

HARDROCK LEASING AND RECLAMATION ACT OF 2019

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AUGUST 4, 2020.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed  
—————

Mr. GRIJALVA, from the Committee on Natural Resources,  
submitted the following

R E P O R T

together with

DISSENTING AND ADDITIONAL DISSENTING VIEWS

[To accompany H.R. 2579]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2579) to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Hardrock Leasing and Reclamation Act of 2019”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions and references.
- Sec. 3. Application rules.

**TITLE I—MINERAL LEASING, EXPLORATION, AND DEVELOPMENT**

- Sec. 101. Closure to entry and location.
- Sec. 102. Limitation on patents.
- Sec. 103. Prospecting license and hardrock leases.
- Sec. 104. Competitive leasing.
- Sec. 105. Small miners leases.
- Sec. 106. Lands containing nonhardrock minerals; other uses.
- Sec. 107. Royalty.
- Sec. 108. Existing production.
- Sec. 109. Hardrock mining claim maintenance fee.
- Sec. 110. Effect of payments for use and occupancy of claims.
- Sec. 111. Protection of special places.
- Sec. 112. Suitability determination.

## TITLE II—CONSULTATION PROCEDURE

- Sec. 201. Requirement for consultation.
- Sec. 202. Timing.
- Sec. 203. Scoping stage consultation.
- Sec. 204. Decision stage procedures.
- Sec. 205. Documentation and reporting.
- Sec. 206. Implementation.
- Sec. 207. Sensitive Tribal information.

## TITLE III—ENVIRONMENTAL CONSIDERATIONS OF MINERAL EXPLORATION AND DEVELOPMENT

- Sec. 301. General standard for hardrock mining on Federal land.
- Sec. 302. Permits.
- Sec. 303. Exploration permit.
- Sec. 304. Operations permit.
- Sec. 305. Persons ineligible for permits.
- Sec. 306. Financial assurance.
- Sec. 307. Operation and reclamation.
- Sec. 308. State law and regulation.

## TITLE IV—ABANDONED HARDROCK MINE RECLAMATION

- Sec. 401. Establishment of Fund.
- Sec. 402. Contents of Fund.
- Sec. 403. Displaced material reclamation fee.
- Sec. 404. Use and objectives of the Fund.
- Sec. 405. Eligible lands and waters.
- Sec. 406. Authorization of appropriations.

## TITLE V—ADDITIONAL PROVISIONS

- Sec. 501. Policy functions.
- Sec. 502. User fees and inflation adjustment.
- Sec. 503. Inspection and monitoring.
- Sec. 504. Citizens suits.
- Sec. 505. Administrative and judicial review.
- Sec. 506. Reporting requirements.
- Sec. 507. Enforcement.
- Sec. 508. Regulations.
- Sec. 509. Oil shale claims.
- Sec. 510. Savings clause.
- Sec. 511. Availability of public records.
- Sec. 512. Miscellaneous powers.
- Sec. 513. Mineral materials.
- Sec. 514. Effective date.

**SEC. 2. DEFINITIONS AND REFERENCES.**

(a) **IN GENERAL.**—As used in this Act:

- (1) The term “adjacent land” means any land not more than two miles from the boundary of a described land tract.
- (2) The term “affiliate” means, with respect to any person, any of the following:
  - (A) Any person who controls, is controlled by, or is under common control with such person.
  - (B) Any partner of such person.
  - (C) Any person owning at least 10 percent of the voting shares of such person.
- (3) The term “agency” means any authority of the United States that is an “agency” under section 3502(1) of title 44, United States Code.
- (4) The term “applicant” means any person applying for a permit, license, or lease under this Act or a modification to or a renewal of a permit, license, or lease under this Act.
- (5) The term “beneficiation” means the crushing and grinding of hardrock mineral ore and such processes as are employed to free the mineral from other constituents, including physical and chemical separation techniques.
- (6) The term “casual use”—
  - (A) subject to subparagraphs (B) and (C), means mineral activities that do not ordinarily result in any disturbance of public lands and resources;
  - (B) includes collection of geochemical, rock, soil, or mineral specimens using handtools, hand panning, or nonmotorized sluicing; and
  - (C) does not include—
    - (i) the use of mechanized earth-moving equipment, suction dredging, or explosives;
    - (ii) the use of motor vehicles in areas closed to off-road vehicles;
    - (iii) the construction of roads or drill pads; and
    - (iv) the use of toxic or hazardous materials.
- (7) The term “claim holder” means a person holding a mining claim, millsite claim, or tunnel site claim located under the general mining laws and maintained in compliance with such laws. Such term may include an agent of a claim holder.

(8) The term “control” means having the ability, directly or indirectly, to determine (without regard to whether exercised through one or more corporate structures) the manner in which an entity conducts mineral activities, through any means, including ownership interest, authority to commit the entity’s real or financial assets, position as a director, officer, or partner of the entity, or contractual arrangement.

(9) The term “crude ore” means ore in its unprocessed form, containing profitable amounts of the target mineral.

(10) The term “displaced material” means any crude ore and waste dislodged from its location at the time hardrock mineral activities begin at a surface, underground, or in-situ mine.

(11) The term “exploration”—

(A) subject to subparagraphs (B) and (C), means creating surface disturbance other than casual use, to evaluate the type, extent, quantity, or quality of minerals present;

(B) includes mineral activities associated with sampling, drilling, and analyzing hardrock mineral values; and

(C) does not include extraction of mineral material for commercial use or sale.

(12) The term “Federal land” means any land, and any interest in land, that is owned by the United States, except lands in the National Park System, Indian lands, and lands on the Outer Continental Shelf.

(13) The term “Fund” means the Hardrock Minerals Reclamation Fund established by this Act.

(14) The term “Indian lands” means lands held in trust for the benefit of an Indian Tribe or individual or held by an Indian Tribe or individual subject to a restriction by the United States against alienation, or held by an Alaska Native village, village corporation, or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(15) The term “Indian Tribe” means any Indian Tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village, village corporation, or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(16) The term “hardrock mineral”—

(A) subject to subparagraph (B), means any mineral that was subject to location under the general mining laws as of the date of enactment of this Act, and that is not subject to disposition under—

(i) the Mineral Leasing Act (30 U.S.C. 181 et seq.);

(ii) the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.);

(iii) the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 et seq.); or

(iv) the Mineral Leasing for Acquired Lands Act (30 U.S.C. 351 et seq.); and

(B) does not include any mineral that is subject to a restriction against alienation imposed by the United States and is—

(i) held in trust by the United States for any Indian or Indian Tribe, as defined in section 2 of the Indian Mineral Development Act of 1982 (25 U.S.C. 2101); or

(ii) owned by any Indian or Indian Tribe, as defined in that section.

(17) The term “mineral activities” means any activity on a mining claim, mill-site claim, or tunnel site claim, or a lease, license, or permit issued under this Act, for, related to, or incidental to, mineral exploration, mining, beneficiation, processing, or reclamation activities for any hardrock mineral.

(18) The term “memorandum of agreement” means a document that records the terms and conditions agreed upon by an agency and an Indian Tribe through the consultation process regarding an activity.

(19) The term “National Conservation System unit” means any unit of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Wilderness Preservation System, National Landscape Conservation System, or National Trails System, or a National Conservation Area, a National Recreation Area, a Wilderness Study Area, a National Monument, or any unit of the National Wilderness Preservation System or lands within the National Forest System, including:

(A) National Volcanic Monuments.

(B) Recreation Areas, Scenic Recreation Areas, and Winter Recreation Areas.

(C) Scenic Areas, Scenic-Research Areas, Scenic Highways, National Scenic and Wildlife Areas.

(D) National Game and Wildlife Preserves.

(E) Special Management, Wildlife, Conservation and Protection Areas, including botanical, hydrological (watershed), geological, historical, paleontological, and zoological areas.

(F) Experimental Forests, Ranges, and Watersheds.

(G) Research Sites and Research Natural Areas.

(H) Inventoried Roadless Area, Colorado Roadless Area, and Idaho Roadless Area.

(I) Recommended Wilderness and Primitive Areas.

(20) The term “operator” means any person proposing or authorized by a permit issued under this Act to conduct mineral activities and any agent of such person.

(21) The term “person” means an individual, Indian Tribe, partnership, association, society, joint venture, joint stock company, firm, company, corporation, cooperative, or other organization and any instrumentality of State or local government including any publicly owned utility or publicly owned corporation of State or local government.

(22) The term “processing” means processes downstream of beneficiation employed to prepare locatable mineral ore into the final marketable product, including smelting and electrolytic refining.

(23) The term “sacred site” means any specific delineated location on Federal land that is identified by an Indian Tribe—

(A) as sacred by virtue of its established religious significance to, or ceremonial use by, an Indian religion; or

(B) to be of established cultural significance.

(24) The term “Secretary” means the Secretary of the Interior, unless otherwise specified.

(25) The term “Secretary concerned” means—

(A) the Secretary of Agriculture (acting through the Chief of the Forest Service) with respect to National Forest System land; and

(B) the Secretary of the Interior (acting through the Director of the Bureau of Land Management) with respect to other Federal land.

(26)(A) The term “small miner” means a person (including all related parties thereto) that—

(i) holds not more than 10 mining claims, mill sites, or tunnel sites, or any combination thereof, on public lands;

(ii) holds leases and permits under this Act with respect to not more than 200 acres of Federal land;

(iii) certifies to the Secretary in writing that the person had annual gross income in the preceding calendar year from mineral production in an amount less than \$50,000; and

(iv) has performed assessment work required under the Mining Law of 1872 (30 U.S.C. 28 et seq.) to maintain any mining claims held by the person (including such related parties) for the assessment year ending on noon of September 1 of the calendar year in which payment of the claim maintenance fee was due.

(B) For purposes of subparagraph (A), with respect to any person, the term “all related parties” means—

(i) the spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986), of the person concerned; or

(ii) a person affiliated with the person concerned, including—

(I) another person controlled by, controlling, or under common control with the person concerned; or

(II) a subsidiary or parent company or corporation of the person concerned.

(C) For purposes of subparagraph (A)(iii), the dollar amount shall be applied, for a person, to the aggregate of all annual gross income from mineral production under all mining claims held by or assigned to such person or all related parties with respect to such person, including mining claims located or for which a patent was issued before the date of the enactment of this Act.

(27) The term “temporary cessation” means a halt in mine-related production activities for a continuous period of no longer than 5 years.

(28) The term “ton” means 2,000 pounds avoirdupois (.90718 metric ton).

(29) The term “undue degradation” means irreparable harm to significant scientific, cultural, or environmental resources on public lands.

(30) The term “valuable mineral deposit” means a deposit of hardrock minerals that is of sufficient value for a prudent operator to economically mine.

(31) The term “waste” means rock that must be fractured and removed in order to gain access to crude ore.

(b) REFERENCES TO OTHER LAWS.—

(1) GENERAL MINING LAWS.—Any reference in this Act to the term “general mining laws” is a reference to those Acts that generally comprise chapters 2, 12A, and 16, and sections 161 and 162, of title 30, United States Code.

(2) ACT OF JULY 23, 1955.—Any reference in this Act to the Act of July 23, 1955, is a reference to the Act entitled “An Act to amend the Act of July 31, 1947 (61 Stat. 681) and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes” (30 U.S.C. 601 et seq.).

**SEC. 3. APPLICATION RULES.**

(a) IN GENERAL.—This Act applies to any mining claim, millsite claim, or tunnel site claim located under the general mining laws, before or on the date of enactment of this Act.

(b) APPLICATION OF ACT TO BENEFICIATION AND PROCESSING OF NON-FEDERAL MINERALS ON FEDERAL LANDS.—The provisions of this Act shall apply in the same manner and to the same extent to mining claims, millsite claims, tunnel site claims, and any land included in a lease or license issued under this Act, used for beneficiation or processing activities for any hardrock mineral.

## **TITLE I—MINERAL LEASING, EXPLORATION, AND DEVELOPMENT**

**SEC. 101. CLOSURE TO ENTRY AND LOCATION.**

(a) CLOSURE.—Except as otherwise provided in this section, as of the effective date of this Act all Federal lands are closed to entry and location under the general mining laws, and no new rights under the general mining laws may be acquired.

(b) EXISTING NONPRODUCING CLAIMS.—

(1) CLAIMS WITHOUT PLAN OF OPERATIONS.—Any claim under the general mining laws existing on the effective date of this Act for which a plan of operations is not approved, or a notice of operations is not filed, before such date shall be subject to the requirements of this Act, and may remain in effect until not later than the end of the 10-year period beginning on the date of enactment of this Act if the claimholder remains in compliance with section 109, unless the claim holder—

(A) relinquishes the claim; or

(B) demonstrates eligibility for a lease and requests conversion under the regulations issued under subsection (d).

(2) SHORTENING OF PERIOD.—The 10-year period referred to in paragraph (1) shall be shortened to 3 years if—

(A) the claim is for an area that is located in an area withdrawn or temporarily segregated from location under the general mining laws as of the effective date of this Act; or

(B) the claim belongs to a small miner.

(3) CONVERSION.—Upon showing to the satisfaction of the Secretary of a valuable mineral deposit on lands subject to such a claim, the Secretary may convert the claim to a noncompetitive lease under the regulations issued under subsection (d).

(4) CLAIMS NOT CONVERTED.—Any such claims not converted to leases at the end of the applicable period under paragraph (1) or (2) shall be considered invalid and void.

(c) EXISTING CLAIMS WITH PLAN OF OPERATION.—

(1) IN GENERAL.—In the case of any claim under the general mining laws for which a plan of operations has been approved but for which operations have not commenced before the date of enactment of this Act—

(A) during the 10-year period beginning on the date of enactment of this Act—

(i) mineral activities on lands subject to such claim shall be subject to such plan of operations; and

(ii) modification of such plan may be made in accordance with the provisions of law applicable before the date of the enactment of this Act if such modifications are considered minor by the Secretary concerned; and

(B) the operator shall bring such mineral activities into compliance with this Act by the end of such 10-year period.

(2) **ACTIVITIES PENDING DECISION ON MODIFICATION TO PLAN OF OPERATIONS.**—If an application for modification of a plan of operations referred to in paragraph (1)(A)(ii) has been timely submitted and an approved plan expires before the Secretary concerned takes action on the application, mineral activities and reclamation may continue in accordance with the terms of the expired plan until such Secretary makes an administrative decision on the application.

(3) **CONVERSION REQUIREMENT.**—Any claims referred to in paragraph (1) may remain in effect for a period of up to 10 years. Any claim not converted to a lease under subsection (d) before the end of that period shall be subject to a fee of \$100 per acre per day until the claim is converted to a lease.

(d) **CONVERSION REGULATIONS.**—

(1) **IN GENERAL.**—The Secretary shall issue regulations not later than one year after the date of the enactment of this Act to provide for the conversion of mining claims to noncompetitive mining leases.

(2) **CONTENT.**—The regulations issued under paragraph (1) shall—

(A) prohibit the conversion of a mining claim to a mining lease by a claimholder who is in violation of this Act or other State or Federal environmental, health, or worker safety law;

(B) allow the Secretary to exercise discretion to include nonmineral lands within the boundaries of any mill site associated with the mining claim to be converted to a noncompetitive lease;

(C) prohibit the area in any noncompetitive mining lease issued under this subsection to exceed the maximum area authorized by this Act to be leased to any person;

(D) require the consent of the surface managing agency for conversion of a mining claim to a noncompetitive mining lease;

(E) require the fiscal terms of the converted noncompetitive mining lease to be the same as provided in this Act for other hardrock mining leases;

(F) require compliance with all provisions of this Act; and

(G) include any other terms the Secretary considers appropriate.

(e) **NATIONAL ENVIRONMENTAL POLICY ACT.**—The Secretary is not required to conduct an environmental analysis under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for the issuance of a noncompetitive lease under this section, unless the noncompetitive lease modifies or extends the surface disturbance already authorized under a mine plan of operations covering the mining claim that is converted.

#### **SEC. 102. LIMITATION ON PATENTS.**

(a) **MINING CLAIMS.**—

(1) **DETERMINATIONS REQUIRED.**—After the date of enactment of this Act, no patent shall be issued by the United States for any mining claim located under the general mining laws unless the Secretary determines that, for the claim concerned—

(A) a patent application was filed with the Secretary on or before September 30, 1994; and

(B) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30), in the case of a vein or lode claim, or sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37), in the case of a placer claim, were fully complied with by that date.

(2) **RIGHT TO PATENT.**—If the Secretary makes the determinations referred to in subparagraphs (A) and (B) of paragraph (1) for any mining claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this Act, unless such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

(b) **MILLSITE CLAIMS.**—

(1) **DETERMINATIONS REQUIRED.**—After the date of enactment of this Act, no patent shall be issued by the United States for any millsite claim located under the general mining laws unless the Secretary determines that for such millsite—

(A) a patent application for the land subject to such claim was filed with the Secretary on or before September 30, 1994; and

(B) all requirements applicable to such patent application were fully complied with before that date.

(2) **RIGHT TO PATENT.**—If the Secretary makes the determinations described in subparagraphs (A) and (B) of paragraph (1) for any millsite claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the

enactment of this Act, unless such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

**SEC. 103. PROSPECTING LICENSE AND HARDROCK LEASES.**

(a) **IN GENERAL.**—No person may conduct mineral prospecting for commercial purposes for any hardrock mineral on Federal lands without a prospecting license or a small miners lease.

(b) **PROSPECTING LICENSES.**—

(1) **IN GENERAL.**—The Secretary may, under such rules and regulations as the Secretary may prescribe and with the concurrence of the relevant surface management agency, grant an applicant a prospecting license that shall give the exclusive right to prospect for specified hardrock minerals on Federal lands for a period of not exceeding two years.

(2) **MAXIMUM AREA.**—The area subject to such a license shall not exceed 2,560 acres of land, in reasonably compact form.

(3) **LICENSE APPLICATION FEE.**—The Secretary shall charge a fee for each license application to cover the costs of processing the license, and the license shall be subject to annual rentals equal to \$10 per acre per year.

(4) **TERMS AND CONDITIONS.**—A prospecting license must conform with the terms and conditions of a comprehensive land use plan approved under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) or the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.). For areas where a comprehensive land use plan treating hardrock mining as a multiple-use activity has not been completed, the Secretary concerned shall ensure that the land to be covered by the license is suitable for mineral activities.

(5) **EXTENSION.**—A prospecting license may be extended for up to an additional four years upon a showing by the licensee that the licensee explored with reasonable diligence and was unable to determine the existence and workability of a valuable deposit covered by the license, or that the failure to perform diligent prospecting activities was due to conditions beyond the licensee's control.

(c) **NONCOMPETITIVE LEASES.**—

(1) **IN GENERAL.**—Upon a showing to the satisfaction of the Secretary by a prospecting licensee under subsection (a) that a valuable deposit of a hardrock mineral has been discovered by the licensee within an area covered by the prospecting license and with the consent of the surface agency, the licensee shall be entitled to a lease for any or all of the land included in the prospecting license, as well as any nonmineral lands necessary for processing or milling operations, at a royalty of no less than 12.5 percent of the gross value of production of hardrock minerals or mineral concentrates or products derived from hardrock minerals under the lease. Rentals for such lease shall be set by the Secretary at no less than \$10 per acre per year, with rentals paid in any one year credited against royalties accruing for that year. The recipient of such lease is not entitled to an operations permit.

(2) **LEASE PERIOD.**—

(A) **IN GENERAL.**—A lease under this section shall be for a period of 20 years, with the right to renew for successive periods of 10 years if hardrock minerals are being produced in commercial quantities under the lease.

(B) **EXTENSION DURING NONPRODUCTION.**—If hardrock minerals are not being produced in commercial quantities at the end of the primary term or any subsequent term of such a lease, the Secretary may issue a 10-year extension of the lease in the interest of conservation, reclamation maintenance, or upon a successful showing by the lessee that the lease cannot be successfully operated at a profit or for other reasons. No more than one extension under this subparagraph may be issued.

(d) **CUMULATIVE ACREAGE LIMITATION.**—No person may take, hold, own, or control at one time, whether acquired directly from the Secretary under this Act or otherwise, hardrock mining leases or licenses for an aggregate of more than 20,480 acres in any one State.

(e) **REDUCTION OF ROYALTY RATE.**—

(1) **Subject to paragraph (2), The Secretary—**

(A) may reduce the royalty rate for a lease upon a showing by clear and convincing evidence by the person conducting mineral activities under the lease that production would not occur without the reduction in royalty; and

(B) may reduce royalty and rental rates for a lease to encourage exploration for and development of hardrock minerals classified as strategic and critical by the Department of Energy.

(2) The Secretary may not reduce the royalty rate for a lease pursuant to paragraph (1) to a royalty rate of less than 6.25 percent.

(f) **PROTECTION OF LAND AND OTHER RESOURCES.**—The Secretary may include in any lease or license issued under this Act such provisions as are necessary to adequately protect the lands and other resources in the vicinity of the area subject to the lease or license. For land not managed by the Department of the Interior, the Secretary shall consult with the appropriate surface management agency in formulating such provisions.

**SEC. 104. COMPETITIVE LEASING.**

(a) **IN GENERAL.**—Subject to sections 111 and 112, Federal lands known to contain valuable deposits of hardrock minerals that are not covered by claims, licenses, or leases may only be open to hardrock mineral exploration or development through competitive leasing by the Secretary by such methods the Secretary may adopt by regulation and in such areas as the Secretary may determine, including nonmineral lands the Secretary considers necessary for processing or milling operations. The total area of land subject to any such lease shall not exceed 2,560 acres.

(b) **TERMS AND REQUIREMENTS.**—All terms and requirements for competitive leases under this section shall be the same as if the leases were issued noncompetitively under section 103(c).

**SEC. 105. SMALL MINERS LEASES.**

(a) **IN GENERAL.**—The Secretary may issue small miners leases to qualified small miners that apply, under such rules and regulations as the Secretary may prescribe, including conditions to require diligent development of the lease and to ensure protection of surface resources and groundwater.

(b) **EXCLUSIVE RIGHT.**—A small miners lease shall give the leaseholder the exclusive right to prospect for hardrock minerals for 3 years on up to 200 acres of contiguous or non-contiguous Federal land.

(c) **APPLICATION FEE.**—The Secretary shall charge a reasonable application fee for such a lease.

(d) **RENTALS.**—Rentals for such a lease shall be \$5 per acre per year for the first 3 years.

(e) **RENEWAL.**—Such leases may be renewed for additional 3-year periods, with no limit, with a \$10 per acre per year rental charged for renewed leases.

(f) **CHALLENGE.**—Any individual may file a challenge with the Secretary that a leaseholder is in violation of the diligence terms of a small miners lease or does not qualify as a small miner. A small miners lease that is under such a challenge may not be renewed unless the Secretary has determined that the leaseholder is a small miner and is in compliance with all the terms of the lease.

(g) **NO ROYALTIES.**—No royalties shall be charged for commercial production under a small miners lease.

(h) **CONVERSION OF EXISTING CLAIMS.**—An existing claim, as of January 1, 2019, that belongs to an individual that qualifies as a small miner may be converted to a small miners lease under the same terms and conditions that apply to other small miners leases, except that such lease—

(1) shall not be subject to rental during the primary term of the lease;

(2) shall be subject to a rental of \$5 per acre per year for the first 3-year renewal of the lease; and

(3) shall be subject to a rental of \$10 per acre per year for any subsequent 3-year renewal of the lease.

(i) **LIMITATIONS.**—A small miners lease—

(1) may only be held by the primary leaseholder, a spouse thereof, or a direct descendent thereof;

(2) may not be sold or transferred, other than to a spouse or direct descendent of the primary leaseholder; and

(3) is subject to all permitting requirements under this Act.

(j) **CONVERSION TO HARDROCK MINERAL LEASE.**—If, with regards to a lease, the leaseholder no longer qualifies as a small miner at the time such leaseholder applies for a renewal of such lease, such leaseholder shall not be eligible to renew the small miners lease, but shall be eligible for a noncompetitive hardrock mineral lease issued under section 103(c). Notwithstanding section 103(c)(1), royalties under such a lease shall only be due on the gross income that exceeds the amount of gross income specified in such definition as of the time the hardrock mineral lease is issued.

**SEC. 106. LANDS CONTAINING NONHARDROCK MINERALS; OTHER USES.**

(a) **IN GENERAL.**—In issuing licenses and leases under this Act for lands that contain deposits of coal or other nonhardrock minerals, the Secretary shall reserve to the United States such nonhardrock minerals for disposal under applicable laws.

(b) **OTHER USES OF LICENSED AND LEASED LANDS.**—

(1) **IN GENERAL.**—The Secretary shall promulgate regulations to allow for other uses of the lands covered by a prospecting license under this Act, includ-

ing leases for other minerals, if such other uses would not unreasonably interfere with operations under the prospecting license.

(2) PROSPECTING LICENSES.—The Secretary shall include in such prospecting licenses such terms and conditions as the Secretary finds necessary to avoid unreasonable interference with other uses occurring on, or other leases of, the licensed lands.

(3) LEASES.—The Secretary shall include in leases under this Act stipulations to allow for simultaneous operations under other leases for the same lands.

**SEC. 107. ROYALTY.**

(a) EXISTING PRODUCTION.—Production of hardrock minerals on Federal land under an operations permit from which valuable hardrock minerals were produced in commercial quantities before the date of the enactment of this Act, other than production under a small miners lease, shall be subject to a royalty established by the Secretary at no less than 8 percent of the gross value of such production, or of mineral concentrates or products derived from hardrock minerals. Any Federal land added through a plan modification to an operations permit on Federal land that is submitted after the date of enactment of this Act shall be subject to a royalty established by the Secretary for such lease of no less than 12.5 percent of the gross value of production of hardrock minerals, or mineral concentrates or products derived from hardrock minerals.

(b) LIABILITY.—The claim or leaseholder, or any operator to whom the claim or lease holder has assigned the obligation to make royalty payments under the claim or lease and any person who controls such claim or lease holder or operator, shall be liable for payment of such royalties.

(c) DISPOSITION.—Of the revenues collected under this title, including rents, royalties, claim maintenance fees, interest charges, fines, and penalties—

(1) 25 percent shall be paid to the State within the boundaries of which the leased, licensed, or claimed lands, or operations subject to such interest charges, fines, or penalties are or were located; and

(2) the remainder shall be deposited in the account established under section 501.

(d) DUTIES OF CLAIM OR LEASE HOLDERS, OPERATORS, AND TRANSPORTERS.—

(1) REGULATION.—The Secretary shall prescribe by rule the time and manner in which—

(A) a person who is required to make a royalty payment under this section shall make such payment; and

(B) shall notify the Secretary of any assignment that such person may have made of the obligation to make any royalty or other payment under a mining claim or lease under this title.

(2) WRITTEN INSTRUMENT.—Any person paying royalties under this section shall file a written instrument, together with the first royalty payment, affirming that such person is responsible for making proper payments for all amounts due for all time periods for which such person has a payment responsibility.

(3) ADDITIONAL AMOUNTS.—Such responsibility for the periods referred to in paragraph (2) shall include any and all additional amounts billed by the Secretary and determined to be due by final agency or judicial action.

(4) JOINT AND SEVERAL LIABILITY.—Any person liable for royalty payments under this section who assigns any payment obligation shall remain jointly and severally liable for all royalty payments due for the period.

(5) OBLIGATIONS.—A person conducting mineral activities shall—

(A) develop and comply with the site security provisions in the operations permit designed to protect from theft the hardrock minerals, concentrates, or products derived therefrom that are produced or stored on the area subject to a mining claim or lease, and such provisions shall conform with such minimum standards as the Secretary may prescribe by rule, taking into account the variety of circumstances on areas subject to mining claims and leases; and

(B) not later than the 5th business day after production begins anywhere on an area subject to a mining claim or lease, or production resumes after more than 90 days after production was suspended, notify the Secretary, in the manner prescribed by the Secretary, of the date on which such production has begun or resumed.

(6) REQUIRED DOCUMENTATION.—The Secretary may by rule require any person engaged in transporting a hardrock mineral, concentrate, or product derived therefrom to carry on his or her person, in his or her vehicle, or in his or her immediate control, documentation showing, at a minimum, the amount, origin, and intended destination of the hardrock mineral, concentrate, or product de-

rived therefrom in such circumstances as the Secretary determines is appropriate.

(e) RECORDKEEPING AND REPORTING REQUIREMENTS.—

(1) IN GENERAL.—A claim or lease holder, operator, or other person directly involved in developing, producing, processing, transporting, purchasing, or selling hardrock minerals, concentrates, or products derived therefrom, subject to this Act, through the point of royalty computation shall establish and maintain any records, make any reports, and provide any information that the Secretary may reasonably require for the purposes of implementing this section or determining compliance with rules or orders under this section. Such records shall include periodic reports, records, documents, and other data. Such reports may also include pertinent technical and financial data relating to the quantity, quality, composition volume, weight, and assay of all minerals extracted from the mining claim or lease.

(2) AVAILABILITY FOR INSPECTION.—Upon the request of any officer or employee duly designated by the Secretary conducting an audit or investigation pursuant to this section, the appropriate records, reports, or information that may be required by this section shall be made available for inspection and duplication by such officer or employee.

(3) FORFEITURE.—Failure by a claim or lease holder, operator, or other person referred to in the first sentence to cooperate with such an audit, provide data required by the Secretary, or grant access to information may, at the discretion of the Secretary, result in involuntary forfeiture of the claim or lease.

(4) MAINTENANCE OF RECORDS.—Records required by the Secretary under this section shall be maintained for 7 years after release of financial assurance under section 306 unless the Secretary notifies the operator that the Secretary has initiated an audit or investigation involving such records and that such records must be maintained for a longer period. In any case when an audit or investigation is underway, records shall be maintained until the Secretary releases the operator of the obligation to maintain such records.

(f) AUDITS.—The Secretary is authorized to conduct such audits of all claim or lease holders, operators, transporters, purchasers, processors, or other persons directly or indirectly involved in the production or sale of minerals covered by this Act, as the Secretary deems necessary for the purposes of ensuring compliance with the requirements of this section. For purposes of performing such audits, the Secretary shall, at reasonable times and upon request, have access to, and may copy, all books, papers and other documents that relate to compliance with any provision of this section by any person.

(g) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—The Secretary is authorized to enter into cooperative agreements with the Secretary of Agriculture to share information concerning the royalty management of hardrock minerals, concentrates, or products derived therefrom, to carry out inspection, auditing, investigation, or enforcement (not including the collection of royalties, civil or criminal penalties, or other payments) activities under this section in cooperation with the Secretary, and to carry out any other activity described in this section.

(2) SECRETARY OF AGRICULTURE.—Except as provided in paragraph (3), and pursuant to a cooperative agreement, the Secretary of Agriculture shall, upon request, have access to all royalty accounting information in the possession of the Secretary respecting the production, removal, or sale of hardrock minerals, concentrates, or products derived therefrom from claims or leases on lands open to location under this Act.

(3) TRADE SECRETS.—Trade secrets, proprietary, and other confidential information protected from disclosure under section 552 of title 5, United States Code, shall be made available by the Secretary to other Federal agencies as necessary to assure compliance with this Act and other Federal laws. The Secretary, the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and other Federal officials shall ensure that such information is provided protection in accordance with the requirements of that section.

(h) INTEREST AND SUBSTANTIAL UNDERREPORTING ASSESSMENTS.—

(1) PAYMENTS NOT RECEIVED.—In the case of mining claims or leases where royalty payments are not received by the Secretary on the date that such payments are due, the Secretary shall charge interest on such underpayments at the same interest rate as the rate applicable under section 6621(a)(2) of the Internal Revenue Code of 1986. In the case of an underpayment, interest shall be computed and charged only on the amount of the deficiency and not on the total amount.

(2) UNDERREPORTING.—If there is any underreporting of royalty owed on production from a claim or lease for any production month by any person liable

for royalty payments under this section, the Secretary shall assess a penalty of not greater than 25 percent of the amount of that underreporting.

(3) SELF-REPORTING.—The Secretary may waive or reduce the assessment provided in paragraph (2) of this subsection if the person liable for royalty payments under this section corrects the underreporting before the date such person receives notice from the Secretary that an underreporting may have occurred, or before 90 days after the date of the enactment of this section, whichever is later.

(4) WAIVER.—The Secretary shall waive any portion of an assessment under paragraph (2) of this subsection attributable to that portion of the underreporting for which the person responsible for paying the royalty demonstrates that—

(A) such person had written authorization from the Secretary to report royalty on the value of the production on basis on which it was reported;

(B) such person had substantial authority for reporting royalty on the value of the production on the basis on which it was reported;

(C) such person previously had notified the Secretary, in such manner as the Secretary may by rule prescribe, of relevant reasons or facts affecting the royalty treatment of specific production which led to the underreporting; or

(D) such person meets any other exception which the Secretary may, by rule, establish.

(5) DEFINITION.—For the purposes of this subsection, the term “underreporting” means the difference between the royalty on the value of the production that should have been reported and the royalty on the value of the production which was reported, if the value that should have been reported is greater than the value that was reported.

(6) HARDROCK MINERALS RECLAMATION FUND.—All penalties collected under this subsection shall be deposited in the Hardrock Minerals Reclamation Fund established by this Act.

(i) EXPANDED ROYALTY OBLIGATIONS.—Each person liable for royalty payments under this section shall be jointly and severally liable for royalty on all hardrock minerals, concentrates, or products derived therefrom lost or wasted from a mining claim or lease when such loss or waste is due to negligence on the part of any person or due to the failure to comply with any rule, regulation, or order issued under this section.

(j) GROSS INCOME FROM MINING DEFINED.—For the purposes of this section, for any hardrock mineral, the term “gross income from mining” has the same meaning as the term “gross income” in section 613(c) of the Internal Revenue Code of 1986.

(k) EFFECTIVE DATE.—Royalties under this Act shall take effect with respect to the production of hardrock minerals after the enactment of this Act, but any royalty payments attributable to production during the first 12 calendar months after the enactment of this Act shall be payable at the expiration of such 12-month period.

(l) FAILURE TO COMPLY WITH ROYALTY REQUIREMENTS.—Any person who fails to comply with the requirements of this section or any regulation or order issued to implement this section shall be liable for a civil penalty under section 109 of the Federal Oil and Gas Royalty Management Act (30 U.S.C. 1719) to the same extent as if the claim or lease maintained in compliance with this Act were a lease under such Act.

#### SEC. 108. EXISTING PRODUCTION.

The holder of a mining claim located or converted under this Act for which mineral activities have already commenced under an approved plan of operations as of the date of enactment of this Act shall have the exclusive right of possession and use of the claimed land for mineral activities, including the right of ingress and egress to such claimed lands for such activities, subject to the rights of the United States under this Act and other applicable Federal law. Such rights of the claim holder shall terminate upon completion of mineral activities on such lands to the satisfaction of the Secretary.

#### SEC. 109. HARDROCK MINING CLAIM MAINTENANCE FEE.

(a) FEE.—

(1) IN GENERAL.—

(A) REQUIRED FEES.—Except as provided in section 2511(e)(2) of the Energy Policy Act of 1992 (30 U.S.C. 242), or as otherwise provided in this Act, for each unpatented mining claim, mill, or tunnel site on federally owned lands, whether located before or on the date of enactment of this Act, each claimant shall pay to the Secretary, on or before August 31 of each year, a claim maintenance fee of \$200 per claim to hold such unpatented mining claim, mill or tunnel site for the assessment year beginning at noon

on the next day, September 1. Such claim maintenance fee shall be in lieu of the assessment work requirement contained in the Mining Law of 1872 (30 U.S.C. 28 et seq.) and the related filing requirements contained in section 314 (a) and (c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744 (a) and (c)).

(B) FEE ADJUSTMENTS.—Any adjustment to the fees under this subsection under section 502 shall begin to apply the calendar year following the calendar year in which such adjustment is made.

(C) EXCEPTION FOR SMALL MINERS.—Subparagraph (A) and the assessment work requirement contained in the Mining Law of 1872 (30 U.S.C. 28 et seq.) shall not apply with respect to any claim held by a small miner.

(2) Moneys received under this subsection that are not otherwise allocated for the administration of the mining laws by the Department of the Interior shall be deposited in the Hardrock Minerals Reclamation Fund established by section 401.

(b) CO-OWNERSHIP.—The co-ownership provisions of the Mining Law of 1872 (30 U.S.C. 28 et seq.) shall remain in effect except that the annual claim maintenance fee, where applicable, shall replace applicable assessment requirements and expenditures.

(c) FAILURE TO PAY.—Failure to pay the claim maintenance fee as required by subsection (a) shall conclusively constitute a forfeiture of the unpatented mining claim, mill or tunnel site by the claimant and the claim shall be deemed null and void by operation of law.

(d) OTHER REQUIREMENTS.—

(1) REQUIRED FILINGS.—Nothing in this section shall change or modify the requirements of section 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)), or the requirements of section 314(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(c)) related to filings required by section 314(b), which remain in effect.

(2) MINING LAW OF 1872.—Section 2324 of the Revised Statutes of the United States (30 U.S.C. 28) is amended by inserting “or section 103(a) of the Hardrock Leasing and Reclamation Act of 2019” after “Act of 1993”.

**SEC. 110. EFFECT OF PAYMENTS FOR USE AND OCCUPANCY OF CLAIMS.**

Except as otherwise provided in section 101, timely payment of the claim maintenance fee required by section 109 or any related law relating to the use of Federal land, asserts the claimant’s authority to use and occupy the Federal land concerned for prospecting and exploration, consistent with the requirements of this Act and other applicable law.

**SEC. 111. PROTECTION OF SPECIAL PLACES.**

(a) PROTECTION OF NATIONAL PARK SYSTEM UNITS AND NATIONAL MONUMENTS.—No permit shall be issued under this Act that authorizes mineral activities that would impair the land or resources of a unit of the National Park System or a national monument. For purposes of this subsection, the term “impair” includes any diminution of the affected land including wildlife, scenic assets, water resources, air quality, and acoustic qualities, or other changes that would impair a citizen’s experience at the National Park System unit or a national monument.

(b) PROTECTION OF CONSERVATION AREAS.—In order to protect the resources and values of National Conservation System units, the Secretary, as appropriate, shall utilize authority under this Act and other applicable law to the fullest extent necessary to prevent mineral activities that could have an adverse impact on the resources or values for which such units were established.

(c) LANDS NOT OPEN TO MINING.—Notwithstanding any other provision of law and subject to valid existing rights, no hardrock mining activity shall be allowed in any of the following:

- (1) Sacred sites.
- (2) Wilderness study areas.
- (3) Designated critical habitat.
- (4) Areas of critical environmental concern.
- (5) Units of the National Conservation System.
- (6) Areas designated for inclusion in the National Wild and Scenic Rivers System pursuant to the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.), areas designated for potential addition to such system pursuant to section 5(a) of that Act (16 U.S.C. 1276(a)), and areas determined to be eligible for inclusion in such system pursuant to section 5(d) of such Act (16 U.S.C. 1276(d)).
- (7) Inventoried Roadless Areas under the Roadless Area Conservation Rule, part 294 of title 36, Code of Federal Regulations, Colorado Roadless Areas, or Idaho Roadless Areas.

**SEC. 112. SUITABILITY DETERMINATION.**

(a) **IN GENERAL.**—The Secretary concerned shall make each determination of whether lands are suitable for mineral activities that is otherwise required by this Act, in accordance with subsection (b).

(b) **SUITABILITY.**—

(1) **IN GENERAL.**—The Secretary concerned shall consider lands suitable for mineral activities if the Secretary concerned finds that such activities would not result in undue degradation to a special characteristic described in paragraph (2) that cannot be prevented by the imposition of conditions in the permit required for such activities under title III.

(2) **SPECIAL CHARACTERISTICS.**—For purposes of paragraph (1) the Secretary concerned shall consider each of the following to be a special characteristic:

(A) The existence of a significant water resource or supply in or associated with such lands, including any aquifer or aquifer recharge area.

(B) The presence on such lands, or any adjacent land, of a publicly owned place that is listed on, or determined by the Secretary of the Interior to be eligible for listing on, the National Register of Historic Places.

(C) The designation of all or any portion of such lands, or any adjacent land, as a National Conservation System unit.

(D) The designation of all or any portion of such lands, or any adjacent land, as critical habitat under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(E) The designation of all or any portion of such lands, or any adjacent land, as a class I area under section 162 of the Clean Air Act (42 U.S.C. 7472).

(F) The presence of such other resource values as the Secretary concerned may by rule specify, determined based upon field testing, evaluation, or credible information that verifies such values.

(G) The designation of such lands, or adjacent land, as a Research Natural Area.

(H) The presence on such lands, or any adjacent land, of a sacred site.

(I) The presence or designation of such lands adjacent to lands not open to mining pursuant to section 111.

(3) A determination under this subsection of suitability for mineral activities shall be made after publication of notice and an opportunity for submission of public comment for a period of not less than 60 days.

(4) Any determination made in accordance with this subsection with respect to lands shall be incorporated into each Federal land use plan applicable to such lands, at the time such plan is adopted, revised, or significantly amended pursuant to any Federal law other than this Act.

(c) **CHANGE REQUEST.**—The Secretary concerned shall, by rule, provide for an opportunity for any person to request a change in determination for any Federal land found suitable under subsection (a).

(d) **EXISTING OPERATIONS.**—Nothing in this section shall be construed as affecting lands on which mineral activities were being conducted on the date of enactment of this Act under an approved plan of operations or under notice.

## **TITLE II—CONSULTATION PROCEDURE**

**SEC. 201. REQUIREMENT FOR CONSULTATION.**

(a) **SCOPE.**—Agencies shall ensure meaningful and timely consultation with Indian Tribes and Tribal officials prior to undertaking any mineral activities that may have substantial direct, indirect, or cumulative impacts on—

(1) the lands, including allotted, ceded, or traditional lands, or interests of an Indian Tribe or a member of an Indian Tribe;

(2) any part of any Federal land that shares a border with Indian country, as such term is defined in section 1151 of title 18, United States Code;

(3) the relationship between the Federal Government and an Indian Tribe; or

(4) the distribution of power and responsibilities between the Federal Government and an Indian Tribe.

(b) **MULTIAGENCY MINERAL ACTIVITIES.**—If more than one agency is involved in a mineral activity, some or all of the agencies may designate a lead agency, which shall be responsible for fulfilling the consultation required under subsection (a). An agency that does not designate a lead agency shall remain individually responsible for the consultation required under subsection (a). All agencies involved in the mineral activity shall remain involved in and engaged with the consultation process regardless of whether or not a lead agency has been designated.

(c) **LIMITATION.**—Nothing in this Act shall exempt an agency from additional consultation required under any other law or from taking any other consultative actions as required by any other law or agency prerogative in addition to those required by this Act. Nor does it preclude an agency from additional consultation that complies with agency regulations for consultation, advances agency consultation practices, or supports agency efforts to build or strengthen government-to-government relationships with an Indian Tribe.

(d) **TEMPORARY WAIVER.**—

(1) **IN GENERAL.**—The agency may temporarily waive the requirements of this title in all or any portion of any emergency area during all or any portion of an emergency period.

(2) **DURATION OF WAIVER.**—A temporary waiver under this subsection shall end upon the termination of the applicable emergency period.

(3) **DEFINITIONS.**—For the purposes of this subsection—

(A) the term “emergency area” means a geographical area in which there exists an emergency or disaster declared by the President pursuant to the National Emergencies Act (50 U.S.C. 1601 et seq.) or the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

(B) the term “emergency period” means the period during which there exists an emergency or disaster declared by the President pursuant to the National Emergencies Act (50 U.S.C. 1601 et seq.) or the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

**SEC. 202. TIMING.**

Consultation under sections 203 and 204 shall be completed before any Federal funds are expended for the mineral activity and before the issuance of any license.

**SEC. 203. SCOPING STAGE CONSULTATION.**

(a) **PLANNING DOCUMENT.**—As early as possible in the planning stage of a mineral activity, the agency shall compile a draft of the scope of the project. The agency shall make a reasonable and good faith effort, consistent with section 800.4(b)(1) of title 36, Code of Federal Regulations, as such regulation was in effect on July 6, 2004, to identify areas that contain sites important to Indian Tribes whether or not such sites are explicitly known to the agency. The agency shall make a reasonable and good faith effort to identify any geographic areas important to Indian Tribes that might be affected and any other anticipated impacts to Tribal interests.

(b) **INITIAL CONSULTATION CONTACT.**—The agency—

(1) shall send, via United States mail and, if possible, email, a copy of the planning document and a letter requesting consultation meetings to the relevant Tribal Government officials, including the Tribal leader and all members of any elected Tribal governing body, relevant Tribal governmental agencies (including the Tribal Historic Preservation Officer or cultural resource manager), owners of individual allotments, other stakeholders identified by the Tribe, and relevant non-Tribal stakeholders (including the State Historic Preservation Officer and local governments that have jurisdiction on any affected land via agreement with the agency); and

(2) shall follow up with phone calls to confirm receipt of the documents by all intended recipients.

(c) **CONSULTATION MEETING ARRANGEMENTS.**—The agency shall negotiate with the affected Indian Tribes to determine the time, place, agenda, travel funds, facilitator, format, and goals of a consultation meeting. The agency shall keep thorough documentation of all steps taken to contact and engage the affected Indian Tribes in consultation. If, after a good faith effort, the agency fails to engage the affected Indian Tribes, it may terminate its scoping stage consultation efforts by providing all consultation partners with a written notification and explanation for its decision to end scoping stage consultation efforts, signed by the head of the agency, and proceed to the decision stage procedures described in section 204. A good faith effort to consult must involve consistent and sustained efforts to contact and engage with the appropriate-level officials via the available channels of communication (United States mail, e-mail, and telephone).

(d) **SCOPING STAGE CONSULTATION MEETING.**—A scoping stage consultation meeting shall begin with confirmation of the format, facilitator, and agenda, with adequate time scheduled for introductions and for interaction throughout the meeting among participants. Whenever possible, Tribal stakeholders (such as allottees or interested Tribal members) shall be brought into the on-going planning process directly by forming ad hoc workgroups (including Tribal leaders or their designees) and, if appropriate, initiating a process for consensual development of regulations, such as negotiated rulemaking. A scoping stage consultation meeting shall conclude with planning for the next meeting, if necessary.

(e) **TERMINATION OF SCOPING STAGE CONSULTATION WITH A MEMORANDUM OF AGREEMENT.**—

(1) **TERMINATION.**—Except as provided by subsection (c), scoping stage consultation shall terminate upon the execution of a memorandum of agreement signed by the head of the agency and the affected Indian Tribes.

(2) **SIGNATORIES.**—The affected Indian Tribes and the agency may jointly invite additional parties to be signatories of the memorandum of agreement. The signatories have sole authority to execute, amend, or terminate the memorandum of agreement. If any signatory determines that the terms of the memorandum of agreement cannot be carried out, the signatories shall consult to seek amendment of the memorandum of agreement. If the memorandum of agreement is not amended, any signatory may terminate the agreement, and the process will return to scoping stage consultation. The agency shall provide all nonsignatory consulting partners with the opportunity to submit a written statement, explanation, or comment on the consultation proceedings that shall become part of the agency's official consultation record.

(3) **MEMORANDUM OF AGREEMENT.**—The memorandum of agreement—

(A) may address multiple activities if—

(i) the activities are similar and repetitive or are multistate or regional in scope, or where routine management activities are undertaken at Federal installations, facilities, or other land management units; and

(ii) the scope of the activities is clearly delineated;

(B) may establish standard processes for certain categories of activities determined through consultation and defined in the memorandum of agreement;

(C) shall include a provision for monitoring and reporting on its implementation;

(D) shall include provisions for termination or reconsideration if the activity has not been completed within a specified time;

(E) shall include provisions to address new discoveries, which may include halting the activity and returning to scoping stage consultation;

(F) shall include provisions to address changes or modifications to the scope or nature of the activity, impacts or conditions of the project or site;

(G) may incorporate relevant Tribal laws, standards, regulations, or policies;

(H) may include provisions for the protection of culturally sensitive information; and

(I) shall include provisions to address and resolve disputes.

(f) **TERMINATION OF SCOPING STAGE CONSULTATION WITHOUT A MEMORANDUM OF AGREEMENT.**—The agency shall make a good faith effort through sustained interaction and collaboration to reach a consensus resulting in a memorandum of agreement. If, after a good faith effort and a reasonable amount of time given the nature and complexities of the proposed activity and potential impacts, the agency determines that further consultation will not be productive, it may terminate consultation by providing all consultation partners with a written notification and explanation for its decision, signed by the head of the agency, and proceed to the decision stage procedures described in section 204. Any decision by an agency to terminate consultation must be supported by an adequate documentation and evidence of its good faith efforts and the basis for its decision. The affected Indian Tribes may at any point decide to terminate consultation. In case of termination by either party, the agency shall provide the affected Indian Tribes or other affected parties with the opportunity to submit a written statement, explanation, or comment on the consultation proceedings that will become part of the agency's official consultation record.

**SEC. 204. DECISION STAGE PROCEDURES.**

(a) **PROPOSAL DOCUMENT.**—The agency shall compile a document consisting of the plan for the activity, its anticipated impacts to Tribal interests, any memorandum of agreement, and any written statements made by consulting partners during the scoping stage as described in section 203. The agency shall include sufficient supporting documentation to the extent permitted by law and within available funds to enable any reviewing parties to understand its basis. The agency may use documentation prepared to comply with other laws to fulfill the requirements of this provision to the extent that such documentation is sufficiently pertinent to and focused on the relevant issues as to allow reasonable ease of review. The agency shall mail and, if possible, email a copy of the Proposal Document to all affected Indian Tribes and stakeholders, including those that withdrew from the process. At a minimum, the document shall go to the Tribal leader, all members of any elected Tribal gov-

erning body, and stakeholders. The agency shall follow up to confirm receipt of the document. After these steps have been completed, the Proposal Document shall be published in the Federal Register, subject to the provisions of section 207.

(b) PUBLIC COMMENT PERIOD.—The agency shall provide a period of not less than 90 days after publication in the Federal Register for comments on the Proposal Document. A reasonable extension shall be granted upon request of not less than 30 days by any member of any of the affected Indian Tribal governing bodies or a stakeholder.

(c) PRELIMINARY DECISION.—After expiration of the comment period, the agency shall prepare a preliminary decision letter, signed by the head of the agency. The letter shall state the decision to proceed or not proceed with the mineral activity, the decision's rationale, any changes in the proposal made in response to comments, and any points where the decision conflicts with the expressed requests of any of the affected Indian Tribes or stakeholders. It shall particularly address why the decision was made to disregard any such requests. The agency shall mail and, if possible, email a copy of the letter to all affected Indian Tribes and stakeholders, including those that withdrew from the process. At a minimum, the letter shall go to the Tribal leader, all members of the Tribal governing body, and stakeholders. The agency shall follow up to confirm receipt of the letter.

(d) FINAL DECISION.—The agency shall provide a 60-day period following the issuance of the preliminary decision letter for response by the affected Indian Tribes and stakeholders. Thereafter, the agency shall notify in writing, signed by the head of the agency, the affected Indian Tribes and stakeholders, including those that withdrew from the process, of the agency's final decision.

**SEC. 205. DOCUMENTATION AND REPORTING.**

(a) OFFICIAL CONSULTATION RECORD.—The agency shall keep an official consultation record that allows accurate tracking of the process so that agencies and consulting parties can correct any errors or omissions, and provides an official record of the process that can be referred to in any litigation that may arise. The agency shall document all efforts to initiate consultation as well as documenting the process once it has begun. Such documentation, including correspondence, telephone logs, and emails, shall be included in the agency's official consultation record. The agency shall also keep notes so that the consultation record documents the content of consultation meetings, site visits, and phone calls in addition to information about dates and who participated.

(b) PAYMENT FOR TRIBAL DOCUMENTATION WORK.—If the agency asks an Indian Tribe for specific information or documentation regarding the location, nature, and condition of individual sites, to conduct a survey, or in any way fulfill the duties of the agency in a role similar to that of a consultant or contractor, then the agency must pay for such services, if so requested by the Indian Tribe, as it would for any private consultant or contractor. An Indian Tribe may select a contractor to perform such work on its behalf, to be paid for by the agency.

(c) REPORT TO CONGRESS.—Each agency shall on a biennial basis submit to Congress a report on its consultation activities.

**SEC. 206. IMPLEMENTATION.**

Not later than 30 days after the date of the enactment of this Act, the head of each agency shall designate an official with principal responsibility for the agency's review of existing consultation and coordination policies and procedures, and implementation of this Act. Not later than 60 days after the effective date of this order, the designated official shall submit to the Office of Management and Budget a description of the agency's revised consultation process in conformity with this Act.

**SEC. 207. SENSITIVE TRIBAL INFORMATION.**

(a) CLOSED MEETINGS.—Notwithstanding any provision of the Administrative Procedures Act, consultation meetings shall be closed to the public at the request of the Indian Tribal Government.

(b) SENSITIVE INFORMATION.—Notwithstanding any provision of section 552 of title 5, United States Code (commonly known as the Freedom of Information Act), the Administrative Procedures Act, or any other applicable laws or regulations, all information designated by the Indian Tribe as sensitive, such as the location of sacred sites or other details of cultural or religious practices, shall be deleted from any public publication made as part of the consultation process or in the process of carrying out the activity.

(c) LIMITED INFORMATION ACCESS.—The agency, in consultation with the Indian Tribe or such Tribe's designee, shall determine who may have access to the information for the purposes of carrying out the mineral activity.

(d) **INDIVIDUAL ALLOTMENTS.**—Instances where sacred sites are located on individual allotments or public domain allotments shall be addressed on a case-by-case basis and shall involve the allottees.

(e) **SACRED SITES.**—The location and uses of a sacred site shall be protected in accordance with this provision and section 111.

### **TITLE III—ENVIRONMENTAL CONSIDERATIONS OF MINERAL EXPLORATION AND DEVELOPMENT**

#### **SEC. 301. GENERAL STANDARD FOR HARDROCK MINING ON FEDERAL LAND.**

Notwithstanding section 302(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732(b)), the first section of the Act of June 4, 1897 (chapter 2; 30 Stat. 36; 16 U.S.C. 478), and the National Forest Management Act of 1976 (16 U.S.C. 1600 et seq.), and in accordance with this title and applicable law, unless expressly stated otherwise in this Act, the Secretary shall ensure that mineral activities on any Federal land that is subject to a mining claim, millsite claim, tunnel site claim, or any authorization issued under title I of this Act are carefully controlled to prevent undue degradation of public lands and resources.

#### **SEC. 302. PERMITS.**

(a) **PERMITS REQUIRED.**—No person may engage in mineral activities on Federal land that may cause a disturbance of surface resources, including land, air, ground water and surface water, and fish and wildlife, unless a permit was issued to such person under this title authorizing such activities.

(b) **NEGLIGIBLE DISTURBANCE.**—Notwithstanding subsection (a), a permit under this title shall not be required for mineral activities that are a casual use of the Federal land.

(c) **COORDINATION WITH NATIONAL ENVIRONMENTAL POLICY ACT PROCESS.**—The Secretary and the Secretary of Agriculture shall conduct the permit processes under this Act in accordance with the timing and other requirements under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). To the extent practicable, the Secretary and Secretary of Agriculture shall coordinate the permit process.

#### **SEC. 303. EXPLORATION PERMIT.**

(a) **AUTHORIZED EXPLORATION ACTIVITY.**—Any applicant may apply for an exploration permit for any mining claim, license, or lease authorizing the applicant to remove a reasonable amount of the hardrock minerals, as defined in the license or lease or established in such regulations as the Secretary shall promulgate, from the area that is subject to the claim, license, or lease, respectively, for analysis, study, and testing. Such permit shall not authorize the applicant to remove any mineral for sale nor to conduct any activities other than those required for exploration for hardrock minerals and reclamation.

(b) **PERMIT APPLICATION REQUIREMENTS.**—An application for an exploration permit under this section shall be submitted in a manner satisfactory to the Secretary concerned, and shall contain an exploration plan, a reclamation plan for the proposed exploration, and such documentation as necessary to ensure compliance with applicable Federal and State environmental laws and regulations.

(c) **RECLAMATION PLAN REQUIREMENTS.**—The reclamation plan required to be included in a permit application under subsection (b) shall include such provisions as may be jointly prescribed by the Secretary and the Secretary of Agriculture by regulations. Such regulations shall, at a minimum, require the following:

(1) The applicant has demonstrated that proposed reclamation can be accomplished.

(2) The proposed exploration activities and condition of the land after the completion of exploration activities and final reclamation will conform with the land use plan applicable to the area subject to mineral activities.

(3) The area subject to the proposed permit is not included within an area listed in section 111.

(4) The applicant has demonstrated that the exploration plan and reclamation plan will be in compliance with the requirements of this Act and all other applicable Federal requirements, and any State requirements agreed to by the Secretary concerned.

(5) The applicant has demonstrated that the requirements of section 306 will be met.

(6) The applicant is eligible to receive a permit under section 305.

(d) **TERM OF PERMIT.**—An exploration permit shall be for a stated term. The term shall be no greater than that necessary to accomplish the proposed exploration, and in no case for more than 10 years.

(e) **PERMIT MODIFICATION.**—During the term of an exploration permit the permit holder may submit an application to modify the permit. To approve a proposed modification to the permit, the Secretary concerned shall make the same determinations as are required in the case of an original permit, except that the Secretary and the Secretary of Agriculture may specify by joint rule the extent to which requirements for initial exploration permits under this section shall apply to applications to modify an exploration permit based on whether such modifications are deemed significant or minor.

(f) **TRANSFER, ASSIGNMENT, OR SALE OF RIGHTS.**—

(1) **PRIOR WRITTEN APPROVAL.**—No transfer, assignment, or sale of rights granted by a permit issued under this section shall be made without the prior written approval of the Secretary concerned.

(2) **APPROVAL.**—Such Secretary shall allow a person holding a permit to transfer, assign, or sell rights under the permit to a successor, if the Secretary finds in writing that the successor—

(A) is eligible to receive a permit under section 304;

(B) has submitted evidence of financial assurance satisfactory under section 306; and

(C) meets any other requirements specified by the Secretary.

(3) **ASSUMED LIABILITY.**—The successor in interest shall assume the liability and reclamation responsibilities established by the existing permit and shall conduct the mineral activities in full compliance with this Act, and the terms and conditions of the permit as in effect at the time of transfer, assignment, or sale.

(4) **FEE.**—Each application for approval of a permit transfer, assignment, or sale pursuant to this subsection shall be accompanied by a fee payable to the Secretary of the Interior in such amount as may be established by such Secretary. Such amount shall be equal to the actual or anticipated cost to the Secretary or the Secretary of Agriculture, as appropriate, of reviewing and approving or disapproving such transfer, assignment, or sale, as determined by the Secretary of the Interior.

**SEC. 304. OPERATIONS PERMIT.**

(a) **OPERATIONS PERMIT.**—(1) Any applicant that is in compliance with all provisions of this Act may apply to the Secretary concerned for an operations permit authorizing the applicant to carry out mineral activities, other than casual use, on—

(A) any valid mining claim, valid millsite claim, valid tunnel site claim, or lease issued under this Act; and

(B) such additional Federal land as the Secretary may determine is necessary to conduct the proposed mineral activities, if the operator obtains a right-of-way permit for use of such additional lands under title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761 et seq.) and agrees to pay all fees required under that title for the permit under that title.

(2) If the Secretary decides to issue such permit, the permit shall include such terms and conditions as prescribed by such Secretary to carry out this title.

(b) **PERMIT APPLICATION REQUIREMENTS.**—An application for an operations permit under this section shall be submitted in a manner satisfactory to the Secretary concerned and shall contain site characterization data, an operations plan, a reclamation plan, monitoring plans, long-term maintenance plans, to the extent necessary, and such documentation as necessary to ensure compliance with applicable Federal and State environmental laws and regulations. If the proposed mineral activities will be carried out in conjunction with mineral activities on adjacent non-Federal lands, information on the location and nature of such operations may be required by the Secretary.

(c) **PERMIT ISSUANCE OR DENIAL.**—(1) After providing for public participation pursuant to subsection (i), the Secretary concerned shall issue an operations permit if such Secretary makes each of the following determinations in writing, and shall deny a permit if such Secretary finds that the application and applicant do not fully meet the following requirements:

(A) The permit application, including the site characterization data, operations plan, and reclamation plan, are complete and accurate and sufficient for developing a good understanding of the anticipated impacts of the mineral activities and the effectiveness of proposed mitigation and control.

(B) The applicant has demonstrated that the proposed reclamation in the operation and reclamation plan can be and is likely to be accomplished by the applicant and will not cause undue degradation.

(C) The condition of the land, including the fish and wildlife resources and habitat contained thereon, will be restored after the completion of mineral activities.

(D) The area subject to the proposed plan is not listed in section 111 or otherwise ineligible for mineral activities.

(E) The proposed operation has been designed to prevent material damage to the hydrologic balance outside the permit area.

(F) The applicant will fully comply with the requirements of section 306 prior to the initiation of operations.

(G) Neither the applicant nor operator, nor any subsidiary, affiliate, or person controlled by or under common control with the applicant or operator, is ineligible to receive a permit under section 305.

(H) The reclamation plan demonstrates that 10 years following mine closure, no treatment of surface or ground water for carcinogens or toxins will be required to meet water quality standards at the point of discharge.

(2) With respect to any activities specified in the reclamation plan referred to in subsection (b) that constitute a removal or remedial action under section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601), the Secretary shall consult with the Administrator of the Environmental Protection Agency prior to the issuance of an operations permit. The Administrator of the Environmental Protection Agency shall ensure that the reclamation plan does not require activities that would increase the costs or likelihood of removal or remedial actions under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) or corrective actions under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(d) TERM OF PERMIT; RENEWAL.—

(1) IN GENERAL.—An operations permit—

(A) shall be for an initial term not longer than the shorter of—

(i) the period necessary to accomplish the proposed mineral activities subject to the permit; and

(ii) the length of time remaining on the applicant's hardrock mining lease;

(B) shall be renewed for an additional 10-year period if the operation is in compliance with the requirements of this Act and other applicable law; and

(C) shall expire 5 years following the commencement of a temporary cessation unless, prior to the expiration of the 5 years, the mine operator has filed with the Secretary a request for approval to resume operations.

(2) FAILURE TO COMMENCE MINERAL ACTIVITIES.—Failure by the operator to commence mineral activities within 2 years of the date scheduled in an operations permit shall require a modification of the permit if the Secretary concerned determines that modifications are necessary to comply with section 111.

(e) PERMIT MODIFICATION.—

(1) APPLICATION.—During the term of an operations permit the operator may submit an application to modify the permit (including the operations plan or reclamation plan).

(2) MODIFICATION BY THE SECRETARY CONCERNED.—The Secretary concerned may, at any time, require reasonable modification to any operations plan or reclamation plan upon a determination that the requirements of this Act cannot be met if the plan is followed as approved. Such determination shall be based on a written finding and subject to public notice and hearing requirements established by the Secretary concerned.

(3) UNANTICIPATED EVENTS OR CONDITIONS.—A permit modification is required before changes are made to the approved plan of operations, or if unanticipated events or conditions exist on the mine site, including in the case of—

(A) development of acid or toxic drainage;

(B) loss of springs or water supplies;

(C) water quantity, water quality, or other resulting water impacts that are significantly different than those predicted in the application;

(D) the need for long-term water treatment;

(E) significant reclamation difficulties or reclamation failure;

(F) the discovery of significant scientific or biological resources that were not addressed in the original plan;

(G) the discovery of a properties eligible for listing on the National Register of Historic Places; or

(H) the discovery of hazards to public safety.

(f) TEMPORARY CESSATION OF OPERATIONS.—

(1) SECRETARIAL APPROVAL REQUIRED.—An operator conducting mineral activities under an operations permit in effect under this title may not temporarily

cease mineral activities for a period greater than 180 days unless the Secretary concerned has approved such temporary cessation or unless the temporary cessation is permitted under the original permit.

(2) PREVIOUSLY ISSUED OPERATIONS PERMITS.—Any operator temporarily ceasing mineral activities for a period greater than 90 days under an operations permit issued before the date of the enactment of this Act shall submit, before the expiration of such 90-day period, a complete application for temporary cessation of operations to the Secretary concerned for approval unless the temporary cessation is permitted under the original permit.

(3) REQUIRED INFORMATION.—An application for approval of temporary cessation of operations shall include such information required under subsection (b) and any other provisions prescribed by the Secretary concerned to minimize impacts on human health, the environment, or properties eligible for listing on the National Register of Historic Places. After receipt of a complete application for temporary cessation of operations such Secretary shall conduct an inspection of the area for which temporary cessation of operations has been requested.

(4) CONDITIONS FOR APPROVAL.—To approve an application for temporary cessation of operations, the Secretary concerned shall make each of the following determinations:

(A) A determination that the methods for securing surface facilities and restricting access to the permit area, or relevant portions thereof, will effectively protect against hazards to the health and safety of the public and fish and wildlife or damage to properties eligible for listing on the National Register of Historic Places.

(B) A determination that reclamation is in compliance with the approved reclamation plan, except in those areas specifically designated in the application for temporary cessation of operations for which a delay in meeting such standards is necessary to facilitate the resumption of operations.

(C) A determination that the amount of financial assurance filed with the permit application is sufficient to assure completion of the reclamation activities identified in the approved reclamation plan in the event of forfeiture.

(D) A determination that any outstanding notices of violation and cessation orders incurred in connection with the plan for which temporary cessation is being requested are either stayed pursuant to an administrative or judicial appeal proceeding or are in the process of being abated to the satisfaction of the Secretary concerned.

(g) PERMIT REVIEWS.—The Secretary concerned shall review each permit issued under this section every 10 years during the term of such permit, and before approving the resumption of operations under subsection (f), such Secretary shall require the operator to take such actions as the Secretary deems necessary to assure that mineral activities conform to the permit, including adjustment of financial assurance requirements.

(h) TRANSFER, ASSIGNMENT, OR SALE OF RIGHTS.—

(1) WRITTEN APPROVAL.—No transfer, assignment, or sale of rights granted by a permit under this section shall be made without the prior written approval of the Secretary concerned.

(2) CONDITIONS OF APPROVAL.—The Secretary concerned may allow a person holding a permit to transfer, assign, or sell rights under the permit to a successor, if such Secretary finds, in writing, that the successor—

(A) has submitted all required information and is eligible to receive a permit in accordance with section 305;

(B) has submitted evidence of financial assurance satisfactory under section 306; and

(C) meets any other requirements specified by such Secretary.

(3) ASSUMED LIABILITY.—The successor in interest shall assume the liability and reclamation responsibilities established by the existing permit and shall conduct the mineral activities in full compliance with this Act, and the terms and conditions of the permit as in effect at the time of transfer, assignment, or sale.

(4) FEE.—Each application for approval of a permit transfer, assignment, or sale pursuant to this subsection shall be accompanied by a fee payable to the Secretary concerned in such amount as may be established by such Secretary. Such amount shall be equal to the actual or anticipated cost of reviewing and approving or disapproving such transfer, assignment, or sale, as determined by such Secretary.

(i) PUBLIC PARTICIPATION.—The Secretary of the Interior and the Secretary of Agriculture shall jointly promulgate regulations to ensure transparency and public participation in permit decisions required under this Act, consistent with any re-

quirements that apply to such decisions under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

**SEC. 305. PERSONS INELIGIBLE FOR PERMITS.**

(a) **CURRENT VIOLATIONS.**—Unless corrective action has been taken in accordance with subsection (c), no permit under this title shall be issued or transferred to an applicant if the applicant or any agent of the applicant, the operator (if different than the applicant), any claim, license, or lease holder (if different than the applicant) of the claim, license, or lease concerned, or any affiliate or officer or director of the applicant is currently in violation of any of the following:

(1) A provision of this Act or any regulation under this Act.

(2) An applicable State or Federal toxic substance, solid waste, air, water quality, or fish and wildlife conservation law or regulation at any site where mining, beneficiation, or processing activities are occurring or have occurred.

(3) The Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.) or any regulation implementing that Act at any site where surface coal mining operations have occurred or are occurring.

(b) **SUSPENSION.**—The Secretary concerned shall suspend an operations permit, in whole or in part, if such Secretary determines that any of the entities described in subsection (a) were in violation of any requirement listed in subsection (a) at the time the permit was issued.

(c) **CORRECTION.**—

(1) **REINSTATEMENT.**—The Secretary concerned may issue or reinstate a permit under this title if the applicant submits proof that the violation referred to in subsection (a) or (b) has been corrected or is in the process of being corrected to the satisfaction of such Secretary and the regulatory authority involved or if the applicant submits proof that the violator has filed and is presently pursuing, a direct administrative or judicial appeal to contest the existence of the violation. For purposes of this section, an appeal of any applicant's relationship to an affiliate shall not constitute a direct administrative or judicial appeal to contest the existence of the violation.

(2) **CONDITIONAL APPROVAL.**—Any permit which is issued or reinstated based upon proof submitted under this subsection shall be conditionally approved or conditionally reinstated, as the case may be. If the violation is not successfully abated or the violation is upheld on appeal, the permit shall be suspended or revoked.

(d) **PATTERN OF WILLFUL VIOLATIONS.**—No permit may be issued under this Act to any applicant if there is a demonstrated pattern of willful violations of the environmental protection requirements of this Act by the applicant, any affiliate of the applicant, or the operator or claim, license, or lease holder if different than the applicant.

**SEC. 306. FINANCIAL ASSURANCE.**

(a) **FINANCIAL ASSURANCE REQUIRED.**—

(1) **FORM OF ASSURANCE.**—After a permit is issued under this title and before any exploration or operations begin under the permit, the operator shall file with the Secretary concerned evidence of financial assurance payable to the United States. The financial assurance shall be provided in the form of a surety bond, letters of credit, certificates of deposit, or cash.

(2) **COVERED ACTIVITIES.**—The financial assurance shall cover all lands within the initial permit area and all affected waters that may require restoration, treatment, or other management as a result of mineral activities, and shall be extended to cover all lands and waters added pursuant to any permit modification made under section 303(e) or section 304(e), or affected by mineral activities.

(b) **AMOUNT.**—The amount of the financial assurance required under this section shall be sufficient to assure the completion of reclamation and restoration satisfying the requirements of this Act if the work were to be performed by the Secretary concerned in the event of forfeiture, including the construction and maintenance costs for any treatment facilities necessary to meet Federal and State environmental requirements. The calculation of such amount shall take into account the maximum level of financial exposure which shall arise during the mineral activity and administrative costs associated with a government agency reclaiming the site.

(c) **DURATION.**—The financial assurance required under this section shall be held for the duration of the mineral activities and for an additional period to cover the operator's responsibility for reclamation, restoration, and long-term maintenance, and effluent treatment as specified in subsection (g).

(d) **ADJUSTMENTS.**—The amount of the financial assurance and the terms of the acceptance of the assurance may be adjusted by the Secretary concerned from time to time as the area requiring coverage is increased or decreased, or where the costs

of reclamation or treatment change, or pursuant to section 304(f), but the financial assurance shall otherwise be in compliance with this section. The Secretary concerned shall review the financial guarantee every 3 years and as part of the permit application review under section 304(g).

(e) RELEASE.—Upon request, and after notice and opportunity for public comment, and after inspection by the Secretary concerned, such Secretary may, after consultation with the Administrator of the Environmental Protection Agency, release in whole or in part the financial assurance required under this section if the Secretary makes both of the following determinations:

(1) A determination that reclamation or restoration covered by the financial assurance has been accomplished as required by this Act.

(2) A determination that the terms and conditions of any other applicable Federal requirements, and State requirements applicable pursuant to cooperative agreements under section 308, have been fulfilled.

(f) RELEASE SCHEDULE.—The release referred to in subsection (e) shall be according to the following schedule:

(1) After the operator has completed any required backfilling, regrading, and drainage control of an area subject to mineral activities and covered by the financial assurance, and has commenced revegetation on the regraded areas subject to mineral activities in accordance with the approved plan, that portion of the total financial assurance secured for the area subject to mineral activities attributable to the completed activities may be released except that sufficient assurance must be retained to address other required reclamation and restoration needs and to assure the long-term success of the revegetation.

(2) After the operator has completed successfully all remaining mineral activities and reclamation activities and all requirements of the operations plan and the reclamation plan, and all other requirements of this Act have been fully met, the remaining portion of the financial assurance may be released.

During the period following release of the financial assurance as specified in paragraph (1), until the remaining portion of the financial assurance is released as provided in paragraph (2), the operator shall be required to comply with the permit issued under this title.

(g) EFFLUENT.—Notwithstanding section 307(b)(4), where any discharge or other water-related condition resulting from the mineral activities requires treatment in order to meet the applicable effluent limitations and water quality standards, the financial assurance shall include the estimated cost of maintaining such treatment for the projected period that will be needed after the cessation of mineral activities. The portion of the financial assurance attributable to such estimated cost of treatment shall not be released until the discharge has ceased for a period of 5 years, as determined by ongoing monitoring and testing, or, if the discharge continues, until the operator has met all applicable effluent limitations and water quality standards for 5 full years without treatment.

(h) ENVIRONMENTAL HAZARDS.—If the Secretary concerned determines, after final release of financial assurance, that an environmental hazard resulting from the mineral activities exists, or the terms and conditions of the explorations or operations permit of this Act were not fulfilled in fact at the time of release, such Secretary shall issue an order under section 606 requiring the claim holder or operator (or any person who controls the claim holder or operator) to correct the condition such that applicable laws and regulations and any conditions from the plan of operations are met.

#### SEC. 307. OPERATION AND RECLAMATION.

(a) GENERAL RULE.—(1) The operator shall restore lands subject to mineral activities carried out under a permit issued under this title to a condition capable of supporting—

(A) the uses which such lands were capable of supporting prior to surface disturbance by the operator; or

(B) other beneficial uses which conform to applicable land use plans as determined by the Secretary concerned.

(2) Reclamation shall proceed as contemporaneously as practicable with the conduct of mineral activities. In the case of a cessation of mineral activities beyond that provided for as a temporary cessation under this Act, reclamation activities shall begin immediately.

(b) OPERATION AND RECLAMATION STANDARDS.—The Secretary of the Interior and the Secretary of Agriculture shall jointly promulgate regulations that establish operation and reclamation standards for mineral activities permitted under this Act. The Secretaries may determine whether outcome-based performance standards or technology-based design standards are most appropriate. The regulations shall address the following:

- (1) Segregation, protection, and replacement of topsoil or other suitable growth medium, and the prevention, where possible, of soil contamination.
- (2) Maintenance of the stability of all surface areas.
- (3) Control of sediments to prevent erosion and manage drainage.
- (4) Minimization of the formation and migration of acidic, alkaline, metal-bearing, or other deleterious leachate.
- (5) Reduction of the visual impact of mineral activities to the surrounding topography, including as necessary pit backfill.
- (6) Establishment of a diverse, effective, and permanent vegetative cover of the same seasonal variety native to the area affected by mineral activities, and equal in extent of cover to the natural vegetation of the area.
- (7) Design and maintenance of leach operations, impoundments, and excess waste according to standard engineering standards to achieve and maintain stability and reclamation of the site.
- (8) Removal of structures and roads and sealing of drill holes.
- (9) Restoration of, or mitigation for, fish and wildlife habitat disturbed by mineral activities.
- (10) Preservation of cultural, paleontological, and cave resources.
- (11) Prevention and suppression of fire within the leased area.

(c) **SURFACE OR GROUND WATER WITHDRAWALS.**—The Secretary concerned shall work with State and local governments with authority over the allocation and use of surface and ground water in the area around the mine site as necessary to ensure that any surface or ground water withdrawals made as a result of mining activities approved under this section do not cause undue degradation.

(d) **SPECIAL RULE.**—Reclamation activities for a mining claim, license, or lease that has been forfeited, relinquished, or lapsed, or a plan that has expired or been revoked or suspended, shall continue subject to review and approval by the Secretary concerned.

**SEC. 308. STATE LAW AND REGULATION.**

(a) **STATE LAW.**—

(1) **RECLAMATION, LAND USE, ENVIRONMENTAL, AND PUBLIC HEALTH STANDARDS.**—Any reclamation, land use, environmental, or public health protection standard or requirement in State law or regulation that meets or exceeds the requirements of this Act shall not be construed to be inconsistent with any such standard.

(2) **BONDING REQUIREMENTS.**—Any bonding standard or requirement in State law or regulation that meets or exceeds the requirements of this Act shall not be construed to be inconsistent with such requirements.

(3) **INSPECTION STANDARDS.**—Any inspection standard or requirement in State law or regulation that meets or exceeds the requirements of this Act shall not be construed to be inconsistent with such requirements.

(b) **APPLICABILITY OF OTHER STATE REQUIREMENTS.**—

(1) **ENVIRONMENTAL STANDARDS.**—Nothing in this Act shall be construed as affecting any toxic substance, solid waste, or air or water quality, standard or requirement of any State, county, local, or Tribal law or regulation, which may be applicable to mineral activities on lands subject to this Act.

(2) **WATER RESOURCES.**—Nothing in this Act shall be construed as affecting in any way the right of any person to enforce or protect, under applicable law, such person's interest in water resources affected by mineral activities on lands subject to this Act.

(c) **COOPERATIVE AGREEMENTS.**—

(1) **IN GENERAL.**—Any State may enter into a cooperative agreement with the Secretary concerned for the purposes of such Secretary applying such standards and requirements referred to in subsection (a) and subsection (b) to mineral activities or reclamation on lands subject to this Act.

(2) **COMMON REGULATORY FRAMEWORK.**—In such instances where the proposed mineral activities would affect lands not subject to this Act in addition to lands subject to this Act, in order to approve a plan of operations the Secretary concerned shall enter into a cooperative agreement with the State that sets forth a common regulatory framework consistent with the requirements of this Act for the purposes of such plan of operations. Any such common regulatory framework shall not negate the authority of the Federal Government to independently inspect mines and operations and bring enforcement actions for violations.

(3) **NOTICE AND PUBLIC COMMENT.**—The Secretary concerned shall not enter into a cooperative agreement with any State under this section until after notice in the Federal Register and opportunity for public comment and hearing.

(d) **PRIOR AGREEMENTS.**—Any cooperative agreement or such other understanding between the Secretary concerned and any State, or political subdivision thereof, re-

lating to the management of mineral activities on lands subject to this Act that was in existence on the date of enactment of this Act may only continue in force until 1 year after the date of enactment of this Act. During such 1-year period, the State and the Secretary shall review the terms of the agreement and make changes that are necessary to be consistent with this Act.

## **TITLE IV—ABANDONED HARDROCK MINE RECLAMATION**

### **SEC. 401. ESTABLISHMENT OF FUND.**

(a) **ESTABLISHMENT.**—There is established in the Department of the Treasury a separate account to be known as the Hardrock Minerals Reclamation Fund.

(b) **INVESTMENT.**—The Secretary shall notify the Secretary of the Treasury as to what portion of the Fund is not, in the Secretary's judgment, required to meet current withdrawals. The Secretary of the Treasury shall invest such portion of the Fund in public debt securities with maturities suitable for the needs of such Fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketplace obligations of the United States of comparable maturities.

(c) **ADMINISTRATION.**—In addition to other uses authorized by this title, the Secretary may use amounts in the Fund as necessary for the administrative expenses of the United States, Indian Tribes, and the States to implement this title.

### **SEC. 402. CONTENTS OF FUND.**

(a) **IN GENERAL.**—The following amounts shall be credited to the Fund:

(1) All moneys collected pursuant to section 502 and section 506.

(2) All fees received under section 304(a)(1)(B).

(3) All donations by persons, corporations, associations, and foundations for the purposes of this title.

(4) All amounts deposited in the Fund under title I.

(5) All income on investments under section 401(b).

(6) All amounts deposited in the Fund under section 403.

(b) **DONATIONS.**—The Secretary may accept for the Government a gift of money to be deposited into the Fund. The Secretary may reject a gift to the Fund if such rejection is in the interest of the Government.

### **SEC. 403. DISPLACED MATERIAL RECLAMATION FEE.**

(a) **IMPOSITION OF FEE.**—Except as provided in subsection (g), each operator conducting hardrock mineral activities shall pay to the Secretary, for deposit in the Hardrock Minerals Fund established by section 502, a displaced material reclamation fee of 7 cents per ton of displaced material.

(b) **PAYMENT DEADLINE.**—Such reclamation fee shall be paid not later than 60 days after the end of each calendar year beginning with the first calendar year occurring after the date of enactment of this Act.

(c) **SUBMISSION OF STATEMENT.**—Together with such reclamation fee, all operators conducting hardrock mineral activities shall submit to the Secretary a statement of the amount of displaced material produced during mineral activities during the previous calendar year, the accuracy of which shall be sworn to by the operator and notarized.

(d) **PENALTY.**—Any corporate officer, agent, or director of a person conducting hardrock mineral activities, and any other person acting on behalf of such a person, who knowingly makes any false statement, representation, or certification, or knowingly fails to make any statement, representation, or certification, required under this section with respect to such operation shall, upon conviction, be punished by a fine of not more than \$10,000.

(e) **CIVIL ACTION TO RECOVER FEE.**—Any portion of such reclamation fee not properly or promptly paid pursuant to this section shall be recoverable, with statutory interest, from the hardrock mineral activities operator, in any court of competent jurisdiction in any action at law to compel payment of debts.

(f) **EFFECT.**—Nothing in this section requires a reduction in, or otherwise affects, any similar fee required under any law (including regulations) of any State.

(g) **EXEMPTION.**—The fee under this section shall not apply for small miners.

### **SEC. 404. USE AND OBJECTIVES OF THE FUND.**

(a) **AUTHORIZED USES.**—

(1) **IN GENERAL.**—The Secretary may, subject to appropriations, use moneys in the Fund for the reclamation and restoration of land and water resources ad-

versely affected by past hardrock mineral activities and related activities on lands described in section 405, including any of the following:

- (A) Protecting public health and safety.
  - (B) Preventing, abating, treating, and controlling water pollution created by abandoned mine drainage, including in river watershed areas.
  - (C) Reclaiming and restoring abandoned surface and underground mined areas.
  - (D) Reclaiming and restoring abandoned milling and processing areas.
  - (E) Backfilling, sealing, or otherwise controlling abandoned underground mine entries.
  - (F) Revegetating land adversely affected by past mineral activities in order to prevent erosion and sedimentation, to enhance wildlife habitat, and for any other reclamation purpose.
  - (G) Controlling surface subsidence due to abandoned underground mines.
  - (H) Enhancing fish and wildlife habitat.
- (2) MANNER OF USE.—Amounts in the Fund may—
- (A) be expended by the Secretary for the purposes described in paragraph (1);
  - (B) be transferred by the Secretary to the Director of the Bureau of Land Management, the Chief of the Forest Service, the Director of the National Park Service, the Director of the United States Fish and Wildlife Service, the head of any other Federal agency, or any public entity that volunteers to develop and implement, and that has the ability to carry out, all or a significant portion of a reclamation program under this title; or
  - (C) be transferred by the Secretary to an Indian Tribe or a State to carry out a reclamation program under this title that meets the purposes described in paragraph (1).
- (b) ALLOCATION.—Of the amounts deposited into the Fund—
- (1) 25 percent shall be allocated for expenditure by the Secretary in States or on Tribal lands within the boundaries of which occurs production of hardrock minerals or mineral concentrates or products derived from hardrock minerals, based on a formula reflecting existing production in each such State or on the land of the Indian Tribe;
  - (2) 25 percent shall be allocated for expenditure by the Secretary in States or on Tribal lands based on a formula reflecting the quantity of hardrock minerals, or mineral concentrates or products derived from hardrock minerals, historically produced in each such State or from the land of the Indian Tribe before the date of enactment of this Act; and
  - (3) 50 percent shall be allocated for expenditure by the Secretary to address high-priority needs according to the priorities in subsection (c).
- (c) PRIORITIES.—Expenditures of moneys from the Fund shall reflect the following priorities in the order stated:
- (1) The protection of public health and safety from extreme danger from the adverse effects of past mineral activities, especially as relates to surface water and ground water contaminants.
  - (2) The protection of public health and safety from the adverse effects of past mineral activities.
  - (3) The restoration of land, water, and fish and wildlife resources previously degraded by the adverse effects of past mineral activities, which may include restoration activities in river watershed areas.
- (d) HABITAT.—Reclamation and restoration activities under this title shall include appropriate mitigation measures to provide for the continuation of any established habitat for wildlife in existence before the commencement of such activities.
- (e) RESPONSE OR REMOVAL ACTIONS.—Reclamation and restoration activities under this title that constitute a removal or remedial action under section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) shall be conducted with the concurrence of the Administrator of the Environmental Protection Agency. The Secretary and the Administrator shall enter into a memorandum of understanding to establish procedures for consultation, concurrence, training, exchange of technical expertise, and joint activities under the appropriate circumstances, that provide assurances that reclamation or restoration activities under this title shall not be conducted in a manner that increases the costs or likelihood of removal or remedial actions under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), and that avoid oversight by multiple agencies to the maximum extent practicable.

#### SEC. 405. ELIGIBLE LANDS AND WATERS.

(a) ELIGIBILITY.—Reclamation expenditures under this title may only be made with respect to Federal, State, Indian, local, and private lands that have been af-

ected by past mineral activities, and water resources that traverse or are contiguous to such lands, including any of the following:

(1) Lands and water resources that were used for, or affected by, mineral activities and abandoned or left in an inadequate reclamation status before the effective date of this Act.

(2) Lands for which the Secretary makes a determination that there is no continuing reclamation responsibility of a claim holder, operator, or other person who abandoned the site prior to completion of required reclamation under State or other Federal laws.

(b) INVENTORY.—The Secretary shall prepare and maintain a publicly available inventory of abandoned hardrock minerals mines on public lands and any abandoned mine on Indian lands that may be eligible for expenditures under this title, and shall submit an annual report to the Congress on the progress in cleanup of such sites.

**SEC. 406. AUTHORIZATION OF APPROPRIATIONS.**

Amounts credited to the Fund are authorized to be appropriated for the purpose of this title without fiscal year limitation.

## **TITLE V—ADDITIONAL PROVISIONS**

**SEC. 501. POLICY FUNCTIONS.**

(a) MINERALS POLICY.—Section 101 of the Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a) is amended—

(1) by inserting “and to ensure that mineral extraction and processing not cause undue degradation of the natural and cultural resources of the public lands” after “activities”; and

(2) by adding at the end the following: “It shall also be the responsibility of the Secretary of Agriculture to carry out the policy provisions of clauses (1) and (2) of the first paragraph of this section.”.

(b) MINERAL DATA.—Section 5(e)(3) of the National Materials and Minerals Policy, Research and Development Act of 1980 (30 U.S.C. 1604(e)(3)) is amended by inserting before the period the following: “, except that for National Forest System lands the Secretary of Agriculture shall promptly initiate actions to improve the availability and analysis of mineral data in public land use decisionmaking”.

**SEC. 502. USER FEES AND INFLATION ADJUSTMENT.**

(a) IN GENERAL.—

(1) The Secretary and the Secretary of Agriculture may each establish and collect from persons subject to the requirements of this Act such user fees as may be necessary to reimburse the United States for the expenses incurred in administering such requirements. Fees may be assessed and collected under this section only in such manner as may reasonably be expected to result in an aggregate amount of the fees collected during any fiscal year which does not exceed the aggregate amount of administrative expenses referred to in this section.

(b) ADJUSTMENT.—

(1) INFLATION.—The Secretary shall adjust the fees required by this section, and all claim maintenance fees, rental rates, penalty amounts, and other dollar amounts established in this Act, to reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor every 3 years after the date of enactment of this Act, or more frequently if the Secretary determines an adjustment to be reasonable.

(2) NOTICE.—The Secretary shall provide claimants, license holders, and lease holders notice of any adjustment made under this subsection not later than July 1 of any year in which the adjustment is made.

(3) APPLICABILITY.—A fee adjustment under this subsection shall begin to apply the calendar year following the calendar year in which it is made.

**SEC. 503. INSPECTION AND MONITORING.**

(a) INSPECTIONS.—

(1) IN GENERAL.—The Secretary concerned shall make inspections of mineral activities so as to ensure compliance with the requirements of this Act.

(2) FREQUENCY.—The Secretary concerned shall establish a frequency of inspections for mineral activities conducted under a permit issued under title III, but in no event shall such inspection frequency be less than one complete inspection per calendar quarter or, two per calendar quarter in the case of a permit for which the Secretary concerned approves an application under section 304(f). After revegetation has been established in accordance with a reclamation

plan, such Secretary shall conduct 2 complete inspections annually. Such Secretary shall have the discretion to modify the inspection frequency for mineral activities that are conducted on a seasonal basis. Inspections shall continue under this subsection until final release of financial assurance.

(3) BY REQUEST.—

(A) IN GENERAL.—Any person who has reason to believe he or she is or may be adversely affected by mineral activities due to any violation of the requirements of a permit approved under this Act may request an inspection.

(B) REVIEW PERIOD.—The Secretary concerned shall determine within 10 working days of receipt of the request whether the request states a reason to believe that a violation exists.

(C) IMMINENT THREAT.—If the person alleges and provides reason to believe that an imminent threat to the environment or danger to the health or safety of the public exists, the 10-day period shall be waived and the inspection shall be conducted immediately.

(D) NOTIFICATION.—When an inspection is conducted under this paragraph, the Secretary concerned shall notify the person requesting the inspection, and such person shall be allowed to accompany the Secretary concerned or the Secretary's authorized representative during the inspection.

(E) LIABILITY.—The Secretary shall not incur any liability for allowing such person to accompany an authorized representative.

(F) ANONYMITY.—The identity of the person supplying information to the Secretary relating to a possible violation or imminent danger or harm shall remain confidential with the Secretary if so requested by that person, unless that person elects to accompany an authorized representative on the inspection.

(G) PROCEDURES.—The Secretaries shall, by joint rule, establish procedures for the review of—

(i) any decision by an authorized representative not to inspect; or

(ii) any refusal by such representative to ensure that remedial actions are taken with respect to any alleged violation.

(H) WRITTEN STATEMENT.—The Secretary concerned shall furnish a person requesting a review a written statement of the reasons for the Secretary's final disposition of the case.

(b) MONITORING.—

(1) MONITORING SYSTEM.—The Secretary concerned shall require all operators to develop and maintain a monitoring and evaluation system that shall identify compliance with all requirements of a permit approved under this Act. The Secretary concerned may require additional monitoring to be conducted as necessary to assure compliance with the reclamation and other environmental standards of this Act. Such plan must be reviewed and approved by the Secretary and shall become a part of the explorations or operations permit.

(2) REPORTING REQUIREMENTS.—The operator shall file reports with the Secretary concerned, on a frequency determined by the Secretary concerned, on the results of the monitoring and evaluation process, except that if the monitoring and evaluation show a violation of the requirements of a permit approved under this Act, it shall be reported immediately to the Secretary concerned. The Secretary shall evaluate the reports submitted pursuant to this paragraph, and based on those reports and any necessary inspection shall take enforcement action pursuant to this section. Such reports shall be maintained by the operator and by the Secretary and shall be made available to the public.

(3) FAILURE TO REPORT.—The Secretary concerned shall determine what information shall be reported by the operator pursuant to paragraph (2). A failure to report as required by the Secretary concerned shall constitute a violation of this Act and subject the operator to enforcement action pursuant to section 506.

**SEC. 504. CITIZENS SUITS.**

(a) IN GENERAL.—Except as provided in subsection (c), any person may commence a civil action on his or her own behalf to compel compliance—

(1) against any person (including the Secretary or the Secretary of Agriculture) who is alleged to be in violation of any of the provisions of this Act or any regulation promulgated pursuant to this Act or any term or condition of any lease, license, or permit issued under this Act; or

(2) against the Secretary or the Secretary of Agriculture where there is alleged a failure of such Secretary to perform any act or duty under this Act, or to promulgate any regulation under this Act, which is not within the discretion of the Secretary concerned.

(b) **DISTRICT COURT JURISDICTION.**—The United States district courts shall have jurisdiction over actions brought under this section, without regard to the amount in controversy or the citizenship of the parties, including actions brought to apply any civil penalty under this Act. The district courts of the United States shall have jurisdiction to compel agency action unreasonably delayed, except that an action to compel agency action reviewable under section 505 may only be filed in a United States district court within the circuit in which such action would be reviewable under section 505.

(c) **EXCEPTIONS.**—

(1) **NOTICE.**—No action may be commenced under subsection (a) before the end of the 60-day period beginning on the date the plaintiff has given notice in writing of such alleged violation to the alleged violator and the Secretary concerned, except that any such action may be brought immediately after such notification if the violation complained of constitutes an imminent threat to the environment or to the health or safety of the public or to properties eligible for listing on the National Register of Historic Places.

(2) **ON-GOING LITIGATION.**—No action may be brought against any person other than the Secretary or the Secretary of Agriculture under subsection (a)(1) if such Secretary has commenced and is diligently prosecuting a civil or criminal action in a court of the United States to require compliance.

(3) **EXCEPTION.**—No action may be commenced under subsection (a)(2) against either Secretary to review any rule promulgated by, or to any permit issued or denied by such Secretary if such rule or permit issuance or denial is judicially reviewable under section 505 or under any other provision of law at any time after such promulgation, issuance, or denial is final.

(d) **VENUE.**—Venue of all actions brought under this section shall be determined in accordance with section 1391 of title 28, United States Code.

(e) **COSTS.**—The court, in issuing any final order in any action brought pursuant to this section may award costs of litigation (including attorney and expert witness fees) to any party whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(f) **SAVINGS CLAUSE.**—Nothing in this section shall restrict any right which any person (or class of persons) may have under chapter 7 of title 5, United States Code, under this section, or under any other statute or common law to bring an action to seek any relief against the Secretary or the Secretary of Agriculture or against any other person, including any action for any violation of this Act or of any regulation or permit issued under this Act or for any failure to act as required by law. Nothing in this section shall affect the jurisdiction of any court under any provision of title 28, United States Code, including any action for any violation of this Act or of any regulation or permit issued under this Act or for any failure to act as required by law.

**SEC. 505. ADMINISTRATIVE AND JUDICIAL REVIEW.**

(a) **REVIEW BY SECRETARY.**—

(1) **NOTICE OF VIOLATION.**—Any person issued a notice of violation or cessation order under section 507, or any person having an interest which is or may be adversely affected by such notice or order, may apply to the Secretary concerned for review of the notice or order within 30 days after receipt thereof, or as the case may be, within 30 days after such notice or order is modified, vacated, or terminated.

(2) **REVIEW OF PENALTY.**—Any person who is subject to a penalty assessed under section 507 may apply to the Secretary concerned for review of the assessment within 45 days of notification of such penalty.

(3) **THIRD PARTY REQUESTS.**—Any person may apply to the Secretary concerned for review of a decision under this subsection within 30 days after such decision is issued.

(4) **STAYS PENDING REVIEW.**—Pending a review by the Secretary or resolution of an administrative appeal, final decisions (except enforcement actions under section 507) shall be stayed.

(5) **PUBLIC HEARING.**—The Secretary concerned shall provide an opportunity for a public hearing at the request of any party to the proceeding as specified in paragraph (1). The filing of an application for review under this subsection shall not operate as a stay of any order or notice issued under section 506.

(6) **WRITTEN DECISION.**—For any review proceeding under this subsection, the Secretary concerned shall make findings of fact and shall issue a written decision incorporating therein an order vacating, affirming, modifying, or terminating the notice, order, or decision, or with respect to an assessment, the

amount of penalty that is warranted. Where the application for review concerns a cessation order issued under section 506 the Secretary concerned shall issue the written decision within 30 days of the receipt of the application for review or within 30 days after the conclusion of any hearing referred to in paragraph (5), whichever is later, unless temporary relief has been granted by the Secretary concerned under paragraph (7).

(7) TEMPORARY RELIEF.—Pending completion of any review proceedings under this subsection, the applicant may file with the Secretary concerned a written request that the Secretary grant temporary relief from any order issued under section 506 together with a detailed statement giving reasons for such relief. The Secretary concerned shall expeditiously issue an order or decision granting or denying such relief. The Secretary concerned may grant such relief under such conditions as he or she may prescribe only if such relief shall not adversely affect the health or safety of the public or cause imminent environmental harm to land, air, or water resources.

(8) SAVINGS CLAUSE.—The availability of review under this subsection shall not be construed to limit the operation of rights under section 504.

(b) JUDICIAL REVIEW.—

(1) COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA.—Any final action by the Secretaries of the Interior and Agriculture in promulgating regulations to implement this Act, or any other final actions constituting rulemaking to implement this Act, shall be subject to judicial review only in a United States Court of Appeals for a circuit in which an affected State is located or within the District of Columbia. Any action subject to judicial review under this subsection shall be affirmed unless the court concludes that such action is arbitrary, capricious, or otherwise inconsistent with law. A petition for review of any action subject to judicial review under this subsection shall be filed within 60 days from the date of such action, or after such date if the petition is based solely on grounds arising after the 60th day. Any such petition may be made by any person who commented or otherwise participated in the rulemaking or any person who may be adversely affected by the action of the Secretaries.

(2) STANDARD OF REVIEW.—Final agency action under this subsection, including such final action on those matters described under subsection (a), shall be subject to judicial review in accordance with paragraph (4) and pursuant to section 1391 of title 28, United States Code, on or before 60 days from the date of such final action. Any action subject to judicial review under this subsection shall be affirmed unless the court concludes that such action is arbitrary, capricious, or otherwise inconsistent with law.

(3) SAVINGS CLAUSE.—The availability of judicial review established in this subsection shall not be construed to limit the operations of rights under section 504.

(4) RECORD.—The court shall hear any petition or complaint filed under this subsection solely on the record made before the Secretary or Secretaries concerned. The court may affirm or vacate any order or decision or may remand the proceedings to the Secretary or Secretaries for such further action as it may direct.

(5) COMMENCE OF A PROCEEDING NOT A STAY.—The commencement of a proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the action, order, or decision of the Secretary or Secretaries concerned.

(c) COSTS.—Whenever a proceeding occurs under subsection (a) or (b), at the request of any person, a sum equal to the aggregate amount of all costs and expenses (including attorney fees) as determined by the Secretary or Secretaries concerned or the court to have been reasonably incurred by such person for or in connection with participation in such proceedings, including any judicial review of the proceeding, may be assessed against either party as the court, in the case of judicial review, or the Secretary or Secretaries concerned in the case of administrative proceedings, deems appropriate if it is determined that such party prevailed in whole or in part, achieving some success on the merits, and that such party made a substantial contribution to a full and fair determination of the issues.

**SEC. 506. REPORTING REQUIREMENTS.**

(a) REPORT TO SECRETARY.—An operator engaging in any mineral activities located on Federal land or on Indian land shall submit to the Secretary an annual report, in a time and manner prescribed by the Secretary, describing the total amount (in metric tons) and value of hardrock minerals produced through such mineral activities, including the total amount and value of any minerals produced from a mine partially located on either Federal land or Indian land, disaggregated by

mineral and by percentage extracted from Federal land and percentage extracted from Indian land.

(b) FAILURE TO REPORT.—Any person who fails to comply with the requirements of subsection (a) shall be subject to a civil penalty not to exceed \$25,000 per day during which such failure continues, which may be assessed by the Secretary.

(c) REPORT TO CONGRESS.—The Secretary shall submit an annual report to Congress providing the following information for each hardrock mine located on Federal land or on Indian land:

- (1) The data submitted for such mine under subsection (a).
- (2) The name of the mine operator.
- (3) The State in which such mine is located.
- (4) The Bureau of Land Management Field Office with jurisdiction over such mine.
- (5) Whether such mine is located on Federal land.
- (6) Whether such mine is located on Indian land.

(d) REGULATIONS.—The Secretary shall promulgate such regulations as are necessary to carry out this section not later than 180 days after the date of the enactment of this Act.

**SEC. 507. ENFORCEMENT.**

(a) ORDERS.—

(1) NOTICE OF VIOLATION.—If the Secretary concerned, or an authorized representative of such Secretary, determines that any person is in violation of any environmental protection requirement or any regulation issued by the Secretaries to implement this Act, such Secretary or authorized representative shall issue to such person a notice of violation describing the violation and the corrective measures to be taken. The Secretary concerned, or the authorized representative of such Secretary, shall provide such person with a period of time not to exceed 30 days to abate the violation. Such period of time may be extended by the Secretary concerned upon a showing of good cause by such person. If, upon the expiration of time provided for such abatement, the Secretary concerned, or the authorized representative of such Secretary, finds that the violation has not been abated he or she shall immediately order a cessation of all mineral activities or the portion thereof relevant to the violation.

(2) ORDER FOR IMMEDIATE CESSATION.—If the Secretary concerned, or the authorized representative of the Secretary concerned, determines that any condition or practice exists, or that any person is in violation of any requirement under a permit approved under this Act, and such condition, practice or violation is causing, or can reasonably be expected to cause either of the following, such Secretary or authorized representative shall immediately order a cessation of mineral activities or the portion thereof relevant to the condition, practice, or violation:

- (A) An imminent danger to the health or safety of the public.
- (B) Significant, imminent environmental harm to land, air, water, or fish or wildlife resources.

(3) DURATION.—

(A) TERMINATION.—A cessation order pursuant to paragraph (1) or (2) shall remain in effect until such Secretary, or authorized representative, determines that the condition, practice, or violation has been abated, or until modified, vacated or terminated by the Secretary or authorized representative. In any such order, the Secretary or authorized representative shall determine the steps necessary to abate the violation in the most expeditious manner possible and shall include the necessary measures in the order.

(B) FINANCIAL ASSURANCES.—The Secretary concerned shall require appropriate financial assurances to ensure that the abatement obligations are met when issuing an order under this section.

(C) AUTHORITY OF THE SECRETARY.—Any notice or order issued pursuant to paragraph (1) or (2) may be modified, vacated, or terminated by the Secretary concerned or an authorized representative of such Secretary. Any person to whom any such notice or order is issued shall be entitled to a hearing on the record.

(4) ALTERNATIVE ENFORCEMENT ACTION.—If, after 30 days of the date of the order referred to in subsection (a) the required abatement has not occurred, the Secretary concerned shall take such alternative enforcement action against the claim holder, license holder, lease holder, or operator (or any person who controls the claim holder, license holder, lease holder, or operator) as will most likely bring about abatement in the most expeditious manner possible. Such alternative enforcement action may include seeking appropriate injunctive relief to bring about abatement. Nothing in this paragraph shall preclude the Sec-

retary concerned from taking alternative enforcement action prior to the expiration of 30 days.

(5) FAILURE OR DEFAULT.—If a claim holder, license holder, lease holder, or operator (or any person who controls the claim holder, license holder, lease holder, or operator) fails to abate a violation or defaults on the terms of the permit, the Secretary concerned shall forfeit the financial assurance for the plan as necessary to ensure abatement and reclamation under this Act. The Secretary concerned may prescribe conditions under which a surety may perform reclamation in accordance with the approved plan in lieu of forfeiture.

(6) PENDING REVIEW.—The Secretary concerned shall not cause forfeiture of the financial assurance while administrative or judicial review is pending.

(7) LIABILITY IN THE EVENT OF FORFEITURE.—In the event of forfeiture, the claim holder, license holder, lease holder, operator, or any affiliate thereof, as appropriate as determined by the Secretary by rule, shall be jointly and severally liable for any remaining reclamation obligations under this Act.

(b) COMPLIANCE.—The Secretary concerned may request the Attorney General to institute a civil action for relief, including a permanent or temporary injunction or restraining order, or any other appropriate enforcement order, including the imposition of civil penalties, in the district court of the United States for the district in which the mineral activities are located whenever a person—

(1) violates, fails, or refuses to comply with any order issued by the Secretary concerned under subsection (a); or

(2) interferes with, hinders, or delays the Secretary concerned in carrying out an inspection under section 503.

Such court shall have jurisdiction to provide such relief as may be appropriate. Any relief granted by the court to enforce an order under paragraph (1) shall continue in effect until the completion or final termination of all proceedings for review of such order unless the district court granting such relief sets it aside.

(c) DELEGATION.—Notwithstanding any other provision of law, the Secretary may utilize personnel of the Office of Surface Mining Reclamation and Enforcement to ensure compliance with the requirements of this Act.

(d) PENALTIES.—

(1) FAILURE TO COMPLY WITH REQUIREMENTS OF A PERMIT.—Any person who fails to comply with any requirement of a permit approved under this Act or any regulation issued by the Secretaries to implement this Act shall be liable for a penalty of not more than \$25,000 per violation. Each day of violation may be deemed a separate violation for purposes of penalty assessments.

(2) FAILURE TO COMPLY WITH A CESSATION ORDER.—A person who fails to correct a violation for which a cessation order has been issued under subsection (a) within the period permitted for its correction shall be assessed a civil penalty of not less than \$1,000 per violation for each day during which such failure continues.

(3) PENALTIES FOR DIRECTORS, OFFICERS, AND AGENTS.—Whenever a corporation is in violation of a requirement of a permit approved under this Act or any regulation issued by the Secretaries to implement this Act or fails or refuses to comply with an order issued under subsection (a), any director, officer, or agent of such corporation who knowingly authorized, ordered, or carried out such violation, failure, or refusal shall be subject to the same penalties as may be imposed upon the person referred to in paragraph (1).

(e) SUSPENSIONS OR REVOCATIONS.—The Secretary concerned shall suspend or revoke a permit issued under title II, in whole or in part, if the operator—

(1) knowingly made or knowingly makes any false, inaccurate, or misleading material statement in any mining claim, notice of location, application, record, report, plan, or other document filed or required to be maintained under this Act;

(2) fails to abate a violation covered by a cessation order issued under subsection (a);

(3) fails to comply with an order of the Secretary concerned;

(4) refuses to permit an audit pursuant to this Act;

(5) fails to maintain an adequate financial assurance under section 306;

(6) fails to pay claim maintenance fees, rentals, or other moneys due and owing under this Act; or

(7) with regard to plans conditionally approved under section 305(c)(2), fails to abate a violation to the satisfaction of the Secretary concerned, or if the validity of the violation is upheld on the appeal which formed the basis for the conditional approval.

(f) FALSE STATEMENTS; TAMPERING.—Any person who knowingly—

(1) makes any false material statement, representation, or certification in, or omits or conceals material information from, or unlawfully alters, any mining

claim, notice of location, application, record, report, plan, or other documents filed or required to be maintained under this Act; or

(2) falsifies, tampers with, renders inaccurate, or fails to install any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this subsection, punishment shall be by a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both. Each day of continuing violation may be deemed a separate violation for purposes of penalty assessments.

(g) KNOWING VIOLATIONS.—Any person who knowingly—

(1) engages in mineral activities without a permit required under title II; or

(2) violates any other requirement of a permit issued under this Act, or any condition or limitation thereof,

shall upon conviction be punished by a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or both. If a conviction of a person is for a violation committed after the first conviction of such person under this subsection, punishment shall be a fine of not less than \$10,000 per day of violation, or by imprisonment of not more than 6 years, or both.

(h) KNOWING AND WILLFUL VIOLATIONS.—Any person who knowingly and willfully commits an act for which a civil penalty is provided in paragraph (1) of subsection (g) shall, upon conviction, be punished by a fine of not more than \$50,000, or by imprisonment for not more than 2 years, or both.

(i) DEFINITION.—For purposes of this section, the term “person” includes any officer, agent, or employee of a person.

**SEC. 508. REGULATIONS.**

The Secretary and the Secretary of Agriculture shall issue such regulations as are necessary to implement this Act. The regulations implementing titles II and III and this title that affect the Forest Service shall be joint regulations issued by both Secretaries, and shall be issued not later than 180 days after the date of enactment of this Act.

**SEC. 509. OIL SHALE CLAIMS.**

Section 2511(f) of the Energy Policy Act of 1992 (30 U.S.C. 242(f); Public Law 102–486) is amended—

(1) by striking “as prescribed by the Secretary”; and

(2) by inserting before the period the following: “in the same manner as required by title II of the Hardrock Leasing and Reclamation Act of 2019”.

**SEC. 510. SAVINGS CLAUSE.**

(a) SPECIAL APPLICATION OF MINING LAWS.—Nothing in this Act shall be construed as repealing or modifying any Federal law, regulation, order, or land use plan, in effect prior to the date of enactment of this Act that prohibits or restricts the application of the general mining laws, including laws that provide for special management criteria for operations under the general mining laws as in effect prior to the date of enactment of this Act, to the extent such laws provide for protection of natural and cultural resources and the environment greater than required under this Act, and any such prior law shall remain in force and effect with respect to claims converted to leases under this Act. Nothing in this Act shall be construed as applying to or limiting mineral investigations, studies, or other mineral activities conducted by any Federal or State agency acting in its governmental capacity pursuant to other authority. Nothing in this Act shall affect or limit any assessment, investigation, evaluation, or listing pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), or the Solid Waste Disposal Act (42 U.S.C. 3251 et seq.).

(b) EFFECT ON OTHER FEDERAL LAWS.—

(1) GENERAL MINING LAWS.—The provisions of this Act shall supersede the general mining laws.

(2) OTHER LAWS.—Except for the general mining laws, nothing in this Act shall be construed as superseding, modifying, amending, or repealing any provision of Federal law not expressly superseded, modified, amended, or repealed by this Act.

(3) ENVIRONMENTAL LAWS.—Nothing in this Act shall be construed as altering, affecting, amending, modifying, or changing, directly or indirectly, any law which refers to and provides authorities or responsibilities for, or is administered by, the Environmental Protection Agency or the Administrator of the Environmental Protection Agency, including—

(A) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(B) The National Environmental Policy Act (42 U.S.C. 4321 et seq.);

(C) title XIV of the Public Health Service Act (the Safe Drinking Water Act) (42 U.S.C. 300f et seq.);

(D) the Clean Air Act (42 U.S.C. 7401 et seq.);

(E) the Pollution Prevention Act of 1990 (42 U.S.C. 13101 et seq.);

(F) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

(G) the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.);

(H) the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.);

(I) the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.);

(J) the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.);

(K) the Endangered Species Act of 1973 (16 U.S.C. 1540);

(L) the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.);

(M) the Noise Control Act of 1972 (42 U.S.C. 4901 et seq.);

(N) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

(O) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(P) the Superfund Amendments and Reauthorization Act of 1986 (Public Law 99-499; 100 Stat. 1613);

(Q) the Ocean Dumping Act (33 U.S.C. 1401 et seq.);

(R) the Environmental Research, Development, and Demonstration Authorization Act of 1978 (42 U.S.C. 4365);

(S) the Pollution Prosecution Act of 1990 (42 U.S.C. 4321 note; Public Law 101-593);

(T) the Federal Facilities Compliance Act of 1992 (Public Law 102-386; 106 Stat. 1505); and

(U) any statute containing an amendment to any of such Acts.

(4) FEDERAL INDIAN LAW.—Nothing in this Act shall be construed as modifying or affecting any provision of—

(A) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

(B) American Indian Religious Freedom Act (42 U.S.C. 1996);

(C) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

(D) the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb et seq.); or

(E) the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.).

(c) SOVEREIGN IMMUNITY OF INDIAN TRIBES.—Nothing in this section shall be construed so as to waive the sovereign immunity of any Indian Tribe.

**SEC. 511. AVAILABILITY OF PUBLIC RECORDS.**

Copies of records, reports, inspection materials, or information obtained by the Secretary or the Secretary of Agriculture under this Act shall be made immediately available to the public, consistent with section 552 of title 5, United States Code, in central and sufficient locations in the county, multicounty, and State area of mineral activities or reclamation so that such items are conveniently available to residents in the area proposed or approved for mineral activities and on the internet.

**SEC. 512. MISCELLANEOUS POWERS.**

(a) IN GENERAL.—In carrying out his or her duties under this Act, the Secretary concerned may conduct any investigation, inspection, or other inquiry necessary and appropriate and may conduct, after notice, any hearing or audit, necessary and appropriate to carrying out his or her duties.

(b) ANCILLARY POWERS.—In connection with any hearing, inquiry, investigation, or audit under this Act, the Secretary, or for National Forest System lands the Secretary of Agriculture, is authorized to take any of the following actions:

(1) Require, by special or general order, any person to submit in writing such affidavits and answers to questions as the Secretary concerned may reasonably prescribe, which submission shall be made within such reasonable period and under oath or otherwise, as may be necessary.

(2) Administer oaths.

(3) Require by subpoena the attendance and testimony of witnesses and the production of all books, papers, records, documents, matter, and materials, as such Secretary may request.

(4) Order testimony to be taken by deposition before any person who is designated by such Secretary and who has the power to administer oaths, and to compel testimony and the production of evidence in the same manner as authorized under paragraph (3) of this subsection.

(5) Pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

(c) ENFORCEMENT.—In cases of refusal to obey a subpoena served upon any person under this section, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the Attorney General at the request of the Secretary concerned and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and produce documents before the Secretary concerned. Any failure to obey such order of the court may be punished by such court as contempt thereof and subject to a penalty of up to \$10,000 a day.

(d) ENTRY AND ACCESS.—Without advance notice and upon presentation of appropriate credentials, the Secretary concerned or any authorized representative thereof—

(1) shall have the right of entry to, upon, or through the site of any claim, license, lease, mineral activities, or any premises in which any records required to be maintained under this Act are located;

(2) may at reasonable times, and without delay, have access to records, inspect any monitoring equipment, or review any method of operation required under this Act;

(3) may engage in any work and do all things necessary or expedient to implement and administer the provisions of this Act;

(4) may, on any mining claim, license, or lease maintained in compliance with this Act, and without advance notice, stop and inspect any motorized form of transportation that such Secretary has probable cause to believe is carrying hardrock minerals, concentrates, or products derived therefrom from a claim site for the purpose of determining whether the operator of such vehicle has documentation related to such hardrock minerals, concentrates, or products derived therefrom as required by law, if such documentation is required under this Act; and

(5) may, if accompanied by any appropriate law enforcement officer, or an appropriate law enforcement officer alone, stop and inspect any motorized form of transportation which is not on a claim site if he or she has probable cause to believe such vehicle is carrying hardrock minerals, concentrates, or products derived therefrom from a claim site, license, or lease on Federal lands or allocated to such claim site, license, or lease. Such inspection shall be for the purpose of determining whether the operator of such vehicle has the documentation required by law, if such documentation is required under this Act.

**SEC. 513. MINERAL MATERIALS.**

(a) DETERMINATIONS.—Section 3 of the Act of July 23, 1955 (30 U.S.C. 611), is amended—

(1) in the heading, by striking “OR CINDERS” and inserting “CINDERS, AND CLAY”;

(2) by striking “No” and inserting “(a) No”;

(3) by inserting “mineral materials, including” after “varieties of”;

(4) by striking “or cinders” and inserting “cinders, and clay”; and

(5) by adding at the end the following:

“(b)(1) Subject to valid existing rights, after the date of enactment of the Hardrock Leasing and Reclamation Act of 2019, notwithstanding the reference to common varieties in subsection (a) and to the exception to such term relating to a deposit of materials with some property giving it distinct and special value, all deposits of mineral materials referred to in such subsection, including the block pumice referred to in such subsection, shall be subject to disposal only under the terms and conditions of the Materials Act of 1947 (30 U.S.C. 601–603).

“(2) For purposes of paragraph (1), the term ‘valid existing rights’ means that a mining claim located for any such mineral material—

“(A) had and still has some property giving it the distinct and special value referred to in subsection (a), or as the case may be, met the definition of block pumice referred to in such subsection;

“(B) was properly located and maintained under the general mining laws prior to the date of enactment of the Hardrock Leasing and Reclamation Act of 2019; and

“(C) was supported by a discovery of a valuable mineral deposit within the meaning of the general mining laws as in effect immediately prior to the date of enactment of the Hardrock Leasing and Reclamation Act of 2019.”.

(b) MINERAL MATERIALS DISPOSAL CLARIFICATION.—Section 4 of the Act of July 23, 1955 (30 U.S.C. 612), is amended—

(1) in subsection (b) by inserting “and mineral material” after “vegetative”; and

(2) in subsection (c) by inserting “and mineral material” after “vegetative”.

(c) CONFORMING AMENDMENT.—Section 1 of the Act of July 31, 1947, entitled “An Act to provide for the disposal of materials on the public lands of the United States” (30 U.S.C. 601 et seq.) is amended by striking “common varieties of” in the first sentence.

(d) SHORT TITLES.—

(1) SURFACE RESOURCES.—The Act of July 23, 1955, is amended by inserting after section 7 the following new section:

“SEC. 8. This Act may be cited as the ‘Surface Resources Act of 1955’.”

(2) MINERAL MATERIALS.—The Act of July 31, 1947, entitled “An Act to provide for the disposal of materials on the public lands of the United States” (30 U.S.C. 601 et seq.) is amended by inserting after section 4 the following new section:

“SEC. 5. This Act may be cited as the ‘Materials Act of 1947’.”

(e) REPEALS.—(1) Subject to valid existing rights, the Act of August 4, 1892 (chapter 375; 27 Stat. 348; 30 U.S.C. 161), commonly known as the Building Stone Act, is hereby repealed.

(2) Subject to valid existing rights, the Act of January 31, 1901 (chapter 186; 31 Stat. 745; 30 U.S.C. 162), commonly known as the Saline Placer Act, is hereby repealed.

**SEC. 514. EFFECTIVE DATE.**

This Act shall take effect on the date of enactment of this Act, except as otherwise provided in this Act.

#### PURPOSE OF THE BILL

The purpose of H.R. 2579 is to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes.

#### BACKGROUND AND NEED FOR LEGISLATION

For 148 years, the mining of hardrock minerals on public lands in the United States has been carried out under the General Mining Law of 1872<sup>1</sup> (Mining Law). Written to promote western settlement in the era of the pick and shovel prospector, the Mining Law is based on state and local mining customs, laws, and regulations that developed during the California gold rush of 1848/1849.<sup>2</sup> The Mining Law granted generous rights to miners and established mining as the “highest and best use” for public lands not specifically withdrawn from mining (*e.g.*, national parks, monuments, wilderness areas). Originally, the Mining Law covered all minerals except for coal. Oil, natural gas, oil shale, phosphate, and several other minerals were removed from the Mining Law under the Mineral Leasing Act of 1920,<sup>3</sup> and sand, stone, and gravel were removed by the Surface Resources Act of 1955.<sup>4</sup> All other minerals, such as gold, silver, copper, uranium and rare earth elements, still operate under the system established in 1872.<sup>5</sup>

The Mining Law allows miners to prospect for, extract, and sell minerals from a “claim” of up to twenty acres of federal land, and to patent (purchase the title) their claim at the cost of \$5 or less

<sup>1</sup>General Mining Act of 1872, ch. 152, 17 Stat. 91 (1872), <https://uscode.house.gov/statviewer.htm?volume=17&page=91> (codified as amended at R.S., ch.6, <https://uscode.house.gov/statviewer.htm?volume=rs&page=424>, and subsequently codified as amended at 30 U.S.C. §§ 21–54).

<sup>2</sup>See generally JOHN D. LESHY, *THE MINING LAW: A STUDY IN PERPETUAL MOTION* (1987).

<sup>3</sup>Pub. L. No. 66–146, 41 Stat. 437 (1920), <https://uscode.house.gov/statviewer.htm?volume=41&page=437> (codified as amended at 30 U.S.C. § 181 *et seq.*).

<sup>4</sup>Act of July 23, 1955, Pub. L. No. 84–167, 69 Stat. 367 (1955), <https://uscode.house.gov/statviewer.htm?volume=69&page=367> (codified as amended at 30 U.S.C. §§ 611–15).

<sup>5</sup>Hardrock mining on acquired lands—those obtained from a state or a private owner through purchase, gift, or eminent domain—as well as certain isolated exceptions, are subject to leasing and are not covered by the 1872 Mining Law.

per acre. Under the patent system, the federal government effectively gave away 3.4 million acres of public lands between 1867 and 2006<sup>6</sup>—an area roughly the size of Connecticut—containing an estimated \$300 billion in minerals. Starting in 1994, Congress has enacted a moratorium on new patent applications through annual appropriations bills.<sup>7</sup> H.R. 2579 permanently ends patenting, except for those claims predating the 1994 moratorium.

#### *Leases and Royalties*

Unlike leasable minerals (such as oil, gas, and coal), which have royalty rates as high as 18.75 percent, miners pay no royalties to the federal government for production from mining claims. In contrast, most countries, and all western states, charge some sort of royalty on hardrock minerals for production from their lands.

#### *Environmental and Permitting Standards*

There are no environmental provisions or permitting requirements in the Mining Law. Hardrock mining activities are covered in part by other federal laws such as the Clean Water Act; the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA; also known as Superfund); the National Environmental Policy Act (NEPA); and the Federal Land Policy and Management Act (FLPMA). Under FLPMA, the Department of the Interior is required to take actions necessary to prevent “unnecessary or undue degradation” of public land,<sup>8</sup> but the definition of “undue degradation” has varied between administrations. This patchwork of laws and regulations leaves major gaps. For example, the laws do not address adequacy of mine location, cover evaluation of the mining plan, set comprehensive environmental standards for mining and reclamation requirements, or protect groundwater from mining operations. Moreover, the Bureau of Land Management (BLM) and the U.S. Forest Service maintain that they cannot reject a mine on public land as long as the applicant adheres to other federal and state laws.<sup>9</sup> Regardless of environmental harm or impacts on health and on sacred sites of Native American communities, the Mining Law’s right to free mining access trumps all other uses unless land is withdrawn by administrative or congressional action. Establishing a proper leasing and permitting system would directly address these issues.

It is likely that the mining industry would also benefit from a permitting system specific to hardrock mining, like the one established in H.R. 2579, rather than having to deal with a regulatory scheme that relies on multiple existing laws unrelated to mining, which leads to uncertainty and increased litigation risks.

#### *Abandoned Hardrock Mines*

There is no comprehensive inventory of hardrock abandoned mine lands (AMLs) in the United States, and, unlike abandoned

<sup>6</sup>MARC HUMPHRIES, CONG. RSCH. SERV., RL33908, MINING ON FEDERAL LANDS: HARDROCK MINERALS (2009).

<sup>7</sup>See Department of the Interior and Related Agencies Appropriations Act, 1995, Pub. L. No. 103-332 (1994).

<sup>8</sup>43 U.S.C. § 1732(b).

<sup>9</sup>See, e.g., Tony Davis, *Rosemont Mine OK Hamstrung by Inflexible Mining Law, Former Forest Supervisor Says*, AZ. DAILY STAR (Oct. 7, 2019), [https://tucson.com/news/local/rosemont-mine-ok-hamstrung-by-inflexible-mining-law-former-forest/article\\_752d2595-357c-522f-8c10-d4b839c180c7.html](https://tucson.com/news/local/rosemont-mine-ok-hamstrung-by-inflexible-mining-law-former-forest/article_752d2595-357c-522f-8c10-d4b839c180c7.html).

coal mines, which are reclaimed with fees paid by mining companies, there is no dedicated funding source to remediate abandoned hardrock mines. Instituting a reclamation fee for material displaced during hardrock mining operations would raise an estimated \$1.8 billion over ten years toward abandoned hardrock mine clean-up.<sup>10</sup> Implementing this fee would lower spending on mine clean-ups for which taxpayers currently foot the entire bill and would provide sorely needed resources to speed the reclamation of these dangerous and environmentally damaging sites.

Statistics abound on the problem of abandoned hardrock mines—some of the most noteworthy are below:

- There are estimated to be more than 530,000 abandoned hardrock mines just on federal lands across the country, but poor state and federal inventories make it impossible to know the full extent of the problem.<sup>11</sup>
- Stream reaches in the headwaters of more than forty percent of western watersheds are polluted by mining runoff.<sup>12</sup>
- The Bureau of Land Management and Forest Service both have programs to address AMLs, but their total appropriation of roughly \$40 million is miniscule compared to the scale of the problem. Fifteen years ago, the Environmental Protection Agency (EPA) estimated that the cost to clean up all hardrock AMLs could be as high as \$54.2 billion;<sup>13</sup> the cost is likely to be even higher now.
- Hardrock AMLs can be addressed using Superfund money, but the Government Accountability Office found that hardrock mines are the most expensive Superfund sites to clean up, with an average per-site annual spending of \$750,000—more than seven times the cost of the next most expensive sites.<sup>14</sup>
- Fifty million gallons of toxic wastewater—the equivalent of over 5,000 tanker trucks—flows from abandoned hardrock mining sites every day.<sup>15</sup>

#### *Hardrock Mining—Present and Future*

Mining is no longer done by a single prospector with a pick and shovel, but by multinational mining conglomerates with heavy machinery in enormous open pits. Modern mines move hundreds of tons of earth for an ounce of gold, and, in 2009, the U.S. Geological Survey reported that seven of the ten top producing gold mines in the United States were foreign-owned.<sup>16</sup> Modern mining impacts aquatic life, vegetation, soils, air, human health, wildlife, and

<sup>10</sup> OFF. OF MGMT. & BUDGET, ANALYTICAL PERSPECTIVES: BUDGET OF THE U.S. GOVERNMENT, FISCAL YEAR 2017 (2016).

<sup>11</sup> U.S. GAO, GAO-20-238, ABANDONED HARDROCK MINES: INFORMATION ON NUMBER OF MINES, EXPENDITURES, AND FACTORS THAT LIMIT EFFORTS TO ADDRESS HAZARDS (2020), <https://www.gao.gov/assets/710/705146.pdf>.

<sup>12</sup> EPA, OFFICE OF WATER, EPA-840-B-00-001, LIQUID ASSETS 2000: AMERICA'S WATER RESOURCES AT A TURNING POINT 10 (2000), <https://nepis.epa.gov/Exe/ZyPDF.cgi/20004GRW.PDF?Dockey=20004GRW.PDF>.

<sup>13</sup> EPA, OFFICE OF SOLID WASTE & EMERGENCY RESPONSE, EPA 542-R-04-015, CLEANING UP THE NATION'S WASTE SITES 11-13 (2004), <https://nepis.epa.gov/Exe/ZyPDF.cgi/30006II3.PDF?Dockey=30006II3.PDF>.

<sup>14</sup> GAO, GAO-15-812, SUPERFUND: TRENDS IN FEDERAL FUNDING AND CLEANUP OF EPA'S NONFEDERAL NATIONAL PRIORITIES LIST SITES 23 (2015), <https://www.gao.gov/assets/680/672734.pdf>.

<sup>15</sup> Matthew Brown, *50M Gallons of Polluted Water Pours Daily from US Mine Sites*, ASSOCIATED PRESS (Feb. 20, 2019), <https://apnews.com/8158167fd9ab4cd8966e47a6dd6cbe96>.

<sup>16</sup> USGS, 2009 MINERALS YEARBOOK: GOLD (2011), <https://s3-us-west-2.amazonaws.com/prdwret/assets/palladium/production/mineral-pubs/gold/myb1-2009-gold.pdf>.

water. According to the EPA, the hardrock mining industry is the number one toxic polluter in the United States.<sup>17</sup>

The United States is one of the world's largest producers of important metals and minerals. After a lull in new mines and exploration in the 1990s due to market conditions, favorable operating possibilities elsewhere, and discovery of higher-grade ore prospects overseas, the U.S. hardrock mining industry has indicated it sees an opportunity for growth. The most recent Annual Survey of Mining Companies by the Fraser Institute found that the most attractive location in the world for new mining investment is Nevada, with Alaska, Utah, and Arizona also ranking among the top eight.<sup>18</sup>

An increasing number of technologies require specialty metals, generating a rising demand for these materials worldwide. Critical minerals—those at high risk of a potential supply disruption and that perform essential functions for which there are few if any satisfactory substitutes—are especially important for renewable energy technologies. Studies predict that the production and recycling of certain minerals will need to increase up to twelvefold to meet renewable energy demand by 2050.<sup>19</sup> Unless the nation's outdated mining laws are reformed, efforts to expand mining's footprint in the U.S. to meet the additional demand for these minerals would lead to unsustainable land-use conflicts, widespread environmental degradation, and increased threats to cultural and sacred sites. In recognition of the increased need for critical minerals, H.R. 2579 provides the ability for reduced royalties on those elements.

#### COMMITTEE ACTION

H.R. 2579 was introduced on May 8, 2019, by Chair Raúl M. Grijalva (D-AZ). The bill was referred solely to the Committee on Natural Resources, and within the Committee to the Subcommittee on Energy and Mineral Resources. On May 9, 2019, the Subcommittee held a hearing on the bill. On October 23, 2019, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Chair Grijalva offered an amendment in the nature of a substitute. Representative Paul A. Gosar (R-AZ) offered an amendment designated Gosar #7 to the amendment in the nature of a substitute. The amendment was not agreed to by a roll call vote of 13 yeas and 19 nays, as follows:

<sup>17</sup> EPA, TOXICS RELEASE INVENTORY (TRI) NATIONAL ANALYSIS 2017: COMPARING INDUSTRY SECTORS 70 (2019), <https://www.epa.gov/sites/production/files/2020-02/documents/industry-sectors-0.pdf>.

<sup>18</sup> FRASER INST., ANNUAL SURVEY OF MINING COMPANIES 2018, at 9 (2019), <https://www.fraserinstitute.org/sites/default/files/annual-survey-of-mining-companies-2018.pdf>.

<sup>19</sup> See Nafeez Ahmed, *We Don't Mine Enough Rare Earth Metals to Replace Fossil Fuels with Renewable Energy*, VICE: MOTHERBOARD (Dec. 12, 2018, 1:47pm), [https://www.vice.com/en\\_us/article/a3mavb/we-dont-mine-enough-rare-earth-metals-to-replace-fossil-fuels-with-renewable-energy](https://www.vice.com/en_us/article/a3mavb/we-dont-mine-enough-rare-earth-metals-to-replace-fossil-fuels-with-renewable-energy).

Date: October 23, 2019

**COMMITTEE ON NATURAL RESOURCES**  
116<sup>th</sup> Congress - Roll Call

Bill / Motion: H.R. 2579

Amendment: Rep. Gosar #7 amendment

Disposition: Not agreed to by a roll call vote of 13 yeas and 19 nays.

	DEM. MEMBERS (25)	YEAS	NAYS	PRESENT
1	Mr. Brown, MD			
2	Mr. Cartwright, PA		X	
3	Mr. Case, HI		X	
4	Mr. Clay, MO			
5	Mr. Costa, CA		X	
6	Mr. Cox, CA		X	
7	Mr. Cunningham, SC		X	
8	Ms. DeGette, CO			
9	Mrs. Dingell, MI		X	
10	Mr. Gallego, AZ		X	
11	Mr. Grijalva, AZ ( <i>Chair</i> )		X	
12	Ms. Haaland, NM		X	
13	Mr. Horsford, NV		X	
14	Mr. Huffman, CA		X	
15	Mr. Levin, CA		X	
16	Mr. Lowenthal, CA		X	
17	Mr. McEachin, VA			
18	Ms. Napolitano, CA		X	
19	Mr. Neguse, CO			
20	Mr. Sablan, CNMI		X	
21	Mr. San Nicolas, GU		X	
22	Mr. Soto, FL		X	
23	Mr. Tonko, NY			
24	Mr. Van Drew, NJ		X	
25	Ms. Velázquez, NY		X	
	<b>REP. MEMBERS (19)</b>	<b>Y</b>	<b>N</b>	<b>P</b>
1	Mr. Bishop, UT ( <i>Ranking</i> )	X		
2	Ms. Cheney, WY	X		
3	Mr. Cook, CA	X		
4	Mr. Curtis, UT	X		
5	Mr. Fulcher, ID			
6	Mr. Gohmert, TX			
7	Ms. González-Colón, PR	X		
8	Mr. Gosar, AZ	X		
9	Mr. Graves, LA	X		
10	Mr. Hern, OK	X		
11	Mr. Hice, GA			
12	Mr. Johnson, LA			
13	Mr. Lamborn, CO	X		
14	Mr. McClintock, CA	X		
15	Mrs. Radewagen, AS			
16	Mr. Webster, FL	X		
17	Mr. Westerman, AR	X		
18	Mr. Wittman, VA	X		
19	Mr. Young, AK			
	<b>TOTALS</b>	<b>13</b>	<b>19</b>	
	Total: 44 / Quorum: 15 / Report: 23	<b>YEAS</b>	<b>NAYS</b>	<b>PRESENT</b>

Representative Gosar offered an amendment designated Gosar #9 to the amendment in the nature of a substitute. The amendment was not agreed to by a roll call vote of 13 yeas and 20 nays, as follows:

Date: October 23, 2019

**COMMITTEE ON NATURAL RESOURCES**  
116<sup>th</sup> Congress - Roll Call

Bill / Motion: H.R. 2579

Amendment: Rep. Gosar #9 amendment

Disposition: Not agreed to by a roll call vote of 13 yeas and 20 nays.

	DEM. MEMBERS (25)	YEAS	NAYS	PRESENT
1	Mr. Brown, MD		X	
2	Mr. Cartwright, PA		X	
3	Mr. Case, HI		X	
4	Mr. Clay, MO			
5	Mr. Costa, CA		X	
6	Mr. Cox, CA		X	
7	Mr. Cunningham, SC		X	
8	Ms. DeGette, CO			
9	Mrs. Dingell, MI		X	
10	Mr. Gallego, AZ		X	
11	Mr. Grijalva, AZ ( <i>Chair</i> )		X	
12	Ms. Haaland, NM		X	
13	Mr. Horsford, NV		X	
14	Mr. Huffman, CA		X	
15	Mr. Levin, CA		X	
16	Mr. Lowenthal, CA		X	
17	Mr. McEachin, VA			
18	Ms. Napolitano, CA		X	
19	Mr. Neguse, CO			
20	Mr. Sablan, CNMI		X	
21	Mr. San Nicolas, GU		X	
22	Mr. Soto, FL		X	
23	Mr. Tonko, NY			
24	Mr. Van Drew, NJ		X	
25	Ms. Velázquez, NY		X	
	<b>REP. MEMBERS (19)</b>	<b>Y</b>	<b>N</b>	<b>P</b>
1	Mr. Bishop, UT ( <i>Ranking</i> )	X		
2	Ms. Cheney, WY	X		
3	Mr. Cook, CA	X		
4	Mr. Curtis, UT	X		
5	Mr. Fulcher, ID			
6	Mr. Gohmert, TX			
7	Ms. González-Colón, PR	X		
8	Mr. Gosar, AZ	X		
9	Mr. Graves, LA	X		
10	Mr. Hem, OK	X		
11	Mr. Hice, GA			
12	Mr. Johnson, LA			
13	Mr. Lamborn, CO	X		
14	Mr. McClintock, CA	X		
15	Mrs. Radewagen, AS			
16	Mr. Webster, FL	X		
17	Mr. Westerman, AR	X		
18	Mr. Wittman, VA	X		
19	Mr. Young, AK			
	<b>TOTALS</b>	<b>13</b>	<b>20</b>	
	Total: 44 / Quorum: 15 / Report: 23	<b>YEAS</b>	<b>NAYS</b>	<b>PRESENT</b>

Representative Garret Graves (R-LA) offered an amendment designated Graves #1 revised 2 to the amendment in the nature of a substitute. The amendment was not agreed to by a roll call vote of 12 yeas and 22 nays, as follows:

Date: October 23, 2019

**COMMITTEE ON NATURAL RESOURCES**  
116<sup>th</sup> Congress - Roll Call

Bill / Motion: H.R. 2579

Amendment: Rep. Graves #1 revised 2 amendment

Disposition: Not agreed to by a roll call vote of 12 yeas and 22 nays.

	DEM. MEMBERS (25)	YEAS	NAYS	PRESENT
1	Mr. Brown, MD		X	
2	Mr. Cartwright, PA		X	
3	Mr. Case, HI		X	
4	Mr. Clay, MO			
5	Mr. Costa, CA		X	
6	Mr. Cox, CA		X	
7	Mr. Cunningham, SC		X	
8	Ms. DeGette, CO			
9	Mrs. Dingell, MI		X	
10	Mr. Gallego, AZ		X	
11	Mr. Grijalva, AZ (Chair)		X	
12	Ms. Haaland, NM		X	
13	Mr. Horsford, NV		X	
14	Mr. Huffman, CA		X	
15	Mr. Levin, CA		X	
16	Mr. Lowenthal, CA		X	
17	Mr. McEachin, VA			
18	Ms. Napolitano, CA		X	
19	Mr. Neguse, CO		X	
20	Mr. Sablan, CNMI		X	
21	Mr. San Nicolas, GU		X	
22	Mr. Soto, FL		X	
23	Mr. Tonko, NY			
24	Mr. Van Drew, NJ		X	
25	Ms. Velázquez, NY		X	
	<b>REP. MEMBERS (19)</b>	<b>Y</b>	<b>N</b>	<b>P</b>
1	Mr. Bishop, UT (Ranking)	X		
2	Ms. Cheney, WY		X	
3	Mr. Cook, CA	X		
4	Mr. Curtis, UT	X		
5	Mr. Fulcher, ID			
6	Mr. Gohmert, TX			
7	Ms. González-Colón, PR	X		
8	Mr. Gosar, AZ	X		
9	Mr. Graves, LA	X		
10	Mr. Hern, OK	X		
11	Mr. Hice, GA			
12	Mr. Johnson, LA			
13	Mr. Lamborn, CO	X		
14	Mr. McClintock, CA	X		
15	Mrs. Radewagen, AS			
16	Mr. Webster, FL	X		
17	Mr. Westerman, AR	X		
18	Mr. Wittman, VA	X		
19	Mr. Young, AK			
	<b>TOTALS</b>	<b>12</b>	<b>22</b>	
	Total: 44 / Quorum: 15 / Report: 23	<b>YEAS</b>	<b>NAYS</b>	<b>PRESENT</b>

Representative Graves offered an amendment designated Graves #2 to the amendment in the nature of a substitute. The amendment was not agreed to by voice vote. Representative Graves offered an amendment designated Graves #3 revised to the amendment in the nature of a substitute. The amendment was not agreed to by a roll call vote of 12 yeas and 21 nays, as follows:

Date: October 23, 2019

**COMMITTEE ON NATURAL RESOURCES**  
116<sup>th</sup> Congress - Roll Call

Bill / Motion: H.R. 2579

Amendment: Rep. Graves #3 revised amendment

Disposition: Not agreed to by a roll call vote of 12 yeas and 21 nays.

	DEM. MEMBERS (25)	YEAS	NAYS	PRESENT
1	Mr. Brown, MD		X	
2	Mr. Cartwright, PA		X	
3	Mr. Case, HI		X	
4	Mr. Clay, MO			
5	Mr. Costa, CA		X	
6	Mr. Cox, CA		X	
7	Mr. Cunningham, SC		X	
8	Ms. DeGette, CO			
9	Mrs. Dingell, MI		X	
10	Mr. Gallego, AZ		X	
11	Mr. Grijalva, AZ ( <i>Chair</i> )		X	
12	Ms. Haaland, NM		X	
13	Mr. Horsford, NV		X	
14	Mr. Huffman, CA		X	
15	Mr. Levin, CA		X	
16	Mr. Lowenthal, CA		X	
17	Mr. McEachin, VA			
18	Ms. Napolitano, CA		X	
19	Mr. Neguse, CO		X	
20	Mr. Sablan, CNMI		X	
21	Mr. San Nicolas, GU		X	
22	Mr. Soto, FL		X	
23	Mr. Tonko, NY			
24	Mr. Van Drew, NJ		X	
25	Ms. Velázquez, NY			
	<b>REP. MEMBERS (19)</b>	<b>Y</b>	<b>N</b>	<b>P</b>
1	Mr. Bishop, UT ( <i>Ranking</i> )	X		
2	Ms. Cheney, WY		X	
3	Mr. Cook, CA	X		
4	Mr. Curtis, UT	X		
5	Mr. Fulcher, ID			
6	Mr. Gohmert, TX			
7	Ms. González-Colón, PR	X		
8	Mr. Gosar, AZ	X		
9	Mr. Graves, LA	X		
10	Mr. Herr, OK	X		
11	Mr. Hice, GA			
12	Mr. Johnson, LA			
13	Mr. Lamborn, CO	X		
14	Mr. McClintock, CA	X		
15	Mrs. Radewagen, AS			
16	Mr. Webster, FL	X		
17	Mr. Westerman, AR	X		
18	Mr. Wittman, VA	X		
19	Mr. Young, AK			
	<b>TOTALS</b>	<b>12</b>	<b>21</b>	
	Total: 44 / Quorum: 15 / Report: 23	<b>YEAS</b>	<b>NAYS</b>	<b>PRESENT</b>

Representative Graves offered and withdrew an amendment designated Graves #4 to the amendment in the nature of a substitute. Representative Graves offered an amendment designated Graves #5 to the amendment in the nature of a substitute. The amendment was not agreed to by a roll call vote of 11 yeas, 20 nays, and 2 present, as follows:

Date: October 23, 2019

**COMMITTEE ON NATURAL RESOURCES**  
116<sup>th</sup> Congress - Roll Call

Bill / Motion: H.R. 2579

Amendment: Rep. Graves #5 amendment

Disposition: Not agreed to by a roll call vote of 11 yeas, 20 nays, and 2 present.

	DEM. MEMBERS (25)	YEAS	NAYS	PRESENT
1	Mr. Brown, MD		X	
2	Mr. Cartwright, PA		X	
3	Mr. Case, HI		X	
4	Mr. Clay, MO			
5	Mr. Costa, CA		X	
6	Mr. Cox, CA		X	
7	Mr. Cunningham, SC		X	
8	Ms. DeGette, CO			
9	Mrs. Dingell, MI		X	
10	Mr. Gallego, AZ		X	
11	Mr. Grijalva, AZ ( <i>Chair</i> )		X	
12	Ms. Haaland, NM		X	
13	Mr. Horsford, NV		X	
14	Mr. Huffman, CA		X	
15	Mr. Levin, CA		X	
16	Mr. Lowenthal, CA		X	
17	Mr. McEachin, VA			
18	Ms. Napolitano, CA		X	
19	Mr. Neguse, CO		X	
20	Mr. Sablan, CNMI			X
21	Mr. San Nicolas, GU		X	
22	Mr. Soto, FL		X	
23	Mr. Tonko, NY			
24	Mr. Van Drew, NJ		X	
25	Ms. Velázquez, NY			
	<b>REP. MEMBERS (19)</b>	<b>Y</b>	<b>N</b>	<b>P</b>
1	Mr. Bishop, UT ( <i>Ranking</i> )	X		
2	Ms. Cheney, WY		X	
3	Mr. Cook, CA	X		
4	Mr. Curtis, UT	X		
5	Mr. Fulcher, ID			
6	Mr. Gohmert, TX			
7	Ms. González-Colón, PR			X
8	Mr. Gosar, AZ	X		
9	Mr. Graves, LA	X		
10	Mr. Hern, OK	X		
11	Mr. Hice, GA			
12	Mr. Johnson, LA			
13	Mr. Lamborn, CO	X		
14	Mr. McClintock, CA	X		
15	Mrs. Radewagen, AS			
16	Mr. Webster, FL	X		
17	Mr. Westerman, AR	X		
18	Mr. Wittman, VA	X		
19	Mr. Young, AK			
	<b>TOTALS</b>	<b>11</b>	<b>20</b>	<b>2</b>
	Total: 44 / Quorum: 15 / Report: 23	<b>YEAS</b>	<b>NAYS</b>	<b>PRESENT</b>

Ranking Member Rob Bishop (R-UT) offered an amendment designated Bishop #6 to the amendment in the nature of a substitute. The amendment was not agreed to by a roll call vote of 16 yeas and 17 nays, as follows:

Date: October 23, 2019

**COMMITTEE ON NATURAL RESOURCES**  
116<sup>th</sup> Congress - Roll Call

Bill / Motion: H.R. 2579

Amendment: Rep. amendment

Disposition: Not agreed to by a roll call vote of 16 yeas and 17 nays.

	DEM. MEMBERS (25)	YEAS	NAYS	PRESENT
1	Mr. Brown, MD		X	
2	Mr. Cartwright, PA		X	
3	Mr. Case, HI		X	
4	Mr. Clay, MO			
5	Mr. Costa, CA		X	
6	Mr. Cox, CA		X	
7	Mr. Cunningham, SC		X	
8	Ms. DeGette, CO			
9	Mrs. Dingell, MI	X		
10	Mr. Gallego, AZ		X	
11	Mr. Grijalva, AZ ( <i>Chair</i> )		X	
12	Ms. Haaland, NM		X	
13	Mr. Horsford, NV		X	
14	Mr. Huffman, CA		X	
15	Mr. Levin, CA		X	
16	Mr. Lowenthal, CA		X	
17	Mr. McEachin, VA			
18	Ms. Napolitano, CA		X	
19	Mr. Neguse, CO		X	
20	Mr. Sablan, CNMI	X		
21	Mr. San Nicolas, GU	X		
22	Mr. Soto, FL		X	
23	Mr. Tonko, NY			
24	Mr. Van Drew, NJ		X	
25	Ms. Velázquez, NY			
	<b>REP. MEMBERS (19)</b>	<b>Y</b>	<b>N</b>	<b>P</b>
1	Mr. Bishop, UT ( <i>Ranking</i> )	X		
2	Ms. Cheney, WY	X		
3	Mr. Cook, CA	X		
4	Mr. Curtis, UT	X		
5	Mr. Fulcher, ID			
6	Mr. Gohmert, TX			
7	Ms. González-Colón, PR	X		
8	Mr. Gosar, AZ	X		
9	Mr. Graves, LA	X		
10	Mr. Hern, OK	X		
11	Mr. Hice, GA			
12	Mr. Johnson, LA			
13	Mr. Lamborn, CO	X		
14	Mr. McClintock, CA	X		
15	Mrs. Radewagen, AS			
16	Mr. Webster, FL	X		
17	Mr. Westerman, AR	X		
18	Mr. Wittman, VA	X		
19	Mr. Young, AK			
	<b>TOTALS</b>	16	17	
	Total: 44 / Quorum: 15 / Report: 23	<b>YEAS</b>	<b>NAYS</b>	<b>PRESENT</b>

The amendment in the nature of a substitute offered by Chair Grijalva was agreed to by voice vote. The bill, as amended, was adopted and ordered favorably reported to the House of Representatives by a roll call vote of 21 yeas and 13 nays, as follows:

Date: October 23, 2019

**COMMITTEE ON NATURAL RESOURCES**  
116<sup>th</sup> Congress - Roll Call

Bill / Motion: H.R. 2579

Amendment:

**Disposition:** Final Passage: H.R. 2579, as amended, was ordered favorably reported to the House of Representatives by a roll call vote of 21 yeas and 13 nays.

	DEM. MEMBERS (25)	YEAS	NAYS	PRESENT
1	Mr. Brown, MD	X		
2	Mr. Cartwright, PA	X		
3	Mr. Case, HI	X		
4	Mr. Clay, MO	X		
5	Mr. Costa, CA	X		
6	Mr. Cox, CA	X		
7	Mr. Cunningham, SC	X		
8	Ms. DeGette, CO			
9	Mrs. Dingell, MI	X		
10	Mr. Gallego, AZ	X		
11	Mr. Grijalva, AZ ( <i>Chair</i> )	X		
12	Ms. Haaland, NM	X		
13	Mr. Horsford, NV		X	
14	Mr. Huffman, CA	X		
15	Mr. Levin, CA	X		
16	Mr. Lowenthal, CA	X		
17	Mr. McEachin, VA			
18	Ms. Napolitano, CA	X		
19	Mr. Neguse, CO	X		
20	Mr. Sablan, CNMI	X		
21	Mr. San Nicolas, GU	X		
22	Mr. Soto, FL	X		
23	Mr. Van Drew, NJ	X		
24	Mr. Tonko, NY			
25	Ms. Velázquez, NY			
	<b>REP. MEMBERS (19)</b>	<b>Y</b>	<b>N</b>	<b>P</b>
1	Mr. Bishop, UT ( <i>Ranking</i> )		X	
2	Ms. Cheney, WY		X	
3	Mr. Cook, CA		X	
4	Mr. Curtis, UT		X	
5	Mr. Fulcher, ID			
6	Mr. Gohmert, TX			
7	Ms. González-Colón, PR		X	
8	Mr. Gosar, AZ		X	
9	Mr. Graves, LA	X		
10	Mr. Hern, OK		X	
11	Mr. Hice, GA			
12	Mr. Johnson, LA			
13	Mr. Lamborn, CO		X	
14	Mr. McClintock, CA		X	
15	Mrs. Radewagen, AS			
16	Mr. Webster, FL		X	
17	Mr. Westerman, AR		X	
18	Mr. Wittman, VA		X	
19	Mr. Young, AK			
	<b>TOTALS</b>	<b>21</b>	<b>13</b>	
	Total: 44 / Quorum: 15 / Report: 23	<b>YEAS</b>	<b>NAYS</b>	<b>PRESENT</b>

## HEARINGS

For the purposes of section 103(i) of H. Res. 6 of the 116th Congress—the following hearing was used to develop or consider H.R. 2579: legislative hearing titled *The Long Overdue Need to Reform the Mining Law of 1872*, held by the Subcommittee on Energy and Mineral Resources on May 9, 2019.

## SECTION-BY-SECTION ANALYSIS

*Sec. 1. Short title*

This section provides the short title of the legislation, the “Hardrock Leasing and Reclamation Act of 2019.”

*Sec. 2. Definitions and references*

This section defines relevant terms.

*Sec. 3. Application rules*

This section states that the Act applies to all mining, millsite, and tunnel site claims, and mining operations on those claims, existing before or on the date of enactment. Where claims are used for beneficiation and processing of any locatable mineral—regardless of whether mined from public or private lands—the provisions of the Act apply.

## Title I—Mineral Leasing, Exploration, and Development

*Sec. 101. Closure to entry and location*

This section prohibits new mining claims on public lands and requires the conversion of existing non-producing claims to non-competitive leases within ten years of enactment, or within three years if the claim is on previously-withdrawn land, provided the claimholder demonstrates the existence of a valuable mineral deposit on the claim. Small miners are required to convert their claims to leases within three years but are not required to demonstrate the existence of a valuable mineral deposit. Any non-producing claims not converted by the end of the relevant period are voided.

Nonproducing claims with an approved plan of operation may remain in effect for a period of ten years. Any claim not converted to a lease after ten years will be subject to a fee of \$100 per acre per day until the claim is converted. If an application for a modified plan of operations is pending at the time of enactment, mineral and reclamation activities may continue under the previously approved plan until the Secretary of the Interior (Secretary) decides on the application.

The Secretary is required to promulgate regulations for the conversion of mining claims to noncompetitive leases, provided: no conversion is allowed if a person is in violation of this Act or certain other laws; the regulations must allow a lease to include nonmineral lands within the boundaries of a mill site; no person may hold leases that exceed the maximum allowable acreage authorized by the Act, equal to 20,480 acres in any one state; the surface management agency consents to conversion; lease fiscal terms are the same as provided for other hardrock leases issued under the Act; and compliance is required with all other provisions of the Act.

The Secretary is not required to conduct new environmental analysis for the issuance of a noncompetitive lease unless that lease modifies or extends the surface disturbance already authorized under an approved mine plan of operations.

*Sec. 102. Limitation on patents*

This section prohibits the issuance of patents for public land, unless the application for a patent was filed with the Secretary on or before September 30, 1994, and other administrative requirements are met.

*Sec. 103. Prospecting license and hardrock leases*

This section establishes the procedure for new commercial mineral exploration on public lands. It requires that miners apply for prospecting licenses, which will give them the exclusive right to explore for specified minerals on up to 2,560 acres of land for up to two years, with a rental fee of \$10 per acre per year, provided the land is open to hardrock mining under an approved land-use plan and the permit incorporates any conditions or requirements required under that plan. If a land-use plan treating mining as a multiple-use activity has not been approved for the area of the prospecting license application, the Secretary must ensure that the land is suitable for mineral development. Licenses can be extended for up to four additional years provided the miner is diligently exploring.

If a prospecting licensee discovers a valuable deposit and the surface management agency consents, the miner is entitled to a noncompetitive 20-year lease with a rental of \$10 per acre per year and a royalty of not less than 12.5 percent of the gross value of production. Leases are automatically renewable for 10-year periods if hardrock minerals are being produced in commercial quantities. If hardrock minerals are not being produced in commercial quantities, the Secretary may issue one 10-year lease extension in the interest of conservation, reclamation, or upon proof that the lease is uneconomic to mine. No person may control more than 20,480 acres of hardrock mining licenses or leases in any one State. The Secretary may include additional provisions to protect lands and resources in any license or lease and, for any land not managed by the Secretary, must consult with the appropriate surface management agency when formulating these provisions.

This section also provides for a reduction of the royalty rate, as low as 6.25 percent, if production would not occur without a royalty reduction, or for the purpose of encouraging production of hardrock minerals classified as strategic and critical by the Department of Energy.

*Sec. 104. Competitive leasing*

If federal lands known to contain valuable mineral deposits are not covered by claims, licenses, or leases, hardrock mineral exploration or development may occur only through a competitive leasing process. The Secretary of Interior will promulgate regulations for a competitive leasing process, but all terms and requirements must be the same as if the leases were issued noncompetitively. A single lease cannot be larger than 2,560 acres.

*Sec. 105. Small miners leases*

Small miners are defined in the Act as those miners holding 10 mining claims or fewer, or no more than 200 acres under lease, and whose commercial income from mining is no more than \$50,000 per year.

A small miners lease is distinct from a commercial lease issued under Section 103, and provides the exclusive right to prospect for hardrock minerals on up to 200 acres for three years, renewable for additional three-year periods with no limit, provided diligent development requirements established by the Secretary are met and rentals are paid. Rentals are \$5 per acre per year for the first three years, then \$10 per acre per year for all subsequent renewals, with no royalty charged on commercial production. A small miners lease may be challenged based upon potential violations of small miner eligibility or diligent development requirements; a lease under challenge may not be renewed until the Secretary has confirmed that the leaseholder is a small miner. A small miners lease may be held only by the leaseholder, a spouse, or direct descendent, and may not be sold or transferred. Small miners leases are subject to all the permitting requirements established in the Act.

Existing claims belonging to small miners must be converted to a small miners lease, with the same terms and conditions as other small miners leases, except that converted leases are not subject to a rental during the primary lease term, then rentals are \$5 per acre per year for the first three-year renewal and \$10 per acre per year for any additional three-year renewals.

If a leaseholder no longer qualifies as a small miner when applying for a lease renewal, the leaseholder becomes eligible for a non-competitive hardrock mineral lease. Royalties on these leases are only due on income in excess of the gross income ceiling for small miners at the time the lease is converted (equal to \$50,000 in 2019 and adjusted for inflation in subsequent years).

*Sec. 106. Lands containing nonhardrock minerals; other uses*

This section reserves to the United States all nonhardrock minerals—such as oil, gas, and coal—within the area covered by a hardrock mining license or lease, and requires the Secretary to ensure that other uses of public lands, including operations under other mineral leases, can occur on land covered by a prospecting license.

*Sec. 107. Royalty*

This section imposes a minimum 8 percent gross income royalty on hardrock minerals in production on federal land on the date of enactment. Hardrock mining operations beginning after the date of enactment are subject to a minimum 12.5 percent gross income royalty. Gross income royalty is defined under section 613(c) of the Internal Revenue Code of 1986.

Of the royalties, rents, fees, penalties and other money raised under this Title, 75 percent goes to abandoned hardrock mine reclamation under Title IV, and the other 25 percent goes to the state where the mining activity is located without restriction on its use.

This section also sets forth administrative provisions for the payment of royalties, identifying persons liable for royalty payments, timing of royalty payments, record-keeping, and reporting. It gives

the Secretary authority to conduct inspections, audits and investigations, and share information with the Secretary of Agriculture. Trade secrets and proprietary information are made available to the Secretary of the Interior, Secretary of Agriculture, and the Administrator of the Environmental Protection Agency as needed to ensure compliance and are protected in accordance with existing law.

Penalties are established for underreporting of royalties or violating other royalty payment provisions of the Act, with civil penalty amounts being the same as under the Federal Oil and Gas Royalty Management Act. Penalties are deposited in the Hardrock Minerals Reclamation Fund established in Section 401.

*Sec. 108. Existing production*

This section specifies that a holder of a mining claim or converted lease has exclusive land rights for mineral activities, if production has already begun by the time the bill is enacted. These rights terminate upon the completion of mineral activities.

*Sec. 109. Hardrock mining claim maintenance fee*

Except for small miners, claims not converted to leases are subject to a \$200 annual claim maintenance fee until expiration. Failure to pay the claim maintenance fee voids the claim. Any fees collected under this section and not used for administration of the mining program at the Department of the Interior are deposited in the Hardrock Minerals Reclamation Fund established in Section 401.

*Sec. 110. Effect of payments for use and occupancy of claims*

This section authorizes claimants who pay annual maintenance fees to use and occupy claimed lands for prospecting and mineral exploration activities, subject to compliance with the requirements of the Act and applicable provisions of law. The timely payment of the annual claim maintenance fee does not convey property rights nor secure a claimant the right to mine.

*Sec. 111. Protection of special places*

This section prohibits the issuance of permits for any mining activity that would negatively affect National Park System units or national monuments, or harm relevant resources or values of National Conservation System units. The section also places the following categories of lands off-limits to mining activities: sacred sites, wilderness study areas, designated critical habitat, areas of critical environmental concern, lands designated for inclusion in the Wild and Scenic Rivers System, and roadless areas.

*Sec. 112. Suitability determination*

This section gives land managers the unambiguous authority to prohibit mining in unsuitable locations. The Secretary must ensure that mining would not cause undue degradation to significant water resources, properties eligible for listing on the National Register of Historic Places, units of the National Conservation System, critical habitat, Class I areas under the Clean Air Act, Research Natural Areas, sacred sites, or special places identified in Section 111. Suitability determinations have to be published, open for a 60-

day public comment period, and incorporated into applicable land use plans. This section does not apply to existing operations.

## Title II—Consultation Procedure

### *Sec. 201 Requirement for consultation*

This section requires that agencies engage in meaningful and timely consultation with tribes prior to the undertaking of any mineral activities that will impact the interests or lands, including allotted, ceded, or traditional lands, of tribes and members; federal lands bordering Indian country; the relationship between the federal government and an Indian tribe; or the distribution of power and responsibilities between the federal government and an Indian tribe.

A lead agency for consultation purposes may be designated if more than one agency is involved in managing mineral activities, but all agencies must remain involved in the consultation process. Nothing in this section exempts agencies from additional consultation required under other laws. The section also allows agencies to temporarily waive the requirements of this Title in an emergency.

### *Sec. 202. Timing*

This section requires that consultation must be completed before a license is issued or any federal funds are expended on the mineral activity.

### *Sec. 203. Scoping stage consultation*

This section requires the agency managing the mineral activity to compile a planning document detailing the scope of the project and make a reasonable and good faith effort to identify sites and geographic areas important to Indian tribes as early as possible in the process. A copy of the planning document must be sent through mail and email to the tribal government, owners of allotments, and other tribal and non-tribal stakeholders. Agencies must confirm by phone that these documents are received.

This section also lays out requirements for scoping-stage consultation and allows for the termination of that consultation if a memorandum of agreement meeting certain standards laid out in the section is signed by the head of a land management agency and affected Indian tribes. An agency may terminate scoping-stage consultation without a memorandum of agreement if the agency determines that future consultation will not be productive, providing the agency has made a good faith effort and allowed a reasonable amount of time for consultation.

### *Sec. 204. Decision stage procedures*

The agency managing the mineral activity will compile a “proposal document” with a plan for the activity, its impact to tribal interests, any memorandum of agreement, and any written statement made by consulting partners during the scoping stage. This document will be mailed and emailed to all affected Indian tribes and stakeholders, with the agency required to confirm receipt. The proposal document must be published in the Federal Register for a 90-day public comment period, after which the agency will prepare a preliminary decision letter to be sent to all affected Indian

tribes and stakeholders. After a 60-day review of the preliminary decision, the agency will notify affected Indian tribes and stakeholders in writing of the agency's final decision.

*Sec. 205. Documentation and reporting*

This section requires agencies to keep an official consultation record that includes correspondence, telephone logs, emails, notes, and other related documents showing the extent of tribal consultation. If an agency requests additional information or documentation from a tribe or otherwise asks the tribe to fulfill the duties of the agency in a role similar to that of a consultant or contractor, the agency must reimburse the tribe for these services. Every other year, each agency must submit a report to Congress on its consultation activities.

*Sec. 206. Implementation*

No more than 30 days after enactment of this Act, the head of each agency must designate an official with principal responsibility for reviewing each agency's consultation practices. No more than 60 days after enactment, this same official must submit a description of the agency's revised consultation practices to the Office of Management and Budget.

*Sec. 207. Sensitive tribal information*

This section allows consultation meetings to be closed to the public at the request of a tribal government in order to protect sensitive information such as the location of sacred sites or other details of cultural or religious practices. Sensitive information will be deleted from any public documentation of the consultation process. The agency, in consultation with the tribe, will determine who may access sensitive information. Sites located on individual allotments will be addressed on a case-by-case basis and allottees must be involved.

Title III—Environmental Considerations of Mineral Exploration and Development

*Sec. 301. General Standard for hardrock mining on public lands*

This section establishes a general standard that mineral activities be carefully controlled to prevent undue degradation of public lands and resources, which is defined in the Act as "irreparable harm to significant scientific, cultural, or environmental resources."

*Sec. 302. Permits*

This section requires that all miners obtain a permit for any mineral activity that will disturb surface resources. Mineral activities that cause only negligible disturbance or are a casual use of public lands are exempted from permit requirements. The Secretary of the Interior and Secretary of Agriculture are directed to coordinate the permitting process when practicable and to meet all requirements of the National Environmental Policy Act (NEPA).

*Sec. 303. Exploration permit*

This section establishes the requirements for obtaining exploration permits, which authorize activities that result in the non-

negligible disturbance of surface resources and the removal of reasonable amounts of hardrock minerals for analysis, study, and testing, but which do not authorize the removal of minerals for sale or other commercial purposes.

Applicants must include reclamation plans with their permit applications and show that they will meet all other financial assurance and environmental requirements of this Act, and any additional requirements established by the Secretary of the Interior or Secretary of Agriculture. Permits may be valid for up to ten years, and any proposed changes to the permitted exploration activities must be reviewed in the same manner as the original permit application, unless the Secretaries publish a joint rule specifying different requirements for minor modifications.

Exploration permits may be transferred to other people only with approval of the Secretary, who is required to find in writing that the new permit holder meets at least the eligibility and financial assurance requirements of the Act. All permit transfer applications must include cost-recovery fees.

#### *Sec. 304. Operations permit*

This section establishes the requirements for obtaining operations permits, which allow permit holders to conduct commercial mineral activities on the lease or claim. Permit applications must include, at a minimum, site characterization data; plans for operations, reclamation, monitoring, and long-term maintenance; and documentation showing that the operations will comply with all other federal and state environmental laws and regulations.

In order to obtain a permit, the applicant must: demonstrate that there will be no undue degradation of federal land and resources; show that the condition of the land, including fish and wildlife resources, will be restored after mineral activities are completed; show there will be no material damage to the hydrologic balance outside the permit area; meet the financial assurance requirements of the Act; and show that treatment of surface water to meet water quality standards will not be required more than ten years past mine closure, among other requirements. The Secretary must deny a permit if they determine that the requirements of the Act cannot be met.

The initial term of an operations permit can be no longer than the time remaining on the applicant's hardrock mining lease, but the operator is entitled to ten-year renewals if the operation is in compliance with the terms of the permit. Failure to commence mineral activities within two years of the scheduled date in the operations permit will require a modification of the permit. The Secretary has the authority to establish requirements for permit modification applications; modification is required if changes are made to approved plans, or if unanticipated events occur. An operator must receive approval from the Secretary in order to cease operations for more than 180 days, and the section establishes requirements for temporary cessation applications. Temporary cessations that last more than five years result in expiration of the operations permit.

Each operations permit is subject to review every ten years, and before operations resume after a temporary cessation, to ensure that the overall conduct of operations has not diverted in any sig-

nificant way from the original plan of operations as approved by the Secretary. Additional financial assurance may be required as a result of these reviews.

This section also lays out requirements for the transfer and sale of operations permits and requires the Secretaries to promulgate regulations to ensure full transparency and public participation during the permit decision-making process.

*Sec. 305. Persons ineligible for permits*

This section declares persons in violation of this Act, state or federal laws or regulations, or the Surface Mining Control and Reclamation Act and associated regulations to be ineligible for operations permits. If it is determined after the fact that the permit holder was in violation at the time of permit issuance, the operations permit will be suspended until the applicant provides proof that the violation has been or is being corrected to the satisfaction of the Secretary. No permits may be issued to any applicant that has a pattern of willful violations.

*Sec. 306. Financial assurance*

This section requires operators to provide financial assurances sufficient to cover mine reclamation and restoration by the Secretary in the event of forfeiture. The Secretary is authorized to adjust the amounts of the bonds or other assurances as the mine size changes, or based on new information on reclamation or treatment costs. A two-part release schedule for financial assurances is established: the first part can be released after operators successfully regrade and begin to revegetate the mine area, and the second part can be released after confirmation that mine discharge has ceased for at least five years, or met water quality standards for five years without treatment. If the Secretary determines that an environmental hazard as a result of mineral activities exists after final release, the claim holder or operator will be required to correct the hazard.

*Sec. 307. Operation and reclamation*

This section sets general operation and reclamation standards. Lands used for mining must be restored to a condition capable of supporting their prior uses, or to other beneficial uses that conform to applicable land use plans. The Secretaries are required to jointly issue regulations that establish operation and reclamation standards for mineral activities including, but not limited to, erosion control, vegetation cover, acid mine drainage, visual impacts, restoration of fish and wildlife habitat, preservation of cultural resources, and prevention of wildfire. The Secretary of the Interior must also work with state and local governments to minimize impacts on surface and ground water from mineral activities. Ongoing review of reclamation activities on forfeited claims and suspended operations permits is required.

*Sec. 308. State law and regulation*

This section declares that state standards for reclamation, bonding, inspection, and water or air quality that meet or exceed federal standards are consistent with this Act. The states and the Secretary can use cooperative agreements to govern surface manage-

ment activities; such cooperative agreements are required when a mine includes federal and non-federal lands, but the federal government reserves the authority to inspect such mines and issue enforcement actions.

#### Title IV—Abandoned Hardrock Mine Reclamation

##### *Sec. 401. Establishment of fund*

This section establishes the “Hardrock Minerals Reclamation Fund” (Fund) and requires the Secretary of the Treasury to invest any excess money in the Fund in interest-bearing public securities. The Fund may be used to as necessary to cover administrative expenses of federal, state, and tribal governments to administer the programs under this Title.

##### *Sec. 402. Contents of fund*

This section directs to the Fund the following: all amounts from Title I, monies resulting from sections 502 and 506 (enforcement and citizen suits), fees received under section 304 (operations permits), all income on investments under section 401, all amounts deposited under section 403, and donations the Secretary of the Interior deems appropriate.

##### *Sec. 403. Displaced material reclamation fee*

Except for small miners, this section stipulates that each operator conducting hardrock mineral activities under a permit authorized by this Act pay a displaced material reclamation fee of seven cents per ton of displaced material into the Fund. Each operator will also provide an annual statement on the amount of materials displaced during mineral activities. The penalty for knowing misrepresentation of this information is a fine up to \$10,000 and civil action to recover the fee.

##### *Sec. 404. Use and objectives of the fund*

This section establishes the eligible uses for money in the Fund. The Secretary may use balances in the Fund, subject to appropriation, for reclamation of lands and waters that have been affected by past mineral activities, regardless of land ownership. Money from the fund may be spent directly by the Secretary, by other listed agency heads, or by states and tribes with eligible hardrock reclamation programs.

Half of the money in the Fund is allocated to states and tribes with abandoned hardrock mines in proportion to the amount of current and historical hardrock production in those states and on tribal lands, according to a formula that equally weights existing and historic hardrock mineral production. The other half of the fund will be allocated by the Secretary to address high-priority projects in the following priority order: protection of public health and safety from extreme danger; protection of public health and safety more generally; and restoration of land, water, fish, and wildlife resources. Mitigation measures are required to allow for the continuation of habitat for wildlife on a site before reclamation activities begin.

Reclamation that is a removal or remedial action under the Comprehensive Environmental Response, Compensation, and Liability

Act must be conducted with the concurrence of the Environmental Protection Agency.

*Sec. 405. Eligible lands and waters*

This section mandates that funds may be used to reclaim only lands affected by mining activities that were abandoned prior to the effective date of the Act or for which there are no responsible parties. The Secretary is directed to maintain an inventory of abandoned mines on federal and Indian lands and provide an annual report to Congress on the status of cleanup.

*Sec. 406. Authorization of appropriations*

This section authorizes appropriation of funds without fiscal year limitation.

Title V—Additional Provisions

*Sec. 501. Policy functions*

This section adds to the purposes of the Mining and Minerals Policy Act of 1970: “to ensure that mineral extraction and processing not cause undue degradation of the natural and cultural resources” of federal lands and a stipulation that the Secretary of Agriculture is also responsible for carrying out those purposes. The section also adds language to the National Materials and Minerals Policy, Research and Development Act of 1980 that directs the Secretary of Agriculture to improve the availability of mineral data for National Forest System lands.

*Sec. 502. User fees and inflation adjustment*

This section authorizes the Secretary and the Secretary of Agriculture each to establish and collect user fees to cover costs for administering the requirements of the Act. All fees, penalties, and other charges must be adjusted for inflation at least once every three years.

*Sec. 503. Inspection and monitoring*

This section establishes a minimum number of inspections of mining and reclamation activities each year, based on phase of operation, with discretion given to the Secretary to require more frequent inspections. This section also gives citizens adversely affected by mineral activity the right to confidentially request inspections of sites. Operators are required to develop a monitoring system in compliance with their permit requirements, file monitoring reports with the Secretary, and make monitoring and evaluation reports available to the public.

*Sec. 504. Citizens suits*

This section authorizes citizen suits against any person, including the Secretaries of the Interior and Agriculture, to enforce compliance with the Act, including the permit requirements. Plaintiffs must give operators notice in writing of the alleged violation, and no civil actions can begin until 60 days after such notice. The bill mirrors comparable provisions of the Surface Mining Control and

Reclamation Act.<sup>20</sup> The U.S. district courts have jurisdiction over all actions in this section, and the court may award litigation costs to any party the court deems appropriate.

*Sec. 505. Administrative and judicial review*

This section establishes procedures for administrative and judicial review of agency actions. It provides for the Secretary's review of a notice of violation if requested within 30 days, review of penalties assessed within 45 days, and review of a decision within 30 days. It further provides for public hearings on violations, requires written decisions by the Secretary on findings within 30 days of review, and allows the Secretary to grant temporary relief from penalties or corrective measures.

Judicial review of regulations or rulemakings may occur only in the United States Court of Appeals for the District of Columbia Circuit or for a circuit in which an affected state is located. A petition for judicial review must be filed no later than 60 days from the date of the action being reviewed. Litigation costs for judicial review proceedings may be assessed against either party.

*Sec. 506. Reporting requirements*

This section requires mining operations on federal or Indian lands to provide data on the quantity and value of mineral production to the Secretary and Congress.

*Sec. 507. Enforcement*

This section lays out enforcement procedures. Persons are allowed 30 days for abatement of violations unless there is an imminent threat to public health or safety, or there is significant imminent harm to the environment, in which case the operation may be immediately shut down. Civil penalties are set for noncompliance, with caps at \$25,000 per violation per day for failure to comply with permit requirements, and \$1,000 per violation per day for failing to correct violations for which a cessation order has been issued.

Criminal penalties are established for false statements, tampering, and knowing or willful violations. Any agent of a corporation who knowingly facilitates a violation or a refusal to cease operations is liable.

*Sec. 508. Regulations*

This section requires the Secretaries of the Interior and Agriculture to promulgate regulations to implement this Act within 180 days of enactment.

*Sec. 509. Oil shale claims*

This section amends the reclamation requirement for certain oil shale claims and limited patents in the Energy Policy Act of 1992 to be consistent with the provisions in this Act.

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<sup>20</sup>Pub. L. No. 95-87, §520, 91 Stat. 445, 503 (1977), <https://uscode.house.gov/statviewer.htm?volume=91&page=503> (codified as 30 U.S.C. § 1270).

*Sec. 510. Savings clause*

This section declares that laws, regulations, and land use plans with stronger requirements to protect natural and cultural resources than those in this Act remain in effect. This section also declares that no other federal law is affected by this Act, except the general mining laws.

*Sec. 511. Availability of public records*

This section requires that all records, materials, and information created as a result of this Act must be made available to the public physically and via the internet, subject to exemptions in accordance with existing law, such as for trade secrets and personal privacy.

*Sec. 512. Miscellaneous powers*

This section authorizes the Secretaries of the Interior and Agriculture to conduct investigations, inspections, and other inquiries. The Secretaries are given authority to administer oaths, issue subpoenas, order written testimony and depositions, and reimburse witness fees and mileage. District courts are authorized to require witness appearance and production of documents. Entry and access to facilities and records is authorized.

*Sec. 513. Mineral materials*

This section clarifies that all common minerals, such as clay, stone, pumice, sand, gravel and rock, are covered under the leasing and sale laws and are not to be treated as hardrock minerals. This section also removes the ability to claim deposits of these minerals as hardrock under the general mining law if the mineral deposit had some property giving it a “distinct and special value,” as had existed under the Surface Resources Act of 1955.<sup>21</sup>

*Sec. 514. Effective date*

This section provides that this Act shall take effect of the date of enactment, unless otherwise specified.

## COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources’ oversight findings and recommendations are reflected in the body of this report.

## COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. *Cost of Legislation and the Congressional Budget Act.* With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

<sup>21</sup> Pub. L. No. 84-167, 69 Stat. 367 (1955), <https://uscode.house.gov/statviewer.htm?volume=69&page=367> (codified as amended in scattered sections of 30 U.S.C., starting at § 601).

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 27, 2020.*

Hon. RAÚL M. GRIJALVA,  
*Chairman, Committee on Natural Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2579, the Hardrock Leasing and Reclamation Act of 2019.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Janani Shankaran.

Sincerely,

PHILLIP L. SWAGEL,  
*Director.*

Enclosure.

<b>At a Glance</b>			
<b>H.R. 2579, Hardrock Leasing and Reclamation Act of 2019</b>			
As ordered reported by the House Committee on Natural Resources on October 23, 2019			
By Fiscal Year, Millions of Dollars	2020	2020-2025	2020-2030
Direct Spending (Outlays)	0	486	885
Revenues	0	2,096	3,942
Increase or Decrease (-) in the Deficit	0	-1,610	-3,056
<b>Spending Subject to Appropriation (Outlays)</b>	*	<b>1,014</b>	<b>3,389</b>
Statutory pay-as-you-go procedures apply?	Yes	<b>Mandate Effects</b>	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2031?	No	Contains intergovernmental mandate?	Yes, Under Threshold
		Contains private-sector mandate?	Yes, Over Threshold
* = between zero and \$500,000.			

The bill would

- Establish a hardrock mineral leasing program on Western federal land
- Levy royalties, rents, and other fees on hardrock mineral development on federal land, and require that 25 percent of amounts collected be paid to states
- Establish the Hardrock Minerals Reclamation Fund, require that certain amounts be deposited into the fund, and authorize appropriations from the fund to be used for reclamation
- Require the Department of the Interior and the Forest Service to undertake related administration, inspections, and tribal consultation
- Impose private-sector mandates by requiring mine operators to pay royalties, rents, and other fees; by requiring non-producing hardrock claims to be converted into noncompetitive leases; and by establishing new requirements for entities involved in production, transportation, development, and commercialization of hardrock minerals

- Impose intergovernmental mandates by terminating mining-related cooperative agreements between federal agencies and states and by requiring new agreements consistent with the bill

Estimated budgetary effects would primarily stem from

- New government income resulting from royalties, rents, and fees assessed under the bill
- Payments to states
- Spending from the Hardrock Minerals Reclamation Fund

Areas of significant uncertainty include

- Estimating the amount that the government would collect in royalties and other payments under the bill

Bill summary: H.R. 2579 would change the terms for hardrock mining on federal land, mostly in the Western United States. The bill would not allow new claims to be made under the current system; instead, it would establish a leasing program. Production from existing hardrock mines would be subject to a royalty of 8 percent; royalties, rents, and fees also would be levied on new leases and production; and the budgetary classification of claim maintenance fees would be changed. In addition, 25 percent of all royalties, rents, and certain other fees collected would be paid to the state in which the minerals are produced.

H.R. 2579 would establish the Hardrock Minerals Reclamation Fund and would require royalties, rents, and fees remaining after payments to the states be deposited into that fund. The bill would authorize appropriations from the fund to be used for mining reclamation. The Department of the Interior (DOI) and the Forest Service would be responsible for related administration, inspections, and consultation with tribes. Finally, the bill would require hardrock mining operators to pay royalties, rents, and other fees on their activities on federal land and would terminate current mining-related cooperative agreements between federal agencies and the states and require new agreements consistent with the bill.

Estimated Federal cost: The estimated budgetary effect of H.R. 2579 is shown in Table 1. The costs of the legislation fall primarily within budget functions 300 (natural resources and environment) and 800 (general government).

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted late in fiscal year 2020 and that the authorized and necessary amounts will be provided each year. On that basis, the federal government could incur some costs in 2020, but most costs would be incurred starting in 2021. Using the estimated timeframe for issuing the regulations and establishing the processes required under the bill, CBO expects that any amounts owed to the government in 2020 would be collected in 2021.

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 2579

	By fiscal year, millions of dollars—												
	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2020-2025	2020-2030
<b>INCREASES IN DIRECT SPENDING</b>													
Estimated Budget Authority .....	0	104	95	98	95	95	84	81	81	78	75	486	885
Estimated Outlays .....	0	104	95	98	95	95	84	81	81	78	75	486	885
<b>INCREASES IN REVENUES</b>													
Estimated Revenues .....	0	434	410	418	418	417	376	372	372	363	363	2,096	3,942
<b>NET DECREASE IN THE DEFICIT FROM CHANGES IN DIRECT SPENDING AND REVENUES</b>													
Effect on the Deficit .....	0	-330	-315	-320	-323	-322	-292	-291	-291	-285	-288	-1,610	-3,056
<b>INCREASES IN SPENDING SUBJECT TO APPROPRIATION</b>													
Estimated Authorization .....	*	471	455	466	478	488	468	483	497	501	519	2,358	4,825
Estimated Outlays .....	*	38	87	177	311	401	448	476	480	482	489	1,014	3,389

Components may not sum to totals because of rounding. \* = between zero and \$500,000.

Background: The General Mining Act of 1872 allows individual people and commercial entities to prospect for hardrock (nonfuel) minerals, such as gold, silver, and copper, on land in the public domain (federal land primarily in Western states). When miners make a discovery, they can locate, or stake, a claim, which gives them the right to mine, extract, and process those materials. In 2018, roughly 400,000 active mining claims were held, averaging 20 acres per claim.<sup>1</sup> Claim holders pay the federal government annual maintenance fees of \$165 for each claim. Using information from DOI, CBO estimates that those fees totaled \$65 million in 2019. Claim holders currently pay no rent or royalties to the federal government.

Under the General Mining Act, when a claim is patented on federal land, the government conveys the full title to the claim holder, and the land passes into private ownership. Since 1995, the Congress—in annual appropriations acts—has prohibited the issuance of new patents.

H.R. 2579 would prohibit new claims and patents, establish a leasing program instead, and institute a new regulatory framework for hardrock mineral development. The framework would require miners to seek prospecting licenses and additional permits to explore for and develop mineral resources. Current claim holders with producing mines could maintain their claims if they continue to pay maintenance fees; those with nonproducing claims would generally be required to convert their claims to noncompetitive leases. New production would be subject to the terms of the leasing program.

Under H.R. 2579, lessees would pay annual rents until production began; after that, royalties would be paid based on the gross value of production. Producers considered “small miners” under the bill would be exempt from certain payments, including royalties. Under the bill, rents, application fees, and other payments would be adjusted every three years for inflation with the adjustment taking effect the year after it was made. Finally, the bill would establish new standards for reclaiming mined land.

Revenues: CBO estimates that enacting H.R. 2579 would increase revenues by \$3.9 billion over the 2020–2030 period.

Royalties and rents for existing claims: H.R. 2579 would establish an 8 percent royalty on current hardrock mineral production under existing claims, levied on the gross value of production. The bill also would establish rents and a 12.5 percent royalty on future production for claim holders that generally have not begun production before the date of enactment.

In CBO’s view, imposing payments on mine operators with existing claims is an exercise of the government’s sovereign power to levy compulsory fees. Thus, income from such payments would be classified in the federal budget as revenues. Payments of royalties, rents, and other fees under leases for new activities would be considered voluntary, however, because they result from businesslike transactions. Those amounts are classified in the budget as offsetting receipts and recorded as reductions in direct spending. (For more information, see the section on “Direct Spending.”)

<sup>1</sup>See Bureau of Land Management, *Public Land Statistics 2018*, vol. 203 (August 2019), <https://go.usa.gov/xw95e> (PDF, 6 MB).

DOI does not collect data on the production value of hardrock minerals mined on Western federal land, and CBO is not aware of any comprehensive information on such production. According to the department, an estimated 98 metric tons of gold was produced on Bureau of Land Management (BLM) land in Nevada in 2018; at \$1,270 per troy ounce (the average price that year), the estimated gross production value was \$4.2 billion.<sup>2</sup> On that basis, and using historical price and production information from the U.S. Geological Survey and projected commodity prices from the World Bank, CBO estimates that the total annual income that would be subject to royalties under the bill would range from \$5 billion to \$7 billion; most of that income is earned by gold producers.<sup>3</sup>

CBO expects that paying royalties would increase mine operators' costs and would result in less mineral production than under current law. Using information from academic and industry sources, CBO estimates that over the 2020–2030 period, the bill would reduce the amount of income subject to royalties by 5 percent to 15 percent. Starting in 2021, the resulting annual federal collections would average about \$500 million.

Under H.R. 2579, until production starts, rent on nonproducing claims that are converted to leases initially would range from \$5 to \$10 per acre; amounts would be adjusted periodically after that for inflation. CBO estimates that 15 percent to 20 percent of the existing 400,000 claims would be converted to leases; that, on average, leases would cover 20 acres each; and that gross rents would average \$13 million annually over the 2021–2030 period but decrease as production rose.

Collection of rents and royalties would reduce the base for income and payroll taxes; consequently, revenues would be partially offset by lower income and payroll taxes. That offset would reduce gross revenues under the bill by 22 percent to 25 percent over the 2021–2030 period, CBO estimates. On net, rents and royalties collected on production from existing claims would increase revenues by roughly \$400 million annually and by \$3.9 billion over the 2021–2030 period.

Displaced-material reclamation fee on existing claims: H.R. 2579 would impose a fee of 7 cents per ton of material displaced during hardrock production from existing nonproducing claims that are converted to leases. CBO expects that production under such leases would be minimal in the near term and we thus estimate that net revenues collected under that provision would be insignificant in each year over the 2020–2030 period.

Civil and criminal penalties: H.R. 2579 would impose civil and criminal penalties (which are classified in the federal budget as revenues) for violations of reporting, payment, and other requirements. CBO estimates that any penalties collected would be insignificant in any year.

Direct spending: CBO estimates that enacting H.R. 2579 would increase direct spending by \$885 million over the 2020–2030 period (see Table 2).

<sup>2</sup>See Department of the Interior, *Economic Report FY18* (September 2019), <https://doi.sciencebase.gov/doi/v>.

<sup>3</sup>See U.S. Geological Survey, *Mineral Commodity Summaries 2019* (February 2019), <https://tinyurl.com/y9bcru9u> (PDF, 5.2 MB), and World Bank, *Commodities Prices Forecast* (October 2019), <https://tinyurl.com/y9eua7k6> (PDF, 194 KB).

TABLE 2.—CHANGES IN DIRECT SPENDING UNDER H.R. 2579

	By fiscal year, millions of dollars—													
	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2020-2025	2020-2030	
INCREASES OR DECREASES (–) IN DIRECT SPENDING														
Claim Maintenance Fees														
Estimated Budget Authority	0	–53	–53	–53	–58	–58	–58	–62	–62	–62	–66	–275	–584	
Estimated Outlays	0	–53	–53	–53	–58	–58	–58	–62	–62	–62	–66	–275	–584	
Rents and Royalties For New Leases														
Estimated Budget Authority	0	*	–1	–1	–1	–1	–1	–1	–1	–1	–1	–4	–9	
Estimated Outlays	0	*	–1	–1	–1	–1	–1	–1	–1	–1	–1	–4	–9	
Payments to States <sup>a</sup>														
Estimated Budget Authority	0	152	145	147	148	148	138	139	138	136	137	740	1,427	
Estimated Outlays	0	152	145	147	148	148	138	139	138	136	137	740	1,427	
Administration of Reclamations														
Estimated Budget Authority	0	5	5	5	5	5	5	5	5	5	5	25	50	
Estimated Outlays	0	5	5	5	5	5	5	5	5	5	5	25	50	
Total Changes														
Estimated Budget Authority	0	104	95	98	95	95	84	81	81	78	75	486	885	
Estimated Outlays	0	104	95	98	95	95	84	81	81	78	75	486	885	

Components may not sum to totals because of rounding; \* = between zero and –\$500,000.  
<sup>a</sup>H.R. 2579 would require that 25 percent of income collected under title I—including rents, royalties, claim maintenance fees, fines, and certain penalties—be paid to the states in which the hardrock minerals are produced. Some of those collections would be recorded in the budget as revenues (see discussion under “Revenues” heading).

**Maintenance fees for claims:** Under current law, annual fees for claim maintenance are classified in the budget as discretionary offsetting collections because the authority to collect that fee is provided each year in appropriation acts. Section 109 would increase the fee from \$165 to \$200 per claim (with adjustments over time to account for inflation) and would permanently authorize the fee, thus reclassifying collections as mandatory offsetting receipts, which are recorded as reductions in direct spending. The amounts collected would be deposited into the Hardrock Minerals Reclamation Fund established under title IV of the bill. CBO expects that the fee increase would take effect in fiscal year 2021. We estimate that enacting H.R. 2579 would reduce the number of hardrock mining claims held by roughly one-third, because some claim holders would convert their claims into leases and others would relinquish their claims. Section 109 would generate offsetting receipts of roughly \$60 million annually and \$584 million over the 2020–2030 period, CBO estimates.

**Rents and royalties for new leases:** Under the bill, individuals and entities interested in prospecting for minerals on federal land would be required to obtain a prospecting license and pay an annual rent of \$10 per acre under the license. Once a lease is executed, the bill would require the leaseholder to pay rent ranging from \$5 to \$10 per acre until production starts. H.R. 2579 also would establish application fees for licenses and leases. CBO estimates that collections of those amounts, which would be classified in the budget as offsetting receipts, would average about \$1 million annually over the 2021–2030 period.

The bill also would establish a 12.5 percent royalty on production under leases for new activities and a reclamation fee of 7 cents per ton of displaced material. Because those fees would be for new activities, payment of those fees would be considered voluntary, resulting from businesslike transactions, and would be classified in the budget as offsetting receipts. According to BLM and industry experts, once a mining claim is located, it typically takes at least 10 years to explore, develop, and produce commercial quantities of minerals that would generate federal royalties. Therefore, CBO expects that such leases established over the 2020–2030 period would be unlikely to generate any significant royalties or reclamation fees until after 2030.

**Payments to states:** Section 107 of the bill would require that 25 percent of income collected under title I—including rents, royalties, claim maintenance fees, fines, and certain penalties—be paid to the states in which the hardrock minerals are produced. CBO expects that payments would be issued at the end of each fiscal year, and that 2020 payments would be issued in 2021. We estimate that those collections would average \$570 million annually and that the resulting payments to states would average \$143 million each year and total \$1.4 billion over the 2021–2030 period.

**Administration of reclamations:** Section 401 would authorize DOI to use amounts deposited into the Hardrock Minerals Reclamation Fund without further appropriation to administer reclamation projects. Based on the costs of similar activities, CBO estimates that enacting the provision would cost \$5 million annually over the 2021–2030 period.

Other fees and donations: H.R. 2579 would authorize DOI and the Forest Service to establish application and user fees for administrative activities required under the bill, which would be classified in the budget as offsetting receipts. The bill also would authorize the federal government to collect donations, classified as offsetting receipts, for deposit into the Hardrock Minerals Reclamation Fund. CBO estimates that such receipts would be insignificant in any year.

Crime Victims Fund: Criminal penalties, which are recorded as revenues, are deposited into the Crime Victims Fund and later spent without further appropriation. CBO estimates that any direct spending of those amounts would be insignificant in any year.

Payment of costs from litigation: H.R. 2579 would authorize people to sue other parties alleged to be in violation of the bill, including the federal government. The bill also would authorize judicial review of final actions issued by the federal government. Under the bill, judges could award attorney fees and other litigation costs to prevailing parties. In some cases, fees assessed against the government would be issued from the Judgment Fund, a permanent indefinite appropriation. Fees assessed against a nonfederal party and paid to the federal government would be classified in the federal budget as offsetting receipts. CBO estimates that the net effect on direct spending would be negligible in any year.

Spending subject to appropriation: CBO estimates that implementing H.R. 2579 would cost \$1 billion over the 2020–2025 period (see Table 3), assuming appropriation of the estimated amounts.

TABLE 3.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER H.R. 2579

	By fiscal year, millions of dollars—						
	2020	2021	2022	2023	2024	2025	2020–2025
<b>Hardrock Minerals Reclamation Fund</b>							
Estimated Authorization .....	0	451	434	445	456	465	2,251
Estimated Outlays .....	0	23	67	156	289	378	913
<b>Mining Administration</b>							
Estimated Authorization .....	*	20	21	21	22	23	107
Estimated Outlays .....	*	15	20	21	22	23	101
<b>Total Changes</b>							
Estimated Authorization .....	*	471	455	466	478	488	2,358
Estimated Outlays .....	*	38	87	177	311	401	1,014

\* = between zero and \$500,000.

Hardrock Minerals Reclamation Fund: Section 401 would establish the Hardrock Minerals Reclamation Fund. Deposits into the fund would include 75 percent of gross rents, royalties, claim maintenance fees, fines, and penalties collected under title I; user fees collected under section 502; certain civil penalties; donations; and fees paid for displaced materials.

CBO estimates that, on average, \$445 million would be deposited into the fund annually over the 2021–2025 period. H.R. 2579 also would require the Department of the Treasury to invest unspent balances in Treasury securities and credit interest to the fund. Based on the interest rate projections underlying CBO’s March 2020 baseline, CBO estimates that enacting the bill would result in an additional \$53 million being credited to the fund over the 2021–2025 period.

Amounts in the fund, including interest credited, would be available, subject to appropriation, for reclamation and restoration of land and water that is damaged by hardrock mining. Based on historical spending patterns for similar activities, CBO estimates that implementing the provision would cost \$913 million over the 2020–2025 period.

Mining administration: CBO expects that BLM and the Forest Service would incur additional costs to implement administrative activities required under the bill. Those activities include issuing regulations, managing royalty collections, implementing mineral withdrawals on certain lands, consulting with tribal officials, and conducting quarterly inspections. Using information from the agencies, CBO estimates that the federal government would incur costs totaling \$101 million over the 2021–2025 period; that spending would be subject to the availability of appropriated funds.

Uncertainty: CBO aims to produce estimates that generally reflect the middle of the most likely budgetary outcomes that would result if the legislation was enacted. However, direct spending, revenues, and spending subject to appropriation under H.R. 2579 could differ from CBO’s estimates because of the following sources of uncertainty:

- CBO cannot precisely predict the amount that the government would collect in royalties under existing claims. The exact production value of hardrock minerals on the affected federal lands is unknown and could be higher or lower than CBO estimates. CBO cannot forecast future hardrock mineral prices or the effect of the proposed royalty on future production with certainty.
- Information on existing claims is limited. CBO cannot predict with certainty how many holders of existing nonproducing claims would relinquish their claims or convert them to leases under the bill. As a result, CBO cannot estimate with certainty the amount that the government would collect in rents or claim maintenance fees under the bill.

As a result of those sources of uncertainty, payments to states and spending from the Hardrock Minerals Reclamation Fund also could be higher or lower under the bill.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in Table 4.

TABLE 4.—CBO'S ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS OF H.R. 2579, THE HARDROCK LEASING AND RECLAMATION ACT OF 2019, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON NATURAL RESOURCES ON OCTOBER 23, 2019

	By fiscal year, millions of dollars—												
	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2020-2025	2020-2030
<b>Pay-As-You-Go Effect</b> .....	0	-330	-315	-320	-323	-322	-292	-291	-291	-285	-288	-1,610	-3,056
<b>Memorandum:</b>													
Changes in Outlays .....	0	104	95	98	95	95	84	81	81	78	75	486	885
Changes in Revenues .....	0	434	410	418	418	417	376	372	372	363	363	2,096	3,942
<b>NET DECREASE IN THE DEFICIT</b>													

Increase in long-term deficits: None.

Mandates: H.R. 2579 contains private-sector and intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the aggregate cost of the mandates on private-sector entities would exceed the annual threshold established in UMRA (\$168 million in 2020, adjusted annually for inflation). CBO estimates that the cost of the public-sector mandate would fall below the annual threshold (\$84 million in 2020, adjusted annually for inflation).

Mandates that apply to private entities: H.R. 2579 would amend current hardrock mining laws by replacing the existing claims system with a leasing program and by establishing a new regulatory framework for the production of hardrock minerals. Producers would be subject to royalties, rents, and other fees, and 25 percent of all collections under the new framework would be paid to the states in which the minerals are produced.

Under the bill, mine operators would pay royalties, ranging from 8 percent to 12.5 percent of the gross value of the minerals produced, depending on whether the minerals come from existing or new mines. Using information from various public and private sources, CBO estimates that current operators would pay about \$500 million annually in royalties.

The bill would require holders of claims for currently nonproducing mines to convert their claims into noncompetitive leases; to pay royalties and other fees, and meet new application, reporting, and other administrative requirements. CBO estimates that those new duties would increase the cost of mining operations by \$30 million a year. Most of the additional cost would come from royalties and maintenance fees.

Other provisions of the bill would require holders of nonproducing claims to obtain various permits as their mining activities progress and require shale oil producers to comply with stringent reclamation standards. CBO cannot estimate the cost of those mandates because rules and regulations have not been issued by the Secretaries of the Interior and Agriculture.

Mandates that apply to public entities: Cooperative agreements between federal agencies, states, and Indian tribes related to the management of mining would be terminated one year after enactment of H.R. 2579, and the parties to those agreements would be directed to develop revisions consistent with the new procedures under the bill. Those revised agreements would become effective at the end of the one-year period. CBO estimates that the costs to comply with this requirement would be insignificant.

Other public-sector effects: H.R. 2579 would require 25 percent of amounts collected in royalties, rents, and other fees to be paid to the states where hardrock minerals are produced. CBO estimates that about \$143 million annually would be distributed to the twelve states affected.

Estimate prepared by: Federal Costs: Janani Shankaran; Mandates: Lilia Ledezma.

Estimate reviewed by: Susan Willie, Chief, Public and Private Mandates Unit; Joshua Shakin, Chief, Revenue Estimating Unit; H. Samuel Papenfuss, Deputy Director of Budget Analysis; Theresa Gullo, Director of Budget Analysis.

2. *General Performance Goals and Objectives.* As required by clause 3(c)(4) of rule XIII, the general performance goals and objectives of this bill are to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims.

#### EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

#### UNFUNDED MANDATES REFORM ACT STATEMENT

According to CBO, H.R. 2579 contains private-sector and inter-governmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the aggregate cost of the mandates on private-sector entities would exceed the annual threshold established in UMRA (\$168 million in 2020, adjusted annually for inflation). CBO estimates that the cost of the public-sector mandate would fall below the annual threshold (\$84 million in 2020, adjusted annually for inflation). Additional information is above under “COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT.”

#### EXISTING PROGRAMS

This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139. The Hardrock Minerals Reclamation Fund established by this bill is related and complementary to, but not duplicative of, the following programs identified in the most recent Catalog of Federal Domestic Assistance published pursuant to 31 U.S.C. § 6104: Environmental Quality and Protection (CFDA No. 15.236), Regulation of Surface Coal Mining and Surface Effects of Underground Coal Mining (CFDA No. 15.250), Abandoned Mine Land Reclamation (AMLR) (CFDA No. 15.252), Not-for-Profit AMD Reclamation (CFDA No. 15.253), OSM/VISTA AmeriCorps (CFDA No. 15.254), and Science and Technology Projects Related to Coal Mining and Reclamation (CFDA No. 15.255).

#### APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

#### PREEMPTION OF STATE, LOCAL, OR TRIBAL LAW

Any preemptive effect of this bill over state, local, or tribal law is intended to be consistent with the bill’s purposes and text and the Supremacy Clause of Article VI of the U.S. Constitution.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

**SECTION 2324 OF THE REVISED STATUTES OF THE UNITED STATES**

Sec 2324. The miners of each mining-district may make regulations not in conflict with the laws of the United States, or with the laws of the State or Territory in which the district is situated, governing the location, manner of recording, amount of work necessary to hold possession of a mining-claim, subject to the following requirements: The location must be distinctly marked on the ground so that its boundaries can be readily traced. All records of mining-claims hereafter made shall contain the name or names of the locators, the date of the location, and such a description of the claim or claims located by reference to some natural object or permanent monument as will identify the claim. On each claim located after the tenth day of May, eighteen hundred and seventy-two, that is granted a waiver under section 10101 of the Omnibus Budget Reconciliation Act of 1993 or section 103(a) of the Hardrock Leasing and Reclamation Act of 2019 that is granted a waiver under section 10101 of the Omnibus Budget Reconciliation Act of 1993 or section 103(a) of the Hardrock Leasing and Reclamation Act of 2019 and until a patent has been issued therefor, not less than one hundred dollars worth of labor shall be performed or improvements made during each year. On all claims located prior to the tenth day of May, eighteen hundred and seventy-two, ten dollars worth of labor shall be performed or improvements made by the tenth day of June, eighteen hundred and seventy-four, and each year thereafter, for each one hundred feet in length along the vein until a patent has been issued therefor; but where such claims are held in common, such expenditure may be made upon any one claim; and upon a failure to comply with these conditions, the claim or mine upon which such failure occurred shall be open to relocation in the same manner as if no location of the same had ever been made, provided that the original locators, their heirs, assigns, or legal representatives, have not resumed work upon the claim after failure had before such location. Upon the failure of any one of several co-owners to contribute his proportion of the expenditures required hereby, the co-owners who have performed the labor or made the improvements may, at the expiration of the year, give such delinquent co-owner personal notice in writing or notice by publication in the newspaper published nearest the claim, for at least once a week for ninety days, and if at the expiration of ninety days after such notice in writing or by publication such delinquent should fail or refuse to contribute his proportion of the expenditure required by this section, his interest in the claim shall become the property of his co-owners who have made the required expenditures. The period within which the work required to be done annually on all unpatented mineral claims located since May 10, 1872, including

such claims in the Territory of Alaska, shall commence at 12:01 ante meridian on the first day of September, succeeding the date of location of such claim. *Provided further*, That on all such valid existing claims the annual period ending December 31, 1921, shall continue to 12 o'clock meridian July 1, 1922.

Where a person or company has or may run a tunnel for the purposes of developing a lode or lodes, owned by said person or company, the money so expended in said tunnel shall be taken and considered as expended on said lode or lodes, whether located prior to or since the passage of said act; and such person or company shall not be required to perform work on the surface of said lode or lodes in order to hold the same as required by said act.

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**MINING AND MINERALS POLICY ACT OF 1970**

\* \* \* \* \*

**TITLE I—MINING POLICY**

SEC. 101. The Congress declares that it is the continuing policy of the Federal Government in the national interest to foster and encourage private enterprise in (1) the development of economically sound and stable domestic mining, minerals, metal and mineral reclamation industries, (2) the orderly and economic development of domestic mineral resources, reserves, and reclamation of metals and minerals to help assure satisfaction of industrial, security and environmental needs, (3) mining, mineral, and metallurgical research, including the use and recycling of scrap to promote the wise and efficient use of our natural and reclaimable mineral resources, and (4) the study and development of methods for the disposal, control, and reclamation of mineral waste products, and the reclamation of mined land, so as to lessen any adverse impact of mineral extraction and processing upon the physical environment that may result from mining or mineral activities *and to ensure that mineral extraction and processing not cause undue degradation of the natural and cultural resources of the public lands.*

For the purpose of this Act "minerals" shall include all minerals and mineral fuels including oil, gas, coal, oil shale and uranium.

It shall be the responsibility of the Secretary of the Interior to carry out this policy when exercising his authority under such programs as may be authorized by law other than this Act. *It shall also be the responsibility of the Secretary of Agriculture to carry out the policy provisions of clauses (1) and (2) of the first paragraph of this section.*

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**NATIONAL MATERIALS AND MINERALS POLICY,  
RESEARCH AND DEVELOPMENT ACT OF 1980**

\* \* \* \* \*

## PROGRAM PLAN AND REPORT TO CONGRESS

SEC. 5. (a) Within 1 year after the date of enactment of this Act, the President shall submit to the Congress—

(1) a program plan to implement such existing or prospective proposals and organizational structures within the executive branch as he finds necessary to carry out the provisions set forth in sections 3 and 4 of this Act. The plan shall include program and budget proposals and organizational structures providing for the following minimum elements:

(A) policy analysis and decision determination within the Executive Office of the President;

(B) continuing long-range analysis of materials use to meet national security, economic, industrial and social needs; the adequacy and stability of supplies; and the industrial and economic implications of supply shortages or disruptions;

(C) continuing private sector consultation in Federal materials programs; and

(D) interagency coordination at the level of the President's Cabinet;

(2) recommendations for the collection, analysis, and dissemination of information concerning domestic and international long-range materials demand, supply and needs, including consideration of the establishment of a separate materials information agency patterned after the Bureau of Labor Statistics; and

(3) recommendations for legislation and administrative initiatives necessary to reconcile policy conflicts and to establish programs and institutional structures necessary to achieve the goals of a national materials policy.

(b) In accordance with the provisions of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 et seq.), the Director of the Office of Science and Technology Policy shall:

(1) through the Federal Coordinating Council for Science, Engineering, and Technology coordinate Federal materials research and development and related activities in accordance with the policies and objectives established in this Act;

(2) place special emphasis on the long-range assessment of national materials needs related to scientific and technological concerns and the research and development, Federal and private, necessary to meet those needs; and

(3) prepare an assessment of national materials needs related to scientific and technological changes over the next five years. Such assessment shall be revised on an annual basis. Where possible, the Director shall extend the assessment in 10- and 25-year increments over the whole expected lifetime of such needs and technologies.

(c) The Secretary of Commerce, in consultation with the Federal Emergency Management Administration, the Secretary of the Interior, the Secretary of Defense, the Director of the Central Intelligence Agency, and such other members of the Cabinet as may be appropriate shall—

(1) within 3 months after the date of enactment of this Act, identify and submit to the Congress a specific materials needs case related to national security, economic well-being and industrial production which will be the subject of the report required by paragraph (2) of this subsection;

(2) within 1 year after the date of enactment of this Act, submit to the Congress a report which assesses critical materials needs in the case identified in paragraph (1) of this subsection, and which recommends programs that would assist in meeting such needs, including an assessment of economic stockpiles; and

(3) continually thereafter identify and assess additional cases, as necessary, to ensure an adequate and stable supply of materials to meet national security, economic well-being and industrial production needs.

(d) The Secretary of Defense, together with such other members of the Cabinet as are deemed necessary by the President, shall prepare a report assessing critical materials needs related to national security and identifying the steps necessary to meet those needs. The report shall include an assessment of the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), and the Strategic and Critical Materials Stock Piling Act (50 U.S.C. App. 98 et seq.). Such report shall be made available to the Congress within 1 year after enactment of this Act and shall be revised periodically as deemed necessary.

(e) The Secretary of the Interior shall promptly initiate actions to—

(1) improve the capacity of the Bureau of Mines to assess international minerals supplies;

(2) increase the level of mining and metallurgical research by the Bureau of Mines in critical and strategic minerals; and

(3) improve the availability and analysis of mineral data in Federal land use decisionmaking, *except that for National Forest System lands the Secretary of Agriculture shall promptly initiate actions to improve the availability and analysis of mineral data in public land use decisionmaking.*

A report summarizing actions required by this subsection shall be made available to the Congress within 1 year after the enactment of this Act.

(f) In furtherance of the policies of this Act, the Secretary of the Interior shall collect, evaluate, and analyze information concerning mineral occurrence, production, and use from industry, academia, and Federal and State agencies. Notwithstanding the provisions of section 552 of title 5, United States Code, data and information provided to the Department by persons or firms engaged in any phase of mineral or mineral-material production or large-scale consumption shall not be disclosed outside of the Department of the Interior in a nonaggregated form so as to disclose data and information supplied by a single person or firm, unless there is no objection to the disclosure of such data and information by the donor: *Provided, however,* That the Secretary may disclose nonaggregated data and information to Federal defense agencies, or to the Congress upon official request for appropriate purposes.

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**SECTION 2511 OF THE ENERGY POLICY ACT OF 1992****SEC. 2511. OIL SHALE CLAIMS.**

(a) NOTICE.—Notwithstanding any other provision of law, within 60 days from the date of enactment of this Act, the Secretary of the Interior shall provide notice to each holder of an unpatented oil shale mining claim of the requirements of this Act. Such notice shall be made by registered mail and by publication in a newspaper of general circulation in the areas in which such claims are located.

(b) FULL PATENT.—The holder of a valid oil shale mining claim who has filed a patent application and received first half final certificate for patent by date of enactment of this Act, may obtain a patent pursuant to the general mining laws of the United States.

(c) PATENT.—(1) Notwithstanding any other provision of law, the holder of a valid oil shale mining claim who has filed a patent application which has been accepted for processing by the Department of the Interior by the date of enactment of this Act but has not received first half final certificate for patent by the date of enactment of this Act may receive only a patent limited to the oil shale and associated minerals, upon payment of \$2.50 per acre. Title to the surface and to all other minerals, including, but not limited to, oil, gas, and coal, shall remain in the United States. Patents issued pursuant to this subsection shall provide for surface use to the same extent as is provided under applicable law prior to enactment of this Act with respect to oil shale mining claims, subject to the requirements of subsection (f).

(2) Maintenance of claims referred to in this subsection prior to patent issuance shall be in accordance with the requirements of applicable law prior to enactment of this Act.

(3) Any holder of a valid oil shale mining claim referred to in this subsection may maintain such claim in accordance with the requirements set forth in subsection (e)(2) in lieu of receiving a patent under this section.

(4) Notwithstanding any other provision of law, any person referred to in paragraph (1) who obtains compensation from the United States as a result of the application of this section being declared to be a taking of property within the meaning of the Fifth Amendment to the United States Constitution, may obtain a full patent upon tender to the Secretary of the amount of such compensation, not including interest, and upon the receipt of such amount, the Secretary shall convey to such person a patent in the form and manner provided under the general mining laws of the United States. Such tender may only be made within 3 years of obtaining such compensation.

(d) ELECTION.—(1) Notwithstanding any other provision of law, within 180 days from the date of which the Secretary provided notice under subsection (a), a holder of a valid oil shale mining claim for which a patent application was not filed and accepted for processing by the Department of the Interior prior to the date of enactment of this Act shall file with the Secretary a notice of election—

(A) proceed to limited patent as provided in subsection (e)(1);

or

(B) maintain the unpatented claim as provided for in subsection (e)(2).

(2) Failure to file the notice of election as required by paragraph (1) shall be deemed conclusively to constitute an abandonment of the claim by operation of law.

(3) Any claim holder who elects to proceed under paragraph (1)(A) must apply for a patent within 2 years from the date of election or notify the Secretary in writing prior to expiration of the 2-year period of a decision to maintain such claim as provided in paragraph (1)(B) or such claim shall be deemed conclusively to have been abandoned by operation of law.

(4) The provisions of this subsection shall be in addition to the requirements of section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744).

(e) EFFECT OF ELECTION.—(1) Notwithstanding any other provisions of law, a claim holder subject to the election requirements of subsection (d) who elects to receive a limited patent shall receive title only to the oil shale associated minerals, upon payment of fair market value for the oil shale and associated minerals. Title to the surface and to all other minerals, including, but not limited to oil, gas, and coal, shall remain in the United States. Patents issued pursuant to this subsection shall provide for surface use to the same extent as is provided under applicable law prior to the enactment of this Act with respect to oil shale mining claims, subject to the requirements of subsection (f).

(2) Notwithstanding any other provision of law, a claim holder referred to in subsection (c) or a claim holder subject to the election requirements of subsection (d) who maintains or elects to maintain an unpatented claim shall maintain such claim by complying with the general mining laws of the United States, and with the provisions of this section, except that the claim holder shall no longer be required to perform annual labor, and instead shall pay to the Secretary \$550 per claim per year for deposit as miscellaneous receipts in the general fund of the Treasury, commencing with calendar year 1993. Such fee shall accompany the filing made by the claim holder with the Bureau of Land Management pursuant to section 314(a)(2) of the Federal Land Policy and Management Act (43 U.S.C. 1744(a)(2)).

(f) RECLAMATION.—In addition to other applicable requirements, any person who holds a limited patent or maintains a claim pursuant to this section shall be required to carry out reclamation [as prescribed by the Secretary] and to furnish a bond or other appropriate financial guarantee in an amount sufficient to ensure adequate reclamation of the lands to be disturbed by any aspect of the proposed mining activities *in the same manner as required by title II of the Hardrock Leasing and Reclamation Act of 2019*.

(g) REAFFIRMATION OF REQUIREMENTS.—Without comment on the adequacy of current or former standards for determining validity of oil shale claims, Congress reaffirms the requirements of law that a patent may issue only to persons who hold valid claims and the need for careful review of any applications.

(h) ISSUANCE OF PATENTS.—Notwithstanding any other provision of law, with respect to any oil shale mining claim located under the general mining laws of the United States, no patent for such claim shall be issued except as provided by this section.

**ACT OF JULY 23, 1955**

AN ACT To amend the Act of July 31, 1947 (61 Stat. 681) and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes.

\* \* \* \* \*

SEC. 3. **[No]** (a) No deposit of common varieties of *mineral materials, including* sand, stone, gravel, pumice, pumicite, **[or cinders]** *cinders, and clay* and no deposit of petrified wood shall be deemed a valuable mineral deposit within the meaning of the mining laws of the United States so as to give effective validity to any mining claim hereafter located under such mining laws: *Provided, however,* That nothing herein shall affect the validity of any mining location based upon discovery of some other mineral occurring in or in association with such a deposit. "Common varieties" as used in this Act does not include deposits of such materials which are valuable because the deposit has some property giving it distinct and special value and does not include so-called "block pumice" which occurs in nature in pieces having one dimension of two inches or more. "Petrified wood" as used in this Act means agatized, opalized, petrified, or silicified wood, or any material formed by the replacement of wood by silica or other matter.

(b)(1) *Subject to valid existing rights, after the date of enactment of the Hardrock Leasing and Reclamation Act of 2019, notwithstanding the reference to common varieties in subsection (a) and to the exception to such term relating to a deposit of materials with some property giving it distinct and special value, all deposits of mineral materials referred to in such subsection, including the block pumice referred to in such subsection, shall be subject to disposal only under the terms and conditions of the Materials Act of 1947 (30 U.S.C. 601-603).*

(2) *For purposes of paragraph (1), the term "valid existing rights" means that a mining claim located for any such mineral material—*

(A) *had and still has some property giving it the distinct and special value referred to in subsection (a), or as the case may be, met the definition of block pumice referred to in such subsection;*

(B) *was properly located and maintained under the general mining laws prior to the date of enactment of the Hardrock Leasing and Reclamation Act of 2019; and*

(C) *was supported by a discovery of a valuable mineral deposit within the meaning of the general mining laws as in effect immediately prior to the date of enactment of the Hardrock Leasing and Reclamation Act of 2019.*

SEC. 4. (a) Any mining claim hereafter located under the mining laws of the United States shall not be used, prior to issuance of patent therefore, for any purposes other than prospecting, mining or processing operations and uses reasonably incident thereto.

(b) Rights under any mining claim hereafter located under the mining laws of the United States shall be subject, prior to issuance of patent therefore, to the right of the United States to manage and dispose of the vegetative *and mineral material* surface resources thereof and to manage other surface resources thereof (except mineral deposits subject to location under the mining laws of the United States). Any such mining claim shall also be subject, prior

to issuance of patent therefor, to the right of the United States, its permittees, and licensees, to use so much of the surface thereof as may be necessary for such purposes or for access to adjacent land: *Provided, however,* That any use of the surface of any such mining claim by the United States, its permittees or licensees, shall be such as not to endanger or materially interfere with prospecting, mining or processing operations or uses reasonably incident thereto: *Provided further,* That if at any time the locator requires more timber for his mining operations than is available to him from the claim after disposition of timber therefrom by the United States, subsequent to the location of the claim, he shall be entitled, free of charge, to be supplied with timber for such requirements from the nearest timber administered by the disposing agency which is ready for harvesting under the rules and regulations of that agency and which is substantially equivalent in kind and quantity to the timber estimated by the disposing agency to have been disposed of from the claim: *Provided further,* That nothing in this Act shall be construed as affecting or intended to affect or in any way interfere with or modify the laws of the States which lie wholly or in part westward of the ninety-eight meridian relating to the ownership, control, appropriation, use, and distribution of ground or surface waters within any unpatented mining claim.

(c) Except to the extent required for the mining claimant's prospecting, mining or processing operations and uses reasonably incident thereto, or for the construction of buildings or structures in connection therewith, or to provide clearance for such operations or uses, or to the extent authorized by the United States, no claimant of any mining claim hereafter located under the mining laws of the United States shall, prior to issuance of patent therefore, sever, remove, or use any vegetative *and mineral material* or other surface resources thereof which are subject to management or disposition by the United States under the preceding subsection (b). Any severance or removal of timber which is permitted under the exceptions of the preceding sentence, other than severance or removal to provide clearance, shall be in accordance with sound principles of forest management.

\* \* \* \* \*

*SEC. 8. This Act may be cited as the "Surface Resources Act of 1955".*

### ACT OF JULY 31, 1947

AN ACT To provide for the disposal of materials on the public lands of the United States.

SECTION 1. The Secretary, under such rules and regulations as he may prescribe, may dispose of mineral materials (including but not limited to [common varieties of] the following: sand, stone, gravel, pumice, pumicite, cinders, and clay) and vegetative materials (including but not limited to yucca, manzanita, mesquite, cactus, and timber or other forest products) on public lands of the United States, including, for the purposes of this Act, land described in the Acts of August 28, 1937 (50 Stat. 874), and of June 24, 1954 (68 Stat. 270), if the disposal of such mineral or vegetative materials (1) is not otherwise expressly authorized by law, includ-

ing, but not limited to, the Act of June 28, 1934 (48 Stat. 1269), as amended, and the United States mining laws, and (2) is not expressly prohibited by laws of the United States, and (3) would not be detrimental to the public interest. Such materials may be disposed of only in accordance with the provisions of this Act and upon the payment of adequate compensation therefore, to be determined by the Secretary: *Provided, however,* That, to the extent not otherwise authorized by law, the Secretary is authorized in his discretion to permit any Federal, State, or Territorial agency, unit or subdivision, including municipalities, or any association or corporation not organized for profit, to take and remove, without charge, materials and resources subject to this Act, for use other than for commercial or industrial purposes or resale. Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the department headed by the Secretary or of a State, Territory, county, municipality, water district or other local governmental subdivision or agency, the Secretary may make disposals under this Act only with the consent of such other Federal department or agency or of such State, Territory, or local governmental unit. Nothing in this Act shall be construed to apply to lands in any national park, or national monument or to any Indian lands, or lands set aside or held for the use or benefit of Indians, including lands over which jurisdiction has been transferred to the Department of the Interior by Executive order for the use of Indians. As used in this Act, the word "Secretary" means the Secretary of the Interior except that it means the Secretary of Agriculture where the lands involved are administered by him for national forest purposes or for the purposes of title III of the Bankhead-Jones Farm Tenant Act or where withdrawn for the purpose of any other function of the Department of Agriculture.

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*SEC. 5. This Act may be cited as the "Materials Act of 1947".*

### ACT OF AUGUST 4, 1892

AN ACT to authorize the entry of lands chiefly valuable for building stone under the placer mining laws.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* [That any person authorized to enter lands under the mining laws of the United States may enter lands that are chiefly valuable for building stone under the provisions of the law in relation to placer mineral claims: *Provided,* That lands reserved for the benefit of the public schools or donated to any State shall not be subject to entry under this act.]

[SEC. 2. That an act entitled "An act for the sale of timber lands in the State of California, Oregon, Nevada, and Washington Territory," approved June third, eighteen hundred and seventy-eight, be, and the same is hereby, amended by striking out the words "States of California, Oregon, Nevada, and Washington Territory" where the same occur in the second and third lines of said act, and insert in lieu thereof the words, "public-land States," the purpose of this act being to make said act of June third, eighteen hundred and seventy-eight, applicable to all the public-land States.

【SEC. 3. That nothing in this act shall be construed to repeal section twenty-four of the act entitled “An act to repeal timber-culture laws, and for other purposes,” approved March third, eighteen hundred and ninety-one,】

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**ACT OF JANUARY 31, 1901**

AN ACT extending the mining laws to saline lands.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, 【That all unoccupied public lands of the United States containing salt springs, or deposits of salt in any form, and chiefly valuable therefor, are hereby declared to be subject to location and purchase under the provisions of the law relating to placer-mining claims: *Provided*, That the same person shall not locate or enter more than one claim hereunder.】*

## DISSENTING VIEWS

We are opposed to H.R. 2579 as ordered reported from the Committee on Natural Resources.

Domestic hardrock mining provides essential metals and materials used in industries across the country, including high-tech equipment such as smartphones, defense systems, and wind and solar energy technologies.<sup>1</sup> Despite substantial domestic reserves, the vast majority of hardrock resources comes from abroad, China in particular. Should there be a break in relations with China or other foreign suppliers, the United States could face severe shortages. Moreover, since the U.S. has some of the best environmental and human labor standards in the world, it seems preferable—as well as safer for the supply chain—to maximize domestic production of these metals and materials.

The hardrock mining industry is very different from other extractive industries, and a conversion into a leasing system as provided by H.R. 2579, combined with the assessment of high royalties under the bill, would be detrimental to the industry and the United States. Unlike “leasable” minerals like oil, gas, and coal, hardrock resources (or “locatable” minerals) do not have a traditional leasing structure. Instead, the General Mining Law of 1872 enables the public to explore for and develop mineral resources on federal land.<sup>2</sup> Unlike other resources, mineral rights are established through mining claims, and maintained by an initial location fee and annual claim maintenance fees.<sup>3</sup>

The location fees and claim maintenance fees are paid instead of a more traditional royalty, and this is often mischaracterized as an unfair advantage for mining companies and lost revenue for the taxpayer. However, this interpretation shows a major misunderstanding of the hardrock mining business model and its singular challenges. Unlike minerals such as coal which occur in large “seams,” hardrock minerals are sparsely scattered across a given area.<sup>4</sup> It regularly takes hundreds of millions of dollars in upfront capital costs for exploration, plus almost a decade of permitting due to environmental review requirements under the National Environmental Policy Act and other laws, before production can even begin.<sup>5</sup> In contrast, permitting timeframes for hardrock mines in countries like Canada and Australia average 2–3 years.<sup>6</sup> It could

<sup>1</sup> David Iaconangelo. “Rare earth ‘critical’ for U.S. offshore projects—study.” E&E News. April 5, 2019. <https://www.eenews.net/energywire/2019/04/05/stories/1060143799>.

<sup>2</sup> Bureau of Land Management. Fact Sheet, “Locatable Minerals (Hardrock and Placer Mining).” <https://www.blm.gov/programs/energy-and-minerals/mining-and-minerals/locatable-minerals>.

<sup>3</sup> Bureau of Land Management. Fact Sheet, “Mining Claim Fees.” <https://www.blm.gov/programs/energy-and-minerals/mining-and-minerals/locatable-minerals/mining-claims/fees>.

<sup>4</sup> Briefing from the National Mining Association. March 2019.

<sup>5</sup> Briefing from the National Mining Association. March 2019.

<sup>6</sup> SNL Metals & Mining, “Permitting, Economic Value and Mining in the United States,” June 2015. [https://nma.org/wp-content/uploads/2016/09/SNL\\_Permitting\\_Delay\\_Report-Online.pdf](https://nma.org/wp-content/uploads/2016/09/SNL_Permitting_Delay_Report-Online.pdf).

take over ten years and \$1 billion before a company sees any product in the United States.<sup>7</sup> Switching to a traditional leasing system, when the presence of economic quantities of minerals cannot be guaranteed and production may not even begin in the first 10-year period, would be nearly impossible circumstances in which to run a profitable operation.

Further, the product is still far from a marketable state even after an economic discovery is made. Unlike coal, oil, or gas, which are close to saleable when they come out of the ground, hardrock minerals must go through a lengthy and expensive refining process. And due to decades of unfriendly regulations, the U.S. no longer has the refining capacity for the majority of these resources.<sup>8</sup> Instead, ore is shipped overseas to be refined and processed before the product is ready for sale. This adds even more time and expense to an already extremely long and costly project. Another complication is the broad variety of commodities under the umbrella of “hardrock mining,” which covers a very large group of non-fuel minerals, including precious metals, rare earths, zinc, lead, tellurium, and many others. All of these have different levels of rarity with fluctuating commodity prices. Setting an arbitrary royalty level, seemingly just to have parity with other industries, is not an appropriate way to get a “fair return” from hardrock companies. In fact, it is more likely to drive them out of business or out of the country.

Another element to consider is that, at its heart, the 1872 General Mining Law is a land tenure law. Security of tenure is essential to hardrock mining operations, in part because the production timeline is so long. H.R. 2579 would not only establish a royalty for new mines, but also for *existing* mines, which could likely result in many “takings” claims—that is, the assertion that property, or a portion of the value of that property, has been taken by the government.<sup>9</sup> Exempting mining claims with a valid existing discovery from the royalty may help alleviate some of these concerns; however, the Department of the Interior would face an almost impossible challenge of deciding which, out of hundreds of thousands of existing claims, possess a valid existing discovery.<sup>10</sup>

Another criticism of the General Mining Law and hardrock mining today is the lack of a federal mechanism to clean up abandoned mines. There are thousands of hazardous abandoned hardrock sites across the country, and States cannot afford to clean them up alone.<sup>11</sup> One of the provisions in H.R. 2579 establishes a remediation fund, similar to that for abandoned coal mines, using the royalty revenues created by the bill. However, if this bill truly aims to decrease the number of hardrock AML sites, putting a crippling royalty on the industry would not be an effective way to do so. A large gross royalty would simply incentivize companies to move

<sup>7</sup> Briefing from the National Mining Association. March 2019.

<sup>8</sup> U.S. Geological Survey. “Draft Critical Mineral List—Summary of Methodology and Background Information—U.S. Geological Survey Technical Input Document in Response to Secretarial Order No. 3359.” 2018. <https://pubs.usgs.gov/of/2018/1021/ofr20181021.pdf>.

<sup>9</sup> Statement of James F. Cress. Testimony before the Committee on Natural Resources, Subcommittee on Energy and Mineral Resources. July 20, 2017.

<sup>10</sup> Statement of James F. Cress. Testimony before the Committee on Natural Resources, Subcommittee on Energy and Mineral Resources. July 20, 2017.

<sup>11</sup> U.S. Bureau of Land Management, official website on abandoned mines. <https://abandonedmines.gov/>.

their operations abroad, or at least onto private or State lands. The AML problem would remain relatively unchanged, but the U.S. could lose much of its hardrock production in the attempt.

This bill imposes an unworkable leasing system and high, ill-conceived royalties on a challenging domestic industry, ostensibly to get a "fairer" return for the taxpayer. But the effect would be to force hardrock mining interests out of the United States, exacerbating our reliance on foreign nations for the minerals needed for our economic prosperity and national security. For these reasons, we oppose H.R. 2579 as ordered reported.

ROB BISHOP (UT).  
DON YOUNG.  
DOUG LAMBORN.  
ROBERT WITTMAN.  
PAUL A. GOSAR.  
BRUCE WESTERMAN.  
JODY B. HICE.  
KEVIN HERN.

## ADDITIONAL DISSENTING VIEWS FROM REP. PAUL GOSAR

I am opposed to H.R. 2579, the Hardrock Leasing and Reclamation Act of 2019, and join the views of my other colleagues in opposing this legislation. However, I believe we must go a step further and make it clear, H.R. 2579 is a threat to our future. If you want a cleaner future, a more affordable and electrified future, it will only start with a shovel in the ground mining the minerals needed to build that future.

My Democrat colleagues tell us that their overwhelming goal in this Congress through dozens of hearings is fighting climate change, pushing the end of fossil fuels and the electrification of America. Yet here they are championing misguided legislation that will cripple our nation's ability to respond to the demand for electricity in the future.

Throughout America our demand for electricity is growing, year in and year out we want, need and use more electricity. To meet this demand, we will need more raw and critical minerals and new land access for the development of those minerals. Yet with this bill my Democrat colleagues fail to even establish any pretense that they want more mining in America to meet our demand. Nor do they support domestic manufacturing. It is their goal to hamstring American development, manufacturing and workers, leaving our nation more dependent on foreign imports.

America is already one hundred percent dependent on dozens of critical minerals. Minerals that are critical to everything from smart phones to electric cars. In fact, Tesla recently warned that a lack of investment in the mining sector is creating a shortage of key minerals needed to build electric vehicles.

Lets be abundantly clear, a cleaner energy future is only possible with an abundant supply of critical minerals. We have allowed our domestic rare earth mines to be closed, shredding our domestic security by forcing our industrial and Defense apparatus to depend on foreign powers for these crucial materials.

Currently, the United States relies on China for twenty different critical minerals including several highlighted by the Department of Defense. This irrational overreliance threatens our national security by imperiling our ability to make equipment and weapons essential to mission success.

But it isn't just rare earths that threaten our security, it is our complete position on domestic mining. From the Rosemont Mine and Resolution Copper projects in Arizona, to Twin Metals in Minnesota and numerous projects across Alaska, Wyoming and Nevada.

Our nation needs more copper, zinc, lithium and cobalt to achieve a cleaner energy future. We need more helium for manufacturing and medical devices, yet the domestic permitting process

for these projects are measured in hundreds of millions of dollars and decades of permitting.

If a company wants to open a major mine in America today, its investors must be prepared to spend tens to hundreds of millions of dollars to simply a bet on potential exploration and permitting without any assurance of success.

Yet, if we as a nation want a more reliable electric future, we will need these minerals and reliable energy infrastructure. If we want that to happen in a timely fashion, so projects can get “shovel ready,” we need to reform NEPA to return it to a project approval process, not a project rejection and lawsuits process. We need domestic mining to secure our access to these critical resources. If we want jobs, economic opportunity and a future that is brighter, we must reject H.R. 2579 in favor of a policy that promotes American industry, not cripples it.

PAUL GOSAR.

