply chain



Department of the Interior



Bureau of Land Management – review and approval of exploration and mining proposals on public lands.



Bureau of Indian Affairs – approval of leases and permits on Indian trust and restricted lands; technical support and capacity building for Tribes seeking to develop resources on Tribal lands; interagency coordination.



Office of Surface Mining Reclamation and Enforcement – regulation of surface coal mining and reclamation of abandoned coal mines.



U.S. Geological Survey – research, assessment, and data collection regarding mineral resource life cycles and their environmental impacts.

Environmental Protection Agency

EPA Roles on critical minerals mining

- NEPA
 - Reviews Federal agency Environmental Impact Statements
- Clean Water Act, Clean Air Act, Safe Drinking Water Act
 - Reviews Army Corps of Engineers CWA 404 permit notices
 - Permits generally issued by the states, EPA oversight
- Tribal consultation & engagement

Resources for Tribes

- Indian Environmental General Assistance Program (GAP):
<https://www.epa.gov/general-assistance-program-gap>
- Environmental Justice Grants:
<https://www.epa.gov/environmentaljustice/environmental-justice-grants-funding-and-technical-assistance>