

HARDROCK LEASING AND RECLAMATION ACT OF 2018

The Hardrock Leasing and Reclamation Act of 2018 ends the obsolete system that has governed hardrock mining on public lands for a century and a half, and replaces it with a modern leasing system designed to protect American taxpayers and American public lands.

KEY PROVISIONS OF BILL

The bill would:

- End the outdated claim-staking and patenting system that gives miners unfettered access to nearly all public land in the United States.
- Establish an 12.5% royalty on new mining operations—the same amount as oil and gas—and an 8% royalty on existing operations, except for miners with less than \$100,000 in mining income.
- Eliminate the exalted status that mining currently enjoys on public lands, leveling the playing field with all other uses of public lands—such as grazing, hunting, and energy development—allowing it to be managed through existing land-use planning processes.
- Make certain special lands off-limits to hardrock mining.
- Establish strong reclamation standards and bonding requirements.
- Create a fund to reclaim and restore abandoned mines and areas impacted by mining activities.

TITLE-BY-TITLE SUMMARY

Title I – Mineral Leasing, Exploration, and Development

Title I ends the archaic mining claim system first established in federal law in 1866 and essentially unchanged since 1872. No new mining claims would be allowed, and the ability to patent public land would be eliminated unless the patent application was submitted prior to September 30, 1994 (there has been an appropriations moratorium on BLM processing new patent applications since October 1, 1994).

In its place would be a permitting and leasing system, much like what exists for oil, gas, coal, phosphate, sodium, and numerous other minerals on public land (and even for hardrock minerals on certain public lands). Miners would apply for prospecting licenses giving them the exclusive right to explore for specified minerals for two years for up to 2,560 acres of land open to hardrock mining under a land-use plan, with a rental of \$10 per acre per year. Licenses could be extended for up to four additional years provided the miner is diligently exploring. If a valuable deposit is found, the miner would be eligible for a noncompetitive 20-year lease with a rental of \$10/year and a royalty of not less than 12.5% of the gross value of production. No surface disturbing activity would be allowed without exploration or operation permits issued under Title II.

For small miners—defined as people that hold less than 10 mining claims, or no more than 200 acres under lease, and commercial income from mining of less than \$50,000 per year—a

Small Miners Lease could be obtained, which provide the exclusive right to prospect for hardrock minerals for 3 years, renewable for additional 3-year-periods with no limit. Rentals are \$5 per acre per year for the first 3 years, then \$10 per acre per year for all subsequent renewals, and no royalty would be charged on commercial production.

Title I also creates a process for the conversion of existing non-producing claims to leases, with most claims having 10 years to show a valuable mineral deposit and convert to a lease before expiring, but only 3 years for claims located on withdrawn land. Claims that haven't been converted to leases would be subject to a \$200 annual claim maintenance fee until expiration.

If there are areas with valuable mineral deposits that aren't covered by a permit, license, or lease, then those areas may only be leased through a competitive process, and only if the Secretary makes a determination that such lands are suitable for mineral activities.

This title also protects National Parks and National Monuments by prohibiting any mining activities that would impair them in any way, and prohibits all hardrock mining activity in Wilderness Study Areas, Areas of Critical Environmental Concern, Wild and Scenic Rivers, and Roadless areas identified in the USFS Roadless Area Conservation EIS of 2000.

Of the royalties, rents, fees, and other money raised in Title I, 75 percent goes to abandoned hardrock mine reclamation under Title III, and the other 25 percent goes to the state where the mining activity is located.

Title II – Environmental Considerations of Mineral Exploration and Development

Title II establishes an overall environmental standard for mining activities on public lands, and requires the Secretary of the Interior to ensure that mining activities prevent undue degradation of public lands and resources.

This title requires that all mining operations on public lands be conducted under either an exploration permit or an operations permit. An exploration permit would be for a term of no longer than 10 years, cover activities that would not result in the sale of minerals, and require the submission of a reclamation plan. Operations permits would have a more stringent review process, and require the submission of plans for reclamation, monitoring, and long-term maintenance. Operations permits would be for 20-year term, with a 20-year renewal if the operation is in compliance with the permits.

Permit applicants must provide financial assurances sufficient to assure the completion of all reclamation and restoration work, including the cost of treatment facilities, in the event of forfeiture. Lands must be restored to a condition capable of supporting their prior uses, or to other beneficial uses conforming to the applicable land use plans.

Title III – Abandoned Hardrock Mine Reclamation

Title III establishes a Hardrock Minerals Reclamation Fund, which would receive all royalties under the Act, as well as a new 7-cents-per-ton fee on displaced materials from

hardrock mining, and other smaller sources of funding. The bulk of the funding would come from the displaced material fee, which is estimated to raise approximately \$200 million per year.

Half of the account would be allocated to states with abandoned hardrock mines in proportion to the amount of current and historical hardrock production in those states, with the other half being distributed by the Secretary to high-priority projects.

Title IV – Administrative Provisions

Title IV establishes a comprehensive inspection, monitoring, and enforcement system for hardrock mining, sets civil and criminal penalties for noncompliance, proscribes guidelines for administrative and judicial review, and authorizes citizen suits, among other provisions.