

## Calendar No. 334

119TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
119–105

### MINING REGULATORY CLARITY ACT

FEBRUARY 11, 2026.—Ordered to be printed

Mr. LEE, from the Committee on Energy and Natural Resources,  
submitted the following

### R E P O R T

[To accompany S. 544]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 544) to provide for the location of multiple hardrock mining mill sites, to establish the Abandoned Hardrock Mine Fund, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### PURPOSE

The purpose of S. 544 is to provide for the location of multiple hardrock mining mill sites and to establish the Abandoned Hardrock Mine Fund.

#### BACKGROUND AND NEED

In May of 2022, the U.S. Court of Appeals for the Ninth Circuit affirmed a lower court decision vacating the Forest Service’s approval of the mining plan of operations for the Rosemont Copper Mine Project, located partially in the Coronado National Forest in Pima County, Arizona. *Center For Biological Diversity v. United States Fish & Wildlife Service*, 33 F.4th 1202, 1224 (9th Cir. 2022), *affg*, 409 F. Supp. 3d 738 (D. Ariz. 2019). The Rosemont case questioned whether “the Surface Resources and Multiple Use Act of 1955 (‘Multiple Use Act’) gives Rosemont the right to dump its waste rock on open National Forest land, without regard to whether it has any mining rights on that land, as a ‘use[] reasonably incident to its operations at the mine pit,” and whether the Forest Service could assume that Rosemont had valid mining claims to the area where it proposed to dispose of its waste rock. *Id.* at 1207.

The Ninth Circuit decided that section 162 of the Surface Resources and Multiple Use Act of 1955 did not grant Rosemont the right to dispose of waste rock in its mine plan as a “use[] reasonably incident” to its operations. This decision limits the ability of the U.S. Forest Service to approve mining support facilities necessary for mining operations like waste rock placements, mills, offices, roads, or transmission lines. Before this decision, precedent and U.S. Forest Service regulations allowed the agency to approve mining support facility operations “on or off a mining claim” so long as those activities met environmental and regulatory standards. 409 F. Supp. 3d at 755, quoting 36 C.F.R. § 228.3(a). S. 544 addresses this problem by adding a new subsection (c) to section 2337 of the Revised Statutes (commonly known as the Mining Law of 1872), which creates a new form of mill site claim on public land for the disposal of waste rock or tailings or other operations reasonably incidental to mining operations under a plan of operations.

#### LEGISLATIVE HISTORY

S. 544 was introduced by Senator Cortez Masto on February 12, 2025. Senators Risch, Rosen, Crapo, and Murkowski cosponsored the bill. Representative Amodei introduced a companion measure in the House of Representatives, H.R. 1366, on February 14, 2025. Similar legislation was also included as section 443 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2026 (H.R. 4754), reported by the House Committee on Appropriations on July 24, 2025. The Committee on Energy and Natural Resources held a hearing on S. 544 on March 12, 2025. The Committee ordered S. 544 reported favorably without amendment on April 9, 2025.

The Committee considered similar legislation in recent Congresses. In the 118th Congress, Senator Cortez Masto introduced the Mining Regulatory Clarity Act of 2023, S. 1281, on April 25, 2023. The Committee on Energy and Natural Resources Subcommittee on Public Lands, Forests, and Mining held a hearing on December 12, 2023. Representative Amodei introduced a companion measure in the House of Representatives, H.R. 2925, on April 27, 2023, which passed the House of Representatives on May 8, 2024, by a vote of 216–195. No further action was taken on S. 1281 in the Senate, but the text was substantially modified and added as section 210 to S. 4753, the Energy Permitting Reform Act of 2024, introduced on July 23, 2024, by Senator Manchin and cosponsored by Senator Barrasso. The Committee on Energy and Natural Resources ordered S. 4753 reported with an amendment in the nature of a substitute on July 31, 2024. The roll call vote on reporting the measure was 15 yeas and 4 nays.

#### COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on April 9, 2025, by a majority vote of a quorum present recommends that the Senate pass S. 544.

The roll call vote on reporting the measure was 14 yeas, 6 nays as follows:

| YEAS             | NAYS           |
|------------------|----------------|
| Mr. Lee          | Mr. Heinrich   |
| Mr. Barrasso     | Mr. Wyden *    |
| Mr. Risch        | Ms. Cantwell * |
| Mr. Daines       | Ms. Hirono     |
| Mr. Cotton       | Mr. Padilla    |
| Mr. McCormick    | Mr. Gallego *  |
| Mr. Justice      |                |
| Mr. Cassidy      |                |
| Mrs. Hyde-Smith  |                |
| Ms. Murkowski *  |                |
| Mr. Hoeven       |                |
| Mr. King         |                |
| Ms. Cortez Masto |                |
| Mr. Hickenlooper |                |

\* Indicates vote by proxy.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

Section 1 provides a short title of the “Mining Regulatory Clarity Act.”

##### *Section 2. Hardrock mining mill sites*

Section 2(a) amends the Mining Law of 1872 by adding a new subsection (c) to section 2337 of the Revised Statutes. The new subsection authorizes mining claim holders to establish mill sites on public land, whether the land is known to contain minerals or not, for waste rock or tailings disposal or other operations reasonably incidental to mineral development or production.

Paragraph (1) of the new subsection (c) defines key terms used in the subsection.

Paragraph (2) authorizes a mining claim holder to claim as many mill sites as are reasonably necessary for its operations.

Paragraph (3) states that a mill site does not convey mineral rights to the claimant.

Paragraph (4) limits the size of each mill site to no more than 5 acres.

Paragraph (5) allows the holder or operator of a mining claim to locate a mill site on that mining claim.

Paragraph (6) states that claiming a mill site does not affect the validity of an associated mining claim.

Paragraph (7) states that the new mill sites are not eligible for patenting.

Paragraph (8) states that the new subsection (c) does not affect existing rights or other laws.

Section 2(b) establishes a new Abandoned Hardrock Mine Fund in the Treasury and directs that all claim maintenance fees paid by claimants to the Secretary of the Interior under section 1010 of the Omnibus Budget Reconciliation Act of 1993 for the new mill site claims established under subsection (a) are to be deposited into the new Fund, where they will be available, without further appropriation, to carry out the Abandoned Hardrock Mine Reclamation program established by section 40704 of the Infrastructure Investment and Jobs Act.

Section 2(c) makes clerical amendments to section 1010 of the Omnibus Budget Reconciliation Act of 1993, which governs the payment of claim maintenance fees for mill sites and mining claims.

#### COST AND BUDGETARY CONSIDERATIONS

The Committee has requested, but has not yet received, the Congressional Budget Office's estimate of the cost of S. 544 as ordered reported. When the Congressional Budget Office completes its cost estimate, it will be posted on the Internet at [www.cbo.gov](http://www.cbo.gov) and printed in the Congressional Record.

#### REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 544. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses. No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy. Little, if any, additional paperwork would result from the enactment of S. 544, as ordered reported.

#### CONGRESSIONALLY DIRECTED SPENDING

S. 544, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

#### EXECUTIVE COMMUNICATIONS

The Committee on Energy and Natural Resources has not received executive communication regarding S. 544.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 544, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

## MINING LAW OF 1872

#### Revised Statutes, § 2337

SEC. 2337. (a) Where non-mineral land not contiguous to the vein or lode is used or occupied by the proprietor of such vein or lode for mining or milling purposes, such non-adjacent surface-ground may be embraced and included in an application for a patent for such vein or lode, and the same may be patented therein, subject to the same preliminary requirements as to survey and notice as are applicable to veins or lodes; but no location hereafter made of such non-adjacent land shall exceed five acres, and payment for the same must be made at the same rate as fixed by this chapter for

the superficies of the lode. The owner of a quartz-mill or reduction-works, not owning a mine in connection therewith, may also receive a patent for his mill-site, as provided in this section.

(b) Where nonmineral land is needed by the proprietor of a placer claim for mining, milling, processing, beneficiation, or other operations in connection with such claim, and is used or occupied by the proprietor for such purposes, such land may be included in an application for a patent for such claim, and may be patented therewith subject to the same requirements as to survey and notice as are applicable to placers. No location made of such nonmineral land shall exceed five acres and payment for the same shall be made at the rate applicable to placer claims which do not include a vein or lode.

(c) *ADDITIONAL MILL SITES.*—

(1) *DEFINITIONS.*—*In this subsection:*

(A) *MILL SITE.*—*The term, “mill site” means a location of public land that is reasonably necessary for waste rock or tailings disposal or other operations reasonably incident to mineral development on, or production from land included in a plan or operations.*

(B) *OPERATIONS; OPERATOR.*—*The terms “operations” and “operator” have the meanings given those terms in section 3809.5 of title 42, Code of Federal Regulations (as in effect on the date of enactment of this subsection).*

(C) *PLAN OF OPERATIONS.*—*The term “plan of operations” means a plan of operations that an operator must submit and the Secretary of the Interior or the Secretary of Agriculture, as applicable, must approve before an operator may begin operations, in accordance with, as applicable—*

*(i) subpart 3809 of title 43, Code of Federal Regulations (or successor regulations establishing application and approval requirements); and*

*(ii) part 228 of title 36, Code of Federal Regulations (or successor regulations establishing application and approval requirements).*

(D) *PUBLIC LAND.*—*The term “public land” means land owned by the United States that is open to location under sections 2319 through 2344 of the Revised Statutes (30 U.S.C. 22 et seq.), including—*

*(i) land that is mineral-in-character (as defined in section 3830.5 of title 43, Code of Federal Regulations (as in effect on the date of enactment of this subsection));*

*(ii) nonmineral land (as defined in section 3830.5 of title 43, Code of Federal Regulations (as in effect on the date of enactment of this subsection)); and*

*(iii) land where the mineral character has not been determined.*

(2) *IN GENERAL.*—*Notwithstanding subsections (a) and (b), where public land is needed by the proprietor of a lode or placer claim for operations in connection with any lode or placer claim within the proposed plan of operations the proprietor may—*

*(A) locate and include within the plan of operations as many mill site claims under this subsection as are reasonably necessary for its operations; and*

(B) use or occupy public land in accordance with an approved plan of operations.

(3) *MILL SITES CONVEY NO MINERAL RIGHTS.*—A mill site under this subsection does not convey mineral rights to the locator.

(4) *SIZE OF MILL SITES.*—A location of a single mill site under this subsection shall not exceed 5 acres.

(5) *MILL SITE AND LODGE OR PLACER CLAIMS ON SAME TRACTS OF PUBLIC LAND.*—A mill site may be located under this subsection on a tract of public land on which the claimant or operator maintains a previously located lodge or placer claim.

(6) *EFFECT ON MINING CLAIMS.*—The location of a mill site under this subsection shall not affect the validity of any lodge or placer claim, or any rights associated with such a claim.

(7) *PATENTING.*—A mill site under this section shall not be eligible for patenting.

(8) *SAVINGS PROVISIONS.*—Nothing in this subsection—

(A) diminishes any right (including a right of entry, use, or occupancy) of a claimant;

(B) creates or increases any right (including a right of exploration, entry, use, or occupancy) of a claimant on land that is not open to location under the general mining laws;

(C) modifies any provision of law or any prior administrative action withdrawing land from location or entry;

(D) limits the right of the Federal Government to regulate mining and mining-related activities (including requiring claim validity examinations to establish the discovery of a valuable mineral deposit) in areas withdrawn from mining, including under—

(i) the general mining laws;

(ii) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

(iii) the Wilderness Act (16 U.S.C. 1131 et seq.);

(iv) sections 100731 through 100737 of title 54, United States Code;

(v) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(vi) division A of subtitle III of title 54, United States Code (commonly referred to as the “National Historic Preservation Act”); or

(vii) section 4 of the Act of July 23, 1955 (commonly known as the “Surface Resources Act of 1955”) (69 Stat. 368, chapter 375; 30 U.S.C. 612);

(E) restores any right (including a right of entry, use, or occupancy, or right to conduct operations) of a claimant that—

(i) existed prior to the date on which the land was closed to, or withdrawn from, location under the general mining laws; and

(ii) that has been extinguished by such closure or withdrawal; or

(F) modifies section 404 of division E of the Consolidated Appropriations Act, 2024 (Public Law 118–42).

\* \* \* \* \*

# OMNIBUS BUDGET RECONCILIATION ACT OF 1993

Public Law 103–66

AN ACT To provide for reconciliation pursuant to section 7 of the concurrent resolution on the budget for fiscal year 1994.

\* \* \* \* \*

## TITLE X—NATURAL RESOURCES PROVISIONS

\* \* \* \* \*

### Subtitle B—Hardrock Mining Claim Maintenance Fee

#### SEC. 10101. FEE.

##### (a) CLAIM MAINTENANCE FEE.—

##### (1) LODE MINING CLAIMS, MILL SITES, AND TUNNEL SITES.—

##### 【The holder of】

(A) *IN GENERAL.*—*The holder of each unpatented lode mining claim, mill site, or tunnel site, located pursuant to the mining laws of the United States before, on, or after August 10, 1993, shall pay to the Secretary of the Interior, on or before September 1 of each year, to the extent provided in advance in appropriations Acts, a claim maintenance fee of \$100 per claim or site, respectively. 【Such claim maintenance fee】*

(B) *FEE.*—*The claim maintenance fee under subparagraph (A) shall be in lieu of the assessment work requirement contained in 【the Mining Law of 1872 (30 U.S.C. 28–28e)】 sections 2319 through 2344 of the Revised Statutes (30 U.S.C. 22 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)).*

##### (1) PLACER MINING CLAIMS.—【The holder of】

(A) *IN GENERAL.*—*The holder of each unpatented placer mining claim located pursuant to the mining laws of the United States before, on, or after August 10, 1993, shall pay to the Secretary of the Interior, on or before September 1 of each year, the claim maintenance fee described in subsection (a)(1), for each 20 acres of the placer claim or portion thereof. 【Such claim maintenance fee】*

(B) *FEE.*—*The claim maintenance fee under subparagraph (A) shall be in lieu of the assessment work requirement contained in 【the Mining Law of 1872 (30 U.S.C. 28–28e)】 sections 2319 through 2344 of the Revised Statutes (30 U.S.C. 22 et seq.) and the related filing requirements contained in section 314(a) and (c) of the Federal Land Pol-*

icy and Management Act of 1976 (43 U.S.C. 1744(a) and (c)).

(b) TIME OF PAYMENT.—**【The claim maintenance fee】**

(1) *IN GENERAL.*—*The claim maintenance fee* under subsection (a) shall be paid for the year in which the location is made, at the time the location notice is recorded with the Bureau of Land Management. **【The location fee】**

(2) *FEE.*—*The location fee* imposed under section 10102 shall be payable not later than 90 days after the date of location.

\* \* \* \* \*

(d) WAIVER.—(1) The claim maintenance fee required under this section may be waived for a claimant who certifies in writing to the Secretary that on the date the payment was due, the claimant and all related parties—

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

(B) have performed assessment work required under **【the Mining Law of 1872 (30 U.S.C. 28–28e)】** *sections 2319 through 2344 of the Revised Statutes (30 U.S.C. 22 et seq.)* to maintain the mining claims held by the claimant and 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.

\* \* \* \* \*