



U.S. Department of the Interior
Bureau of Land Management

Critical Minerals Performance Metrics

Final Report

November 2024



Tungsten specimen.
Photo by Carlin Green, USGS

Critical Mineral Performance Metrics

Final Report

Background

In November 2021, Congress passed the Infrastructure Investment and Jobs Act (commonly known as the Bipartisan Infrastructure Law (BIL)), which tasked the Bureau of Land Management (BLM) and U.S. Forest Service (FS) to take several steps to improve the permitting of critical minerals exploration and development projects on U.S. public lands, including improving “*the quality and timeliness*” of each agency’s plan of operations review process. The Departments of the Interior and Agriculture responded to this direction, coordinating with several other Federal agencies through the Biden-Harris Administration’s Interagency Working Group on Mining Laws, Regulations, and Permitting (IWG), to release a final interagency report: *Recommendations to Improve Mining on Public Lands*.¹ That report recommends a number of steps that the BLM, FS, and partner agencies can take through regulatory action and policy guidance to improve the efficiency and timeliness of Federal mineral permitting. Several agencies, including the BLM and FS, have taken and continue to take steps to respond to and implement the IWG recommendations.

In addition to the direction to improve mineral permitting, the BIL provided several reporting requirements for the BLM and FS. BIL section 40206(e) specifically requires the BLM and FS to coordinate to “publish a performance metric for evaluating the progress made by the Executive branch to expedite the permitting of activities that will increase exploration for, and development of, domestic critical minerals, while maintaining environmental standards.” To address this requirement, the BLM and FS coordinated with the Department of the Interior’s Office of Planning and Performance Management (PPP) to develop internal metrics to better track stages in the permitting process, including steps identified in the IWG report as crucial to increasing the timeliness and efficiency of permitting engagement: early interagency and Tribal coordination, identification of information needs, and better coordination with proponents.

Although the direction in the BIL and the title of this report refer to critical minerals, BLM will use these metrics to track permitting performance for all minerals subject to the Mining Law of 1872.

Performance Metrics Discussion

The BLM worked closely with the PPP in the development of the critical mineral metrics. The PPP supports data-driven decisions to ensure that programs and projects deliver critical services to the American public efficiently and effectively. In consultation with the PPP, the BLM coordinated several remote and in-person sessions with career staff from BLM headquarters and State, District, and Field offices that implement the review and processing of plans of operations submitted by operators seeking to conduct exploration and mining on public lands. The BLM

¹ <https://www.doi.gov/pressreleases/biden-harris-administration-report-outlines-reforms-needed-promote-responsible-mining>

also coordinated with experts at the FS, consistent with direction in the BIL, to ensure that the metrics developed were consistent with FS efforts to improve permitting efficiency.

Response to Comments

Performance metrics are typically internal measures and not made available to the public for review. However, in accordance with direction in the BIL, the BLM made the draft performance measures available to the public for comment and input on February 12, 2024. Following the initial 30-day public comment period, the BLM extended public comment for an additional 45 days, closing the public comment period on April 29, 2024, in response to expressed interest in additional time for comment and feedback.

The BLM requested the public to provide input on the following preliminary performance metrics:

1. Percentage of operators that engage in pre-plan submittal coordination with the BLM.
2. Percentage of milestones met from the mining pre-plan coordination agreements.
3. Median time to complete National Environmental Policy Act (NEPA) reviews for mining plans.

The BLM and FS received a total of 14 public comments during the comment period from a broad range of stakeholders, including industry groups, operators, environmental organizations, and members of the public. While all commentors expressed support for creating performance metrics, 12 offered suggestions for changes or additions to the draft performance metrics. The BLM and FS have worked to the greatest extent practicable to refine the performance metrics to incorporate the suggestions contained in the comments. The majority of the commentors felt the metrics should be expanded to address Congress' requirements under the BIL, including additional tracking of milestone dates and target timeframes. The BLM and FS agree that tracking milestone dates will allow the agencies to calculate specific performance data by process step, and will track the specific milestones as outlined later in the report.

There were also several commentors that suggested the BLM and FS track when the BLM, FS, other state and Federal agencies, and other stakeholders engaged with Tribal entities. The BLM and FS support tracking the dates when they conduct formal Tribal consultation and other Tribal outreach for individual minerals projects; however, neither the BLM nor FS believes it would be appropriate or practically feasible to track when other agencies or stakeholders partake in informal engagement with Tribal Nations or Tribal organizations.

The BLM and FS also received comments asking for the permitting performance metrics and supporting data to be available as an online dashboard. Several commentors specifically asked for the dashboard to be housed on the BLM's ePlanning website. While the BLM and FS agree that a dashboard would have utility and are looking at creating a public interface to support project tracking, ePlanning is not the appropriate platform. Additionally, there are several issues with creating a one-stop dashboard for all Federal critical mineral projects, including database and records management differences between the BLM and FS. Therefore, this suggestion is not actionable at this time, but may be in the future, depending on resources, capacity, and priority constraints.

Several commentors asked the BLM and FS to establish target timeframes for permitting milestones. The BLM and FS agree with the utility of establishing target timeframes, especially in ensuring the agencies are meeting the requirements of Title III of the Fiscal Responsibility Act of 2023 (P.L.118-5, June 3, 2023). These targets will likely be informed by data gleaned from tracking milestone dates through these performance metrics.

Several commentors made recommendations that the BLM and FS account for engagement with local communities. The BLM and FS agree that tracking this engagement could be valuable, and support tracking the dates of public meetings and other outreach.

Several commentors recommended the BLM and FS track a mining project from prospecting through exploration to permit in hand. The BLM and FS do not believe that either agency has enough information on any specific operator's action or future intent to track a project in this format. The BLM has a disproportionate number of exploration notices to plans of operations: roughly a 100:1 ratio. The majority of notices do not result in a subsequent plan of operations. It is also common for junior exploration companies to sell notice-level and advanced exploration plans to larger mining companies; therefore, relating specific notices to future approved plans is problematic and could create non-uniform data reporting. The BLM and FS believe that the most useful tracking data is obtained by capturing the milestones for notices and individually permitted operations separately.

The BLM and FS had several requests to track when interagency conflict occurs. While the BLM and FS understand that conflicts may occur, defining conflict is inherently subjective and can be the result of innumerable factors beyond the control of the agency. As such, neither agency feels that documenting the specific details of interagency conflict are warranted, and doing so could have negative impacts. The BLM and FS believe the proposed metrics will adequately indicate potential permitting issues, allowing BLM and FS to meet the intent of the BIL.

One commentor requested the BLM and FS track operations that involve significant controversies. The BLM and FS do not believe this is necessary or appropriate given the subjective nature of identifying levels of controversy.

Final Performance Metrics

Based on the public comments and discussion between the BLM and FS, the agencies have developed the final performance metrics as follows (bulleted items denote milestone data to be captured for each performance metric):

1. Percentage of operators that engage in pre-plan submittal coordination with the cooperating agencies.
 - Date operator requests pre-plan submittal coordination meeting.
 - Date the cooperating agencies are requested to participate in a pre-plan coordination meeting.

2. Percentage of milestones met during the mining pre-plan submittal coordination process.
 - Date of pre-plan submittal coordination meeting.
 - Date of Tribal Outreach and Coordination.²
 - Date of baseline data needs determination(s).³
 - Date the project specific interagency MOU is signed.
 - Date the environmental baseline studies are determined to be complete.⁴
3. Median time to complete National Environmental Policy Act (NEPA) reviews for mining plans by using the following data inputs.

For operations requiring an EIS (Less than 2 years):

- Date the local office⁵ determines the Plan of Operation is complete.
- Date entered into ePlanning.
- Date the local office approves of the draft NOI.
- Date of publication of the NOI in the Federal Register.
- Date(s) of Tribal Consultation.
- Date(s) of public involvement (public meetings, comment periods).
- Date the local office approves of the draft NOA for the DEIS.
- Date of publication of the DEIS.
- Date the local office approves of the draft NOA for the FEIS.
- Date of publication of the FEIS.
- Date of issuance of the ROD/Date of approval of Plan of Operations.
- Date financial guarantee is posted.

For operations requiring an Environmental Assessment (EA) (Less than 1 year):

- Date the local office determines the Plan of Operation is complete.
- Date entered in ePlanning website.
- Date(s) of Tribal Consultation.
- Date(s) of public involvement (public meetings, comment periods, if deemed appropriate).
- Date the local office approves of the EA and signs the Finding of No Significant Impact (FONSI) or date the local office determines an EA is insufficient and an EIS is necessary.
- Date of public availability of completed EA and FONSI.
- Date of approval of Plan of Operations in Decision Record (DR).
- Date financial guarantee is posted.

² There are requirements to document additional Tribal consultation at subsequent phases in the permitting process. Tribal outreach during the pre-plan submittal phase allows early coordination to occur. This early engagement is not a substitute for the Tribal consultation that is required as part of the NEPA process, as shown below.

³ The date when an agency communicates to the operator that a specific baseline study needs to be completed will be recorded. Each baseline study will be recorded separately.

⁴ The date of completion for each individual baseline study will be recorded. Refer to footnote 1.

⁵ Local office means either BLM Field Office or FS District Office. If that office is unable to handle permitting, local office could mean the next level up.

4. Other tracked and reported data.

- Acreage of operations.
- Proposed commodities (both base and secondary by-products).
- Presence of programmatic MOU.
- Presence of threatened and endangered species (Section 7).
- State Historic Preservation Office consultation (Section 106).
- Presence of special planning designations (Wilderness Study Areas, Areas of Critical Environmental Concern, Wilderness Areas, etc.).
- Any litigation issues.

The BLM will need time to ensure these milestones are either currently tracked in BLM's Mineral and Lands Record System (MLRS) or add utility to the MLRS database that allows for tracking. The FS will also need time to create a suitable database and establish their tracking standards.