

Advocates bullish on critical minerals, permitting reform legislation

Manuel Quinones, Environment & Energy Publishing, 2-5-13

Supporters of legislation to boost the domestic availability of materials important for clean energy technologies and economic growth, including rare earth elements, are optimistic about the prospects for action this Congress.

Alaska Sen. Lisa Murkowski (R), the top Republican on the Energy and Natural Resources Committee, included critical minerals reform in the broad energy blueprint she unveiled yesterday. The document includes an oft-cited statistic that the United States is wholly dependent on imports for 19 key minerals.

"This trend can and should be reversed through clear programmatic direction to revitalize the domestic critical mineral supply chain," says the policy outline. "Such action is needed to keep the U.S. competitive and ensure that the federal government's mineral policies -- some of which have not been updated since the 1980s -- are brought into the 21st century."

A spokesman for Murkowski said she will reintroduce her broad legislation -- which runs the gamut from helping identify critical materials to promoting research -- in the near future.

Discussions are also ongoing between staffers for Murkowski and Sen. Ron Wyden (D-Ore.), chairman of the Energy and Natural Resources panel. During the last Congress, he and Sen. Mark Udall (D-Colo.) co-sponsored a similar but narrower critical minerals bill.

"Critical minerals has to be part of any energy strategy because of the applications," said lobbyist Jeff Green, president of J.A. Green and Co., noting the use of numerous metals and elements in technologies like solar panels, wind turbines and electric cars.

"It really seems like an opportunity for some very rare bipartisanship," said Green, a well-known advocate in the field. "A lot of that remains to be seen as to how the new chairman decides to act."

But lawmakers and staffers on both sides of the aisle made similar predictions of bipartisan action during the previous Congress, amid a flurry of bills and hearings on the issue. And despite a compromise bill between Murkowski and former Natural Resources Chairman Jeff Bingaman (D-N.M), efforts fizzled.

It has now been almost a year since the Obama administration joined the European Union and Japan in pushing for World Trade Organization talks over Chinese export controls of rare earth elements. That development helped bring the broader critical materials issue to the forefront, but the immediacy that once surrounded the issue appears to be fading.

Wyden spokesman Keith Chu said, "Senator Wyden understands the importance of critical minerals and materials to advancing domestic clean energy technologies, and he's looking at legislative ways to address that issue, but it's still too early to talk about timing and specifics."

Hijacking the debate?

While there is broad agreement on aspects of critical minerals policy, like better coordination among federal agencies, a push to streamline mining permits remains a point of contention.

stall during the last Congress.

In fact, the only broad critical minerals bill to pass in the Republican-controlled House during the last Congress included efforts aimed at speeding up the permit review and limits on litigation. The National Mining Association considered it one of its top victories in that chamber, but the effort was dead on arrival in the Senate.

Dan McGroarty, head of the American Resources Policy Network and an executive for U.S. Rare Earths Inc., penned an op-ed in *The Wall Street Journal* last week pressing the mining angle in any new effort.

"Without significant reform of the country's mining-permit process," he wrote, "the U.S. may be starved of the resources to build everything from smart phones to weapons systems, impairing both the economy and national security."

Advocates like him are looking to convince environmentalists and other boosters of clean energy, who may be skeptical of mine permitting reform, that domestic extraction of resources is important to their cause.

"That's where we are. That's what's new about this moment in time," McGroarty said in an interview. "I hope people stop and look and re-examine positions."

Green, who represents mining companies, argues that permit delays don't necessarily add up to a better permitting process. He and McGroarty see a robust mining sector as essential to promoting U.S. manufacturing.

Still, Aaron Mintzes, a policy advocate for mining watchdog Earthworks, as well as many Democrats on Capitol Hill, is not convinced that the mine permitting system is broken.

He said any critical minerals bill must exclude what he sees as "cutting corners around the permit process by silencing community input in the name of effective governance."

Murkowski's blueprint calls for optimizing the permitting process "without reducing the environmental standards that must be adhered to." Her aim is to facilitate increased exploration and production by "reviewing requirements, quantifying delays, recommending improvements and developing a performance metric for evaluating the permitting process."

Murkowski's camp insisted that her previous bill did nothing to weaken environmental standards. Still, she agreed to changes to appease Senate skeptics in an effort to find common ground.

"She knows how to go about doing this," said McGroarty, "and she strikes me as a senator who is not of the mind to let the perfect be the enemy of the good."

In other words, efforts at passing a broad critical minerals bill may come down to Wyden and Murkowski's ability to craft a new compromise that is acceptable to House counterparts.

"She has a record of bringing senators together to get things done," said NMA Communications Senior Vice President Nancy Gravatt. "We fully anticipate that she will once again undertake a bipartisan effort to move legislation promoting minerals development in the committee and the U.S. Senate."