

## **HARDROCK MINING REFORM ACT OF 2019**

The Hardrock Mining Reform Act of 2019 reforms the outdated laws that have governed hardrock mining since the days of the Gold Rush era, a time when Ulysses S. Grant was President, and westward expansion was the overarching goal. This Act replaces the existing system, with a modern governing structure that provides financial and environmental certainty to both corporations and taxpayers.

### **Key Provisions**

- **Puts hardrock mining on the same footing with other mining industries with a new royalty rate for new mines** of 5% to 8% based on the gross income of production on federal land. This rate would not apply to mining operations already in commercial production or those with an approved plan of operations. The Act allows the Secretary of the Interior to grant royalty relief to mining operations based on economic factors.
- **Finally provides for abandoned mine cleanup** through the Hardrock Minerals Reclamation Fund, paid for by royalties and infused by an abandoned mine reclamation fee of 1% to 3%. The Act also imposes strong bonding requirements.
- **Ends the public lands giveaway**, by eliminating the outdated claim-staking and patenting system. This legislation replaces these Gold Rush era requirements with a modern day permitting requirement, including exploration and mining operations permits for non-casual mining operations on federal land, valid for 30 years and to continue as long as commercial production occurs.
- **Encourages local autonomy over mining**, and gives States, political subdivisions, and Indian tribes the authority to petition the Secretary of the Interior to withdraw certain lands from mining.
- **Requires a “look before you leap” approach**, and directs Interior to conduct an expedited review of areas that may be inappropriate for mining and therefore eligible for withdrawal.

## Title-by-Title Summary

### Title I. Locatable Mineral Deposits.

**Eliminates the public lands giveaway.** Eliminates the practice of patenting Federal land (*i.e.*, transferring title) while grandfathering patent applications filed and meeting all requirements by September 30, 1994, the date a moratorium on patenting was put in place through the Interior Appropriations bill.

**Increases claim maintenance fees.** Increases the current annual claim maintenance fee to \$200, and indexes that fee to inflation, which is paid in lieu of annual assessment work, with an exception for claim holders with 10 or fewer claims. Increases the current claim location fee to \$50 per claim (up from \$30 under current law). Provides that fees collected are to be used for the administration of hardrock mining on Federal lands. Any excess is deposited into the Hardrock Minerals Reclamation Fund. Provides for adjustment of the fees to reflect changes in the Consumer Price Index.

### Title II. Royalties.

**Establishes royalties on hardrock mining.** Production of all locatable minerals is subject to a royalty to be determined by the Secretary by regulation of not less than 5 percent and not more than 8 percent of the gross income from mining for production of all locatable materials. The royalty may vary based on the particular mineral concerned. No royalty will be collected from existing mines that are producing in commercial quantities on the date of enactment. Royalty revenues will be deposited into the Hardrock Minerals Reclamation Fund.

**Royalty Relief.** Provides for royalty reductions for all or part of a mining operation where the person conducting the mineral activities shows by clear and convincing evidence that without the reduction, production would not occur. Provides for enforcement for royalty and certain fee collections. Provides for a look-back report on the impacts of royalties and fees.

### Title III. Mineral Activities.

**Permits.** The Act requires a permit all mineral activities, including exploration and operations, on Federal land, except for “casual use” that ordinarily results in no or negligible disturbance. Mining permits are for a term of 30 years and so long thereafter as production occurs in commercial quantities. The Act requires that

companies submit applications containing:

- A description of the land and water resources to be effected;
- An operations plans that provides for mine drainage and best management practices;
- A description of potential impacts to groundwater and surface water;
- A reclamation plan, along with adequate monitoring and evaluation;
- Evidence of adequate financial assurances;

**Land Use Fees.** With respect to new mines, the Act requires the operator to pay a land use fee as determined by the Secretary by regulation equal to 4 times the \$200 claim maintenance fee imposed for each 20 acres of Federal land that is included within the mine permit area. Upon approval of the mining permit and payment of the fee, the operator may use and occupy the Federal land within the permit area, consistent with the mining permit and all applicable law.

**Financial Assurances.** The operator must provide evidence of approved financial assurances sufficient to ensure completion of reclamation. The assurance must cover: all affected land within the permit area and all affected water that requires restoration, treatment or any other management.

**Operation and Reclamation.** Creates a uniform standard for operation and reclamation on both BLM and Forest Service lands by applying an “undue degradation” standard to BLM land and National Forest System land. Directs the Secretaries of the Interior and Agriculture to jointly issue regulations.

**Water Reclamation.** Financial assurances attributable to the cost of water treatment will not be released until the discharge has ceased for at least 5 years or the operator has met all applicable water quality standards for at least 5 years. The operator may be required to establish a trust fund or other long-term funding mechanism to provide financial assurances for long-term treatment of water or other long-term post-mining maintenance or monitoring requirements.

**Review of Land Open to Location.** Amends the Federal Land Policy and Management Act to require within 3 years that local Federal land managers review specified categories of lands for withdrawal from operation of this Act, subject to valid existing rights.

The categories to be reviewed are: designated wilderness study areas and National Forest System land identified as suitable for wilderness designation; areas of critical environmental concern; Federal land in which mineral activities pose a

reasonable likelihood of substantial adverse impacts on National Conservation System units as defined in the bill; certain areas with potential for inclusion in the Wild and Scenic Rivers System as specified; and areas identified in the set of inventoried roadless area maps contained in the Forest Service Roadless Areas Conservation, Final Environmental Impact Statement, Volume 2, dated November 2000). Based on the review and recommendation of the local Federal land manager, areas can be removed from operation of the Mining Law, subject to valid existing rights.

The Governor of a state, head of an Indian tribe, or appropriate local official may petition the Secretary to direct the local Federal land manager to undertake a review of an area to determine whether land should be withdrawn, subject to valid existing rights.

**Inspection and Monitoring.** Requires the relevant Secretary to conduct inspections at least once each quarter. All operators must develop and maintain a monitoring and evaluation system.

**Tribal Consultation.** Provides for tribal consultation before any mineral activities would affect an Indian Tribe's land or an area of cultural and/or religious significance for the Indian Tribe.

#### **Title IV. Hardrock Minerals Reclamation Fund**

**Hardrock Minerals Reclamation Fund.** Provides for the payment of royalties, fees, and donations into a Hardrock Minerals Reclamation Fund to be administered by the Secretary of the Interior through the Office of Surface Mining Reclamation and Enforcement.

**Use of the Fund.** The Secretary may use amounts in the Fund without further appropriation for the reclamation of land and water (Federal, State, tribal and private) affected by past hardrock mining and related activities in 14 western states when there is no continuing reclamation responsibility of the claim holder or operator, and for hardrock reclamation grant programs nationwide as specified in the bill.

**Allocation of the Fund.** Provides for allocation of the Fund: to states and tribes based on current hardrock production and on the quantity of hardrock minerals historically produced; to agencies for expenditure on Federal land; for grants to states other than the 14 designated western states for reclamation of abandoned hardrock mine sites; for grants to public entities and nonprofit organizations for

collaborative restoration projects to improve fish and wildlife habitat affected by past hardrock mining; and for program administration.

**Abandoned Mine Land Reclamation Fee.** Each operator of a hardrock mineral mining operation on Federal, state, tribal or private land, shall pay to the Secretary a reclamation fee established by the Secretary by regulation of not less than 1 percent, and not more than 3 percent, of the value of the production of the hardrock minerals mining operation for each calendar year for deposit into the Fund.

**Transition.** If a plan of operations is approved or a notice of operations is filed for mineral activities before the date of enactment, mineral activities will be subject to the approved plan of operations or the notice for 10 years after the date of enactment. All fees apply starting on the date of enactment of this Act, except that the land use fee applies only to mining permits or modifications after the date of enactment. No royalty is required on production from Federal land that is subject to an operations permit on the date of enactment of this Act and that produces valuable locatable minerals in commercial quantities on the date of enactment.

**Enforcement.** Provides for enforcement, including civil penalties and injunctive authority for the Secretary. The Act also provides an avenue for any person or corporation issued a notice of violation to appeal the notice to the relevant administrative tribunal.

**Review of Uranium Development on Federal Land.** Provides for a National Academy of Sciences review of legal and related requirements applicable to the development of uranium on Federal lands.