

K&L GATES

**ENERGY POLICY IN
THE TRUMP ADMINISTRATION:**

CRITICAL & FUEL MINERALS

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Minerals Overview



Why Are Minerals Important?

Critical minerals and materials are foundational elements for

- National security (DOD uses 750,000 tons of minerals annually - jet engines, night-vision, military aircraft, armored vehicles)
- Renewable energy (wind turbines, solar energy technology, hybrid vehicles, energy-efficiency)
- Medical devices (CAT scans, x-rays, lasers)
- Consumer electronics (computers – over 66 individual minerals; iPads and iPhones require at least five rare earth minerals)
- Magnets (MRIs, motors, disc drives, power generators, actuators, microphones and speakers)
- Vehicles (anti-lock brakes, electric drive & propulsion, frictionless bearings)
- Metal alloys (steel, aluminum, magnesium)
- Glass and ceramics

Why Are Minerals Important? (cont'd)

For example, the following are crucial for energy, technology, and national security

- Lithium: lithium-ion batteries, electric vehicles, battery energy storage
- Cobalt: batteries, superalloys, magnets, telecommunications
- Copper: transmission, electronics, plumbing, motor components
- Nickel: stainless steel, superalloys, battery components, heat exchangers

Fuel minerals are also important, and while not always labeled “critical” like their non-fuel brethren, are nonetheless strategically important

- Uranium: nuclear power accounts for nearly 19% of U.S. electrical generation
- Coal: coal power accounts for over 16% of U.S. electrical generation

Federal Minerals Lists

Critical Minerals (USGS)

Any mineral, element, substance, or material designated as critical by the USGS because it is

- essential to the economic and national security of the United States,
- has a vulnerable supply chain, and
- serves an essential function in manufacturing a product.

**USGS published list of 50 critical minerals in 2022. Update expected 2025.*

Federal Minerals Lists (cont'd)

Critical Materials (DOE)

Covers more than just minerals, and includes materials that can be used to

- diversify and expand supply from primary sources,
- develop alternative materials and systems,
- enhance material and manufacturing efficiency,
- promote a circular economy through recycling, reuse, and remanufacturing, and
- use analyses to enable and speed up science discoveries.

**Focuses on materials needed for energy technologies.*

Federal Minerals Lists (cont'd)

Materials of Interest (DoD)

Covers 12 strategic defense critical minerals and other materials of interest that are necessary for fulfilling DoD's mission, including alloys, metals, miscellaneous non-metals, rare earths, ores and compounds, and precious metals.

Current Minerals Landscape

Decline of U.S. Mining

- Steady decrease in coal production, mining employment, and rate of new mines opening
- From 2016 to 2023 - 39% decrease in number of mineral engineering degrees awarded in the United States

Disruption in U.S. Supply Chain

- Weaknesses in critical mineral discovery, refining, and processing exposed during the Covid-19 Pandemic
- Significant reliance on foreign countries for minerals, including Canada, Mexico, China, and Russia

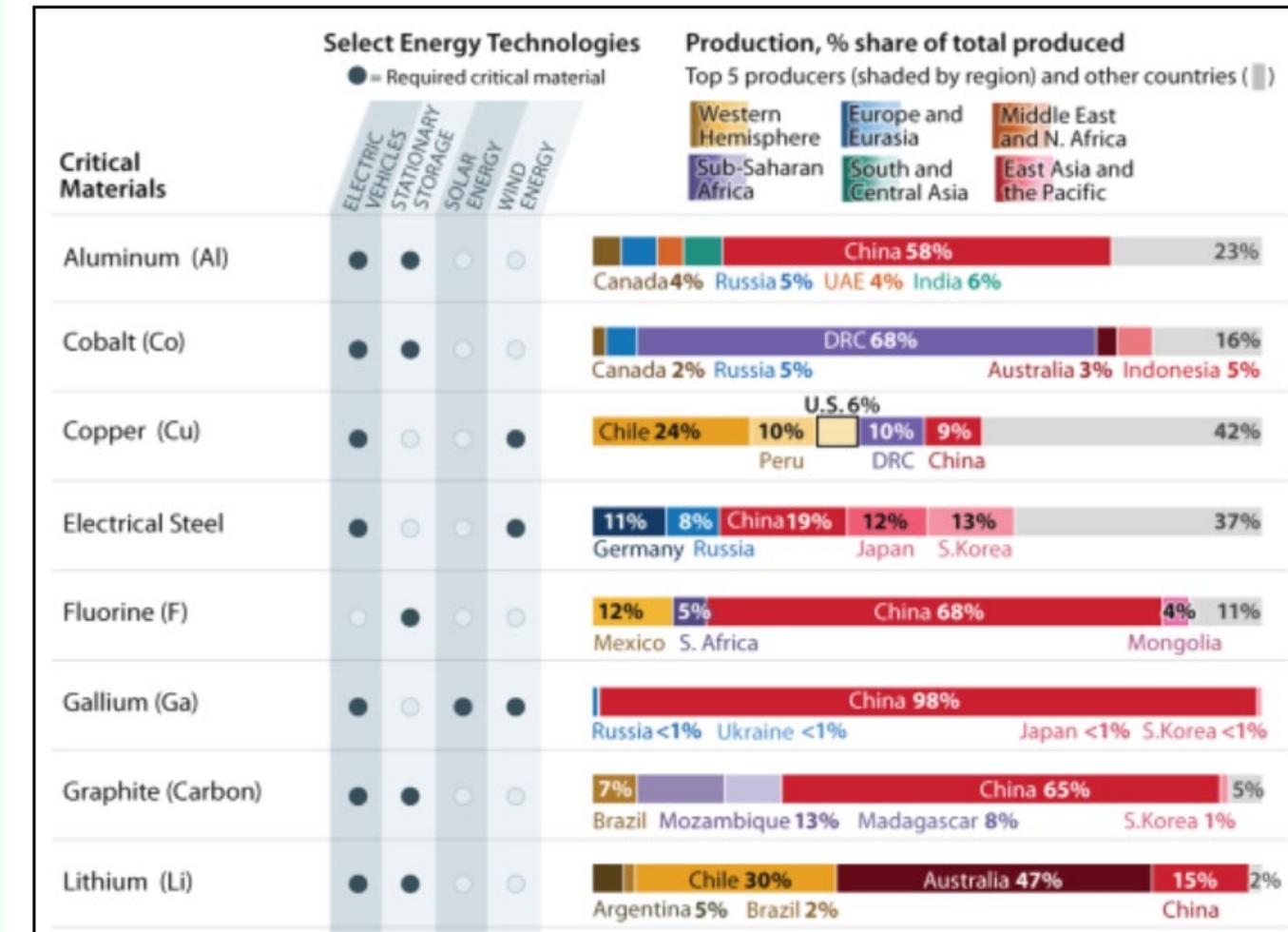
Current Minerals Landscape (cont'd)

China

- Has significant reserves of minerals and rare earth elements
- Has strategically invested in other reserves, as well as minerals refining and processing capabilities, through its Belt and Road Initiative
- Minerals mined in other nations may be imported to China for processing and refining
- China reportedly refines 68% of nickel, 40% of copper, 59% of lithium, and 73% of cobalt globally, according the Congressional Research Service
- China has invested heavily in the Congo, which provides 68% of cobalt, and Indonesia, which provides 48% of nickel

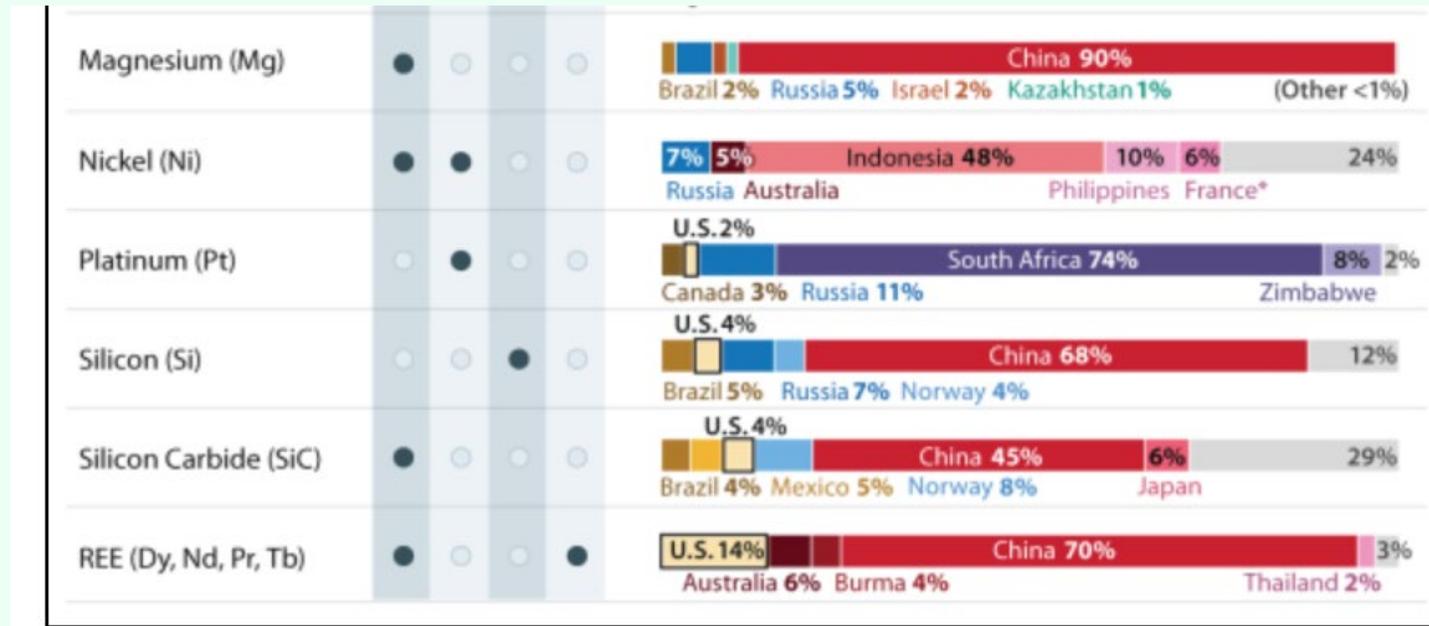
Current Minerals Landscape (cont'd)

Critical materials production across selected energy technologies



Current Minerals Landscape (cont'd)

Critical materials production across selected energy technologies



Critical Minerals and Materials for Selected Energy Technologies, Congressional Research Service, March 5, 2025

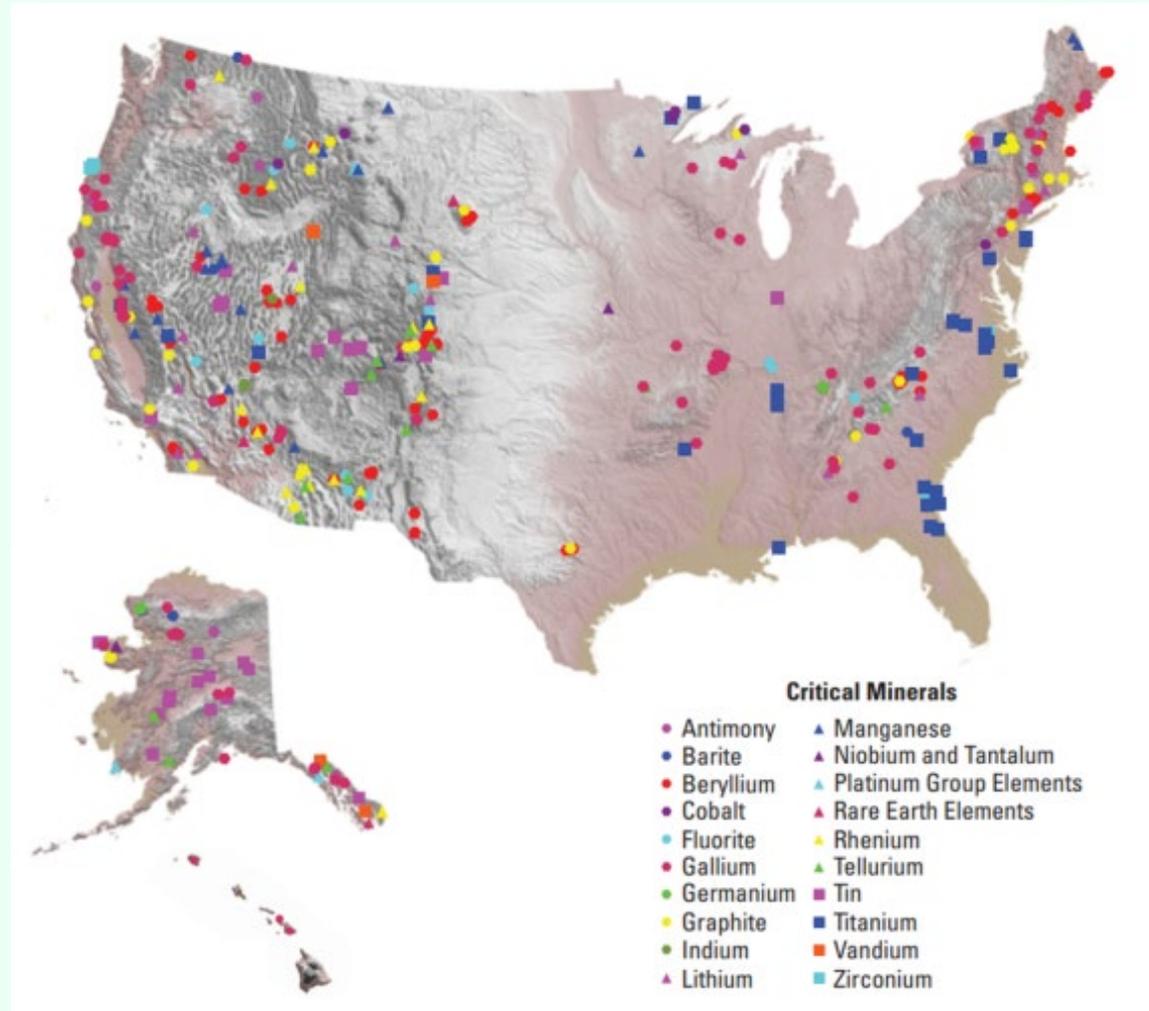
Current Minerals Landscape (cont'd)

United States

- Rich history of mining, especially in the 19th and early 20th centuries
- Today, minimal onshore critical minerals mining and manufacturing capability
- Imports vast majority of critical minerals
- Relies on imports for over 50% of consumption of 43 out of 50 critical minerals
- No domestic production for 14 out of 50 critical minerals

Current Minerals Landscape (cont'd)

United States
critical minerals
locations



Trump Administration Strategy

- Decouple from unsecure, unreliable supply chains
- Reinvigorate U.S. mining sector
- Build out domestic minerals refining and processing capabilities
- Support U.S. manufacturing and AI data center buildout



Key Players



Key Players



Energy Secretary Chris Wright



Interior Secretary Doug Burgum



EPA Administrator Lee Zeldin



Defense Secretary Pete Hegseth



Executive Action



Deregulation

Review, modify, rescind regulations (Unleashing American Energy EO)

- Any regulations, orders, guidance, policies, settlements, consent orders, etc., that “impose an undue burden” on identification, development, or use of domestic energy resources – i.e, oil, gas, coal, hydropower, biofuels, critical minerals, nuclear energy.

Deregulation of Domestic Mining (Unleashing American Energy EO)

- Directs agency heads to revise or rescind any actions that burden domestic mining and processing of non-fuel minerals
 - DOE shall ensure critical minerals projects, including processing, receive consideration of Federal support, contingent on availability of funds
 - DOD shall supply a National Defense Stockpile of critical minerals

Deregulation (cont'd)

Identification of state and local laws that burden energy production (Protecting American Energy from State Overreach EO)

- Attorney General identifies state and local laws or policies that burden domestic energy identification, siting, development, production, or use, and may be unconstitutional, federally preempted, or generally unenforceable
- Attorney General prioritizes state laws purporting to address “climate change,” “environmental, social, and governance (ESG),” “environmental justice,” “greenhouse gas emissions,” or state carbon penalties

Regulatory “sunset” provisions (Zero-Based Regulatory Budgeting EO)

- 1-year sunset provision into existing covered regulations governing energy production
- 5-year sunset provision into new covered regulations
- Targeted agencies include NRC, EPA, DOE, FERC, BLM, OSMRE
- Outlines specific statutes from which regulations emanate that shall be subject to
- Regulations that “sunset” shall not count towards the ten-for-one regulatory requirement

Permitting Reform

Efficient permitting (Unleashing American Energy EO)

- CEQ interim final rule rescinding nearly 50 years of federal CEQ regulations, but does not prevent agencies from implementing NEPA pursuant to their own existing procedures.
 - Does not seek to amend or undermine NEPA itself or any state NEPA analogs
 - Consistent with November 2024 DC Circuit ruling that CEQ has no authority to write regulations, and February 2025 USDC case striking down 2024 NEPA rule from CEQ
- CEQ-led working group to coordinate agency-level NEPA implementing regulations for consistency
- Expedite permitting approvals and meet deadlines established in the Fiscal Responsibility Act of 2023
- Prioritize efficiency and certainty over any other objectives, including those of activist groups, that could add delays and ambiguity

National Energy Emergency

National Energy Emergency (Declaring a National Energy Emergency EO)

- Declares a national energy emergency under the National Emergencies Act, granting agencies additional emergency authority to support the development of “energy” or “energy resources,” which are defined terms that
 - include “crude oil, natural gas, lease condensates, natural gas liquids, refined petroleum products... coal, biofuels, geothermal heat, the kinetic movement of flowing water, and critical minerals”
 - does not include nuclear, solar, wind, hydrogen, and other renewables
- Requires agencies to facilitate domestic energy production on Federal and other lands, including with eminent domain and Defense Production Act authorities
- Requires agencies to expedite completion of authorized and appropriated infrastructure, energy, environmental, and natural resources projects, including to facilitate supply, refining, and transportation of energy in and through the West Coast, the Northeast, and Alaska

Mineral Executive Orders

Immediate Measures to Increase American Mineral Production

- Directs NEDC to identify priority mineral projects for immediate permitting approval
- Directs Secretaries of Defense and Energy to provide loans, capital assistance, and working capital to domestic mineral project sponsors
- Includes statutorily defined critical minerals and add uranium, copper, potash, gold, and “any other element, compound or material as determined by the Chair of the [NEDC]”

Mineral Executive Orders (cont'd)

Unleashing America's Offshore Critical Minerals and Resources

- Initiates a series of permitting moves, mapping, and reports aimed at boosting companies' ability to explore the ocean floor
- Directs Secretaries of Commerce and the Interior to develop overview report of private interest in seabed mineral exploration
 - Also directs Secretary of the Interior to develop expedited permitting process for mineral exploration on Outer Continental Shelf

Ensuring National Security and Economic Resilience Through Section 232 Actions on Processed Critical Minerals and Derivative Products

- Directs Secretary of Commerce to initiate a Section 232 investigation into the effects on national security of imports of processed critical minerals and their derivative products

Coal-Specific EOs

Reinvigorating America's Beautiful Clean Coal Industry and Amending Executive Order 14241

- Designates coal as a “mineral” under definition of EO 14212 “Immediate Measures to Increase American Mineral Production,” enabling coal projects to qualify for streamlined permitting and federal financing options
- Directs agency heads to evaluate options for extending the life of coal-powered infrastructure to support data center development and orders a comprehensive regulatory review of federal rules that burden coal use and production.

Regulatory Relief for Certain Stationary Sources to Promote American Energy

- Allows certain coal plants to comply with a less stringent version of EPA's Mercury and Air Toxics Standards (MATS) rule for two years.

Mineral Trade Deals

United States/Ukraine Minerals Deal (4/30/25)

- Establishes US – Ukraine “Reconstruction Investment Fund”
- Preferential access to Ukrainian state-owned mineral resources
 - 17 rare-earth elements, 55 total minerals, including **lithium**, **titanium**, and **uranium**

Ongoing and Future Trade Negotiations

- Canada, Mexico, Japan, Australia, Indonesia, South Africa, Congo, Taiwan, China, Saudi Arabia, and more...



Agency Action



National Energy Dominance Council

- Submitted 20 critical mineral projects to federal permitting dashboard to be identified as “transparency projects”
 - Eligible for expedited permitting

Department of Energy

- Reinstatement of National Coal Council
- New Investment in Coal-Powered Generation
- Designate Metallurgical Coal as Critical Mineral
- Distribution of high-assay low-enriched uranium (HALEU) to advanced U.S. nuclear reactor developers

Department of the Interior

- Federal land use for mineral exploration and extraction
- Emergency permitting procedures to fast-track energy projects including uranium, coal, and critical minerals
 - Environmental assessment – reduced to 14-day timeline
 - Environmental Impact Statement - reduced to 28-day timeline
 - Endangered Species Act – expedited Section 7 consultation

Department of Defense

- National Defense Stockpile for critical minerals
- Loans and investment support available for new mineral production projects through the newly established critical minerals fund through the U.S. International Development Finance Corporation and the Department of Defense
- Army Corps of Engineers permitting fast-tracking
- Minerals processing on military bases?
- Defense Production Act reauthorization



Congressional Efforts



Reconciliation Legislation

House Ways & Means Committee

- Phases out Section 45X Advanced Manufacturing Production tax credit providing 10% tax credit for critical minerals production one year earlier than original sunset date, adds FEOC restrictions, and eliminates transferability for components sold after December 31, 2027
- Terminates clean vehicle credits, including Section 30D Clean Vehicle Credit

House Energy and Commerce Committee

- Establishes \$10M De-Risking Compensation Program to compensate critical minerals and other energy project sponsors that suffer unrecoverable losses from certain federal actions like permit revocation, delay, or cancellation that make projects no longer viable. Program available to sponsors that contribute initial fee of 5% of their capital contribution plus regular premiums.
- Rescinds unobligated funds from DOE Loan Programs Office and other programs

Reconciliation Legislation (cont'd)

House Natural Resources Committee

- Resumes coal leasing on federal land
- Allows project sponsors to pay fee to shorten NEPA environmental review timelines (1 year for EIS, 6 months for EA) and to gain protection from judicial review

House Armed Services Committee

- \$2.5B for the National Defense Stockpile to improve US production of critical minerals
- \$500M for Department of Defense Credit Program for capital assistance, loans, loan guarantees, technical assistance for critical minerals development
- \$750 million in reconciliation for innovative logistics and energy capabilities
- \$120 million for small modular reactors

House Rules Committee advancing legislation at 1:00 am, May 21



Industry Discussion



Industry Discussion

- Why is the Department of Defense a particular focus for supporting domestic critical minerals development, and how can it help?
- What are the ramifications of tariffs, trade investigations, and trade negotiations for critical minerals?
- How can the federal government support critical minerals development on federal lands – both onshore and offshore?
- What are the weak spots in the U.S. mineral supply chain?
- Discuss demand for mineral resources, including from data centers, AI, quantum computing, lean energy infrastructure, national security and defense industry consumers
- Is permitting reform still on the table?

Up Next: Renewables

Join us on **Thursday, 22 May from 12:00-1:00** for our discussion on changes in federal policy and regulation for renewable energy under the Trump administration. Our speakers will analyze the effects of several key executive orders and agency actions on federal support for renewable energy, environmental regulations, and emerging clean energy technology.

Partners from our Washington, D.C., Public Policy and Law practice and our Power practice will offer their insights into the current political and regulatory environment, the lasting effects of the Trump administration's policies, and what the future holds for renewable energy.

Looking Ahead: Webinar Series

Session 7 - Renewable Energy (5/22, 12:00-1:00)