

106TH CONGRESS
1ST SESSION

H. R. 394

To ensure that Federal taxpayers receive a fair return for the extraction of locatable minerals on public domain lands, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 19, 1999

Mr. GEORGE MILLER of California (for himself, Mr. RAHALL, Mr. GUTIERREZ, Mr. DEFazio, Mr. LAFALCE, and Mr. LEWIS of Georgia) introduced the following bill; which was referred to the Committee on Resources

A BILL

To ensure that Federal taxpayers receive a fair return for the extraction of locatable minerals on public domain lands, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Hardrock Mining Roy-
5 alty Act of 1999”.

6 **SEC. 2. ROYALTY.**

7 (a) RESERVATION OF ROYALTY.—Each person pro-
8 ducing locatable minerals (including associated minerals)
9 from any mining claim located under the general mining

1 laws, or mineral concentrates derived from locatable min-
2 erals produced from any mining claim located under the
3 general mining laws, as the case may be, shall pay a roy-
4 alty of 5 percent of the net smelter return from the pro-
5 duction of such locatable minerals or concentrates, as the
6 case may be.

7 (b) ROYALTY PAYMENTS.—Each person responsible
8 for making royalty payments under this section shall make
9 such payments to the Secretary not later than 30 days
10 after the end of the calendar month in which the mineral
11 or mineral concentrates are produced and first placed in
12 marketable condition, consistent with prevailing practices
13 in the industry.

14 (c) REPORTING REQUIREMENTS.—All persons hold-
15 ing mining claims located under the general mining laws
16 shall provide to the Secretary such information as deter-
17 mined necessary by the Secretary to ensure compliance
18 with this section, including, but not limited to, quarterly
19 reports, records, documents, and other data. Such reports
20 may also include, but not be limited to, pertinent technical
21 and financial data relating to the quantity, quality, and
22 amount of all minerals extracted from the mining claim.

23 (d) AUDITS.—The Secretary is authorized to conduct
24 such audits of all persons holding mining claims located
25 under the general mining laws as he deems necessary for

1 the purposes of ensuring compliance with the require-
2 ments of this section.

3 (e) DISPOSITION OF RECEIPTS.—All receipts from
4 royalties collected pursuant to this section shall be depos-
5 ited into the Fund established under section 3.

6 (f) COMPLIANCE.—Any person holding mining claims
7 located under the general mining laws who knowingly or
8 willfully prepares, maintains, or submits false, inaccurate,
9 or misleading information required by this section, or fails
10 or refuses to submit such information, shall be subject to
11 a civil penalty of not more than \$10,000 imposed by the
12 Secretary.

13 (g) EFFECTIVE DATE.—This section shall take effect
14 with respect to minerals produced from a mining claim
15 in calendar months beginning after the enactment of this
16 Act.

17 **SEC. 3. ABANDONED MINERALS MINE RECLAMATION FUND.**

18 (a) ESTABLISHMENT.—(1) There is established on
19 the books of the Treasury of the United States a trust
20 fund to be known as the Abandoned Minerals Mine Rec-
21 lamation Fund (hereinafter referred to as the Fund). The
22 Fund shall be administered by the Secretary.

23 (2) The Secretary shall notify the Secretary of the
24 Treasury as to what portion of the Fund is not, in his
25 judgment, required to meet current withdrawals. The Sec-

1 retary of the Treasury shall invest such portion of the
2 Fund in public debt securities with maturities suitable for
3 the needs of such Fund and bearing interest at rates de-
4 termined by the Secretary of the Treasury, taking into
5 consideration current market yields on outstanding mar-
6 ketplace obligations of the United States of comparable
7 maturities. The income on such investments shall be cred-
8 ited to, and from a part of, the Fund.

9 (b) AMOUNTS.—The following amounts shall be cred-
10 ited to the Fund for the purposes of this Act:

11 (1) All moneys received from royalties under
12 section 1 of this Act and the mining claim mainte-
13 nance fee under section 4 of this Act.

14 (2) All donations by persons, corporations, as-
15 sociations, and foundations for the purposes of this
16 title.

17 (c) USE AND OBJECTIVES OF THE FUND.— The Sec-
18 retary is, subject to appropriations, authorized to use
19 moneys in the Fund for the reclamation and restoration
20 of land and water resources adversely affected by past
21 mineral (other than coal and fluid minerals) and mineral
22 material mining, including but not limited to, any of the
23 following:

24 (1) Reclamation and restoration of abandoned
25 surface mined areas.

1 (2) Reclamation and restoration of abandoned
2 milling and processing areas.

3 (3) Sealing, filling, and grading abandoned deep
4 mine entries.

5 (4) Planting of land adversely affected by past
6 mining to prevent erosion and sedimentation.

7 (5) Prevention, abatement, treatment and con-
8 trol of water pollution created by abandoned mine
9 drainage.

10 (6) Control of surface subsidence due to aban-
11 doned deep mines.

12 (7) Such expenses as may be necessary to ac-
13 complish the purposes of this section.

14 (d) ELIGIBLE AREAS.—(1) Land and waters eligible
15 for reclamation expenditures under this section shall be
16 those within the boundaries of States that have lands sub-
17 ject to the general mining laws—

18 (A) which were mined or processed for minerals
19 and mineral materials or which were affected by
20 such mining or processing, and abandoned or left in
21 an inadequate reclamation status prior to the date
22 of enactment of this Act;

23 (B) for which the Secretary makes a determina-
24 tion that there is no continuing reclamation respon-
25 sibility under State or Federal laws; and

1 (C) for which it can be established that such
2 lands do not contain minerals which could economi-
3 cally be extracted through the reprocessing or remin-
4 ing of such lands.

5 (2) Notwithstanding paragraph (1), sites and areas
6 designated for remedial action pursuant to the Uranium
7 Mill Tailings Radiation Control Act of 1978 (42 U.S.C.
8 7901 and following) or which have been listed for remedial
9 action pursuant to the Comprehensive Environmental Re-
10 sponse Compensation and Liability Act of 1980 (42
11 U.S.C. 9601 and following) shall not be eligible for ex-
12 penditures from the Fund under this section.

13 (e) FUND EXPENDITURES.—Moneys available from
14 the Fund may be expended directly by the Director, Bu-
15 reau of Land Management. The Director may also make
16 such money available through grants made to the Chief
17 of the United States Forest Service, and the Director of
18 the National Park Service.

19 (f) AUTHORIZATION OF APPROPRIATIONS.—Amounts
20 credited to the Fund are authorized to be appropriated
21 for the purpose of this title without fiscal year limitation.

22 **SEC. 4. LIMITATION ON PATENT ISSUANCE.**

23 No patent shall be issued by the United States for
24 any mining or mill site claim located under the general
25 mining laws unless the Secretary determines that, for the

1 claim concerned a patent application was filed with the
2 Secretary on or before September 30, 1994, and all re-
3 quirements established under sections 2325 and 2326 of
4 the Revised Statutes (30 U.S.C. 29 and 30) for vein or
5 lode claims and sections 2329, 2330, 2331, and 2333 of
6 the Revised Statutes (30 U.S.C. 35, 36 and 37) for placer
7 claims, and section 2337 of the Revised Statutes (30
8 U.S.C. 42) for mill site claims, as the case may be, were
9 fully complied with by the applicant by that date.

10 **SEC. 5. MINING CLAIM MAINTENANCE REQUIREMENTS.**

11 (a) IN GENERAL.—(1) Effective October 1, 1998, the
12 holder of each mining claim located under the general min-
13 ing laws prior to the date of enactment shall pay to the
14 Secretary an annual claim maintenance fee of \$100 per
15 claim per calendar year.

16 (2) The holder of each mining claim located under
17 the general mining laws subsequent to the date of enact-
18 ment shall pay to the Secretary an annual claim mainte-
19 nance fee of \$125 per claim per calendar year.

20 (b) PURCHASING POWER ADJUSTMENT.—The Sec-
21 retary shall adjust the amount of the claim maintenance
22 fee payable pursuant to subsection (a) for changes in the
23 purchasing power of the dollar after the calendar year
24 1993, employing the Consumer Price Index for all urban
25 consumers published by the Department of Labor as the

1 basis for adjustment, and rounding according to the ad-
2 justment process of conditions of the Federal Civil Pen-
3 alties Inflation Adjustment Act of 1990.

4 (c) TIME OF PAYMENT.—Each claim holder shall pay
5 the claim maintenance fee payable under subsection (a)
6 for any year on or before August 31 of each year, except
7 that for the initial calendar year in which the location is
8 made, the initial claim maintenance fee shall be paid at
9 the time the location notice is recorded with the Bureau
10 of Land Management.

11 (d) OIL SHALE CLAIMS SUBJECT TO CLAIM MAINTENANCE FEES UNDER ENERGY POLICY ACT OF 1992.—
12 The section shall not apply to any oil shale claims for
13 which a fee is required to be paid under section 2511(e)(2)
14 of the Energy Policy Act of 1992 (30 U.S.C. 242(e)(2)).

15 (e) CLAIM MAINTENANCE FEES PAYABLE UNDER 1993 ACT.—The claim maintenance fees payable under
16 this section for any period with respect to any claim shall
17 be reduced by the amount of the claim maintenance fees
18 paid under section 10101 of the Omnibus Budget Rec-
19 onciliation Act of 1993 with respect to that claim and with
20 respect to the same period.

21 (f) WAIVER.—(1) The claim maintenance fee re-
22 quired under this section may be waived for a claim holder
23 who certifies in writing to the Secretary that on the date
24
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1 the payment was due, the claim holder and all related par-
2 ties held not more than 10 mining claims on land open
3 to location. Such certification shall be made on or before
4 the date on which payment is due.

5 (2) For purposes of this subsection, with respect to
6 any claim holder, the term “related party” means each
7 of the following:

8 (A) The spouse and dependent children (as de-
9 fined in section 152 of the Internal Revenue Code of
10 1986), of the claim holder.

11 (B) Any affiliate of the claim holder.

12 (g) CO-OWNERSHIP.—Upon the failure of any one or
13 more of several co-owners to contribute such co-owner or
14 owners portion of the fee under this section, any co-owner
15 who has paid such fee may, after the payment due date,
16 give the delinquent co-owner or owners notice of such fail-
17 ure in writing (or by publication in the newspaper nearest
18 the claim for at least once a week for at least 90 days).
19 If at the expiration of 90 days after such notice in writing
20 or by publication, any delinquent co-owner fails or refused
21 to contribute his portion, his interest, in the claim shall
22 become the property of the co-owners who have paid the
23 required fee.

24 **SEC. 6. DEFINITIONS.**

25 As used in this Act:

1 (1) The term “affiliate” means, with respect to
2 any person, each of the following:

3 (A) Any partner of such person.

4 (B) Any person owning at least 10 percent
5 of the voting shares of such person.

6 (C) Any person who controls, is controlled
7 by, or is under common control with such per-
8 son.

9 (2) The term “locatable minerals” means min-
10 erals not subject to disposition under any of the fol-
11 lowing:

12 (A) The Mineral Leasing Act (30 U.S.C.
13 181 and following);

14 (B) The Geothermal Steam Act of 1970
15 (30 U.S.C. 100 and following);

16 (C) The Act of July 31, 1947, commonly
17 known as the Materials Act of 1947 (30 U.S.C.
18 601 and following); or

19 (D) the Mineral Leasing for Acquired
20 Lands Act (30 U.S.C. 351 and following).

21 (3) The term “net smelter return” has the
22 same meaning provided in section 613 of the Inter-
23 nal Revenue Code of 1986 (26 U.S.C. 613) for
24 “gross income from mining”.

1 (4) The term “Secretary” means the Secretary
2 of the Interior.

3 (5) The term “general mining laws” means
4 those Acts which generally comprise chapters 2,
5 12A, and 16, and sections 161 and 162 of title 30,
6 United States Code.

