



To: House Committee on Natural Resources Republican Members
From: Subcommittee on Energy and Mineral Resources; Ashley Nichols
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Date: May 9, 2022
Subject: Hybrid Legislative Hearing on H.R.7580 (Grijalva), the Clean Energy Minerals Reform Act of 2022

The Subcommittee on Energy and Mineral Resources will hold a hybrid legislative hearing on H.R. 7580 (Grijalva) on **Thursday, May 12, 2022, at 10:00 a.m. EDT**, in room 1324 Longworth House Office Building and online via Cisco WebEx.

Republican members are encouraged to take advantage of the opportunity to participate in person from the hearing room.

Member offices are requested to notify Ashley Nichols (Ashley.Nichols@mail.house.gov) **no later than Wednesday, May 11, at 4:30 p.m. EDT**, if their Member intends to participate in the committee room or remotely from another location. Submissions for the hearing record must be submitted through the Committee’s electronic repository at HNRCDocs@mail.house.gov. Please contact David DeMarco (David.DeMarco@mail.house.gov) or Everett Winnick (Everett.Winnick@mail.house.gov) should any technical difficulties arise.

I. KEY MESSAGES

- Critical minerals and dozens of other commodities will see surging demand in the coming years, largely driven by the growth of the renewable energy sector. The vast majority of these commodities are sourced abroad, many from China and other nations who are not friendly to the United States. This import reliance poses major economic and national security risks for the U.S., and also raises serious concerns about ongoing humanitarian and environmental impacts of poor mining conditions in other countries.
- Committee Democrats and others have attempted to overhaul the Mining Law of 1872¹ for decades. H.R. 7580 (Grijalva), *the Clean Energy Minerals Reform Act of 2022*, is Congressional Democrats’ newest attempt to “reform” the Mining Law of 1872. Despite its

¹ Sess. 2, ch. 152, 17 Stat. 91–96



misleading short title, this incredibly harmful legislation would fundamentally threaten domestic mineral production for renewable energy development or any other purpose.

- The Biden administration's, and Congressional Democrats', approach to mining policy appears to be at war with itself. The administration's self-imposed renewable energy goals, such as decarbonizing the power grid by 2035,² are extremely aggressive and would require a massive supply of minerals to achieve. While the White House has finally acknowledged the incontrovertible link between minerals and renewable energy,³ actions of the Department of the Interior (DOI) – such as cancelling the leases for a vital copper-nickel project in Minnesota and repeated attempts at mineral withdrawals – are in direct conflict with increasing our domestic mineral supply.
- H.R. 7580 would completely contradict the Biden administration's stated goal of increased domestic mining, and if made law, it would irreparably harm our access to these vital domestic resources.

II. WITNESSES

Panel I:

- **Steven H. Feldgus, Ph.D.**, Deputy Assistant Secretary, U.S. Department of the Interior, Washington, DC

Panel II:

- **Ms. Debra Struhsacker**, Environmental Permitting & Government Relations Consultant and Co-founder and Director, Women's Mining Coalition, Reno, NV [*Republican Witness*]
- **Mr. Jeffrey Stiffarm**, President, Fort Belknap Indian Community, Harlem, MT
- **Professor Sam Kalen**, William T. Schwartz Distinguished Professor of Law, University of Wyoming College of Law, Laramie, WY
- **Mr. James Chen**, Vice President of Public Policy, Rivian Automotive, LLC, Washington, DC

III. BACKGROUND

“Hardrock” is an umbrella term for non-fuel, locatable minerals including but not limited to officially designated critical minerals. Land access for hardrock minerals is regulated by the Mining Law of 1872.⁴

Domestic hardrock mining provides essential materials used across economic sectors. This includes renewable energy technologies, electric vehicles (EVs), and battery storage. Despite substantial domestic reserves, the great majority of our nation's supply of critical minerals and other mined

² The White House, *President Biden Sets 2030 Greenhouse Gas Pollution Reduction Target Aimed at Creating Good-Paying Union Jobs and Securing U.S. Leadership on Clean Energy Technologies*, <https://bit.ly/3BZhJO3>.

³ The White House. Report. BUILDING RESILIENT SUPPLY CHAINS, REVITALIZING AMERICAN MANUFACTURING, AND FOSTERING BROAD-BASED GROWTH. June 2021. <https://www.whitehouse.gov/wp-content/uploads/2021/06/100-day-supply-chain-review-report.pdf>.

⁴ Sess. 2, ch. 152, 17 Stat. 91–96

resources comes from abroad, China in particular. This reliance on China poses clear economic and national security risks. Further, since the U.S. has some of the best environmental and labor standards in the world, it is preferable, as well as safer for the supply chain, to maximize domestic production. H.R. 7580 would cripple our country's ability to utilize American resources.

Claims vs. Leasing System: Unlike “leasable” minerals like oil, gas, and coal, hardrock minerals (or “locatable” minerals) do not have a traditional leasing structure. Instead, under the Mining Law of 1872, mineral rights are established through mining claims, and maintained by an initial location fee and annual claim maintenance fees.⁵ The claims system is often mischaracterized as an unfair advantage for mining companies resulting in lost revenue for the taxpayer. However, this is a misunderstanding of the unique challenges associated with hardrock mining.

It can take a decade or more and billions of dollars before an American mine produces any resources.⁶ Mining begins with exploration, an arduous process that often requires hundreds of millions of dollars in upfront capital costs.⁷ Unlike minerals, such as coal, that occur in large “seams,” hardrock minerals are sparsely scattered across a given area and extremely difficult to find in economic quantities.⁸ Only about 1 in 1,000 discoveries has the potential to become a mine.⁹

Once a viable discovery is made, permitting and environmental review under NEPA and other statutes regulating hardrock mining regularly take a decade or longer to complete.¹⁰ This timeline does not account for litigation, which is now routine for major mining projects. In contrast, permitting in countries like Canada and Australia averages only 2 to 3 years.¹¹

Even after a mine is operational, the product is far from ready for market. Unlike coal, oil, or gas, which are close to a saleable state when they come out of the ground, hardrock minerals require a lengthy and expensive refining process. Due to decades of unfriendly regulations, the U.S. no longer possesses the refining capacity for most hardrock resources.¹² Operators must ship their ore overseas to be refined and processed – mostly in China – before the product is ready for sale.

This extremely long, unpredictable production timeline is the reason why a traditional leasing system is incompatible with hardrock mineral extraction. Converting to a leasing system, as required by H.R. 7580, would chill investment in domestic mining given that the presence of economic quantities of minerals cannot be guaranteed and production may not even begin in the first 10 or 20 years.

The Harm of High Gross Royalties and the “Fair Return” Fallacy: H.R. 7580 would establish a 12.5 percent gross royalty rate for new mines. Hardrock resources include a large, disparate variety of non-fuel mineral resources, including copper, rare earths, lithium, and many others. They occur in

⁵ 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>

⁶ Briefing from the National Mining Association. March 2019.

⁷ *Id.*

⁸ *Id.*

⁹ Gwen Preston, “Roundup takeaway 1: outsmart tough odds,” January 31, 2015, <https://www.mining.com/web/roundup-takeaway-1-outsmart-tough-odds/>.

¹⁰ Briefing from the National Mining Association. March 2019.

¹¹ 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.

¹² 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>.

different geological formations and have different commodity prices and levels of rarity. They are not even extracted the same way. For instance, while cobalt and lithium are both used in EVs, cobalt comes from traditional mining and lithium is mostly found in brine.¹³ A single arbitrary royalty rate, especially at such a high level as is proposed in H.R. 7580 that does not account for the costs of production, is not the way to get a “fair return” from operators. In fact, it is more likely to drive operators out of business or to move their operations overseas.

This bill would also apply an 8 percent gross royalty to *existing* mines. A royalty on existing mines would threaten producing operations in the U.S. and flout security of tenure, which is essential to hardrock mining due to the uncertain production timelines. A royalty on existing mines would also likely result in “takings” claims – the assertion that property, or a portion of the value of that property, has been taken by the government,¹⁴ opening up the federal government to numerous lawsuits.

Finally, despite claims from environmental groups, the lack of a royalty does not mean federal land is “given away” to mining operators. Hardrock mining generates billions of dollars in federal, state, and local taxes,¹⁵ in addition to the revenues from annual claim maintenance fees paid into the U.S. Treasury.¹⁶

Existing Environmental Protection Requirements: Like other major industrial activities, hardrock mining has risks associated with it, which is why today it is heavily regulated at the federal and state level. Hardrock operations must abide by all major environmental protection statutes, including the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA; 42 U.S.C. 103), National Environmental Policy Act (NEPA; 42 U.S.C. 4321 et seq.), the Clean Water Act (33 U.S.C. 1251 et seq.), and the Clean Air Act (42 U.S.C. 7401 et seq.). Many mining projects must also go through environmental review at the state level as well. Reclamation plans, environmental mitigation, and strategies for ongoing water treatment are all part of a standard Mine Plan of Operations, which must go through full NEPA review. Achieving approval under current federal and state environmental requirements is often a decade-long process.

H.R. 7580 would specify that no existing environmental protection laws are altered in any way, but it would also create two new required permits: exploration permits and operations permits. These permits have extensive requirements duplicative of what already exists, while also requiring possibly unachievable water quality standards (i.e., certifying water treatment will no longer be necessary ten years after mine closure, when in many cases, ongoing treatment is planned for in the development of a mining project).

Concerns about Abandoned Hardrock Mines: There are thousands of hazardous abandoned hardrock sites across the country, and states cannot afford to remediate them alone.¹⁷ Many of these sites are

¹³ U.S. Geological Survey, “A Preliminary Deposit Model for Lithium Brines,” Report, 2013, <https://pubs.usgs.gov/of/2013/1006/OF13-1006.pdf>.

¹⁴ Statement of James F. Cress, Testimony before the Committee on Natural Resources, Subcommittee on Energy and Mineral Resources, July 20, 2017.

¹⁵ National Mining Association, “The Economic Contributions of U.S. Mining, 2019,” Report, February 2021, https://nma.org/wp-content/uploads/2018/09/Economic_Contributions_of_Mining_2019.pdf.

¹⁶ Bureau of Land Management, “Mining Claim Fees,” <https://www.blm.gov/programs/energy-and-minerals/mining-and-minerals/locatable-minerals/mining-claims/fees>.

¹⁷ U.S. Bureau of Land Management, official website on abandoned mines, <https://abandonedmines.gov/>.

located on or near tribal lands.¹⁸ Some of these sites were created in the 1800s, and the cutoff for so-called “legacy” mining is considered anything pre-1990.¹⁹ Since that time, no hardrock mining sites have been placed on the CERCLA (also called “Superfund”) National Priorities List.²⁰

The existence of hardrock AML is often linked to calls for stricter financial assurance requirements, born out of fears that an operator will walk away from their cleanup obligations. To this end, H.R. 7580 would lay out burdensome requirements despite the stringent federal and state financial assurance requirements that already exist. In fact, in 2018, the Environmental Protection Agency (EPA) determined that additional federal financial assurance was not necessary for hardrock mining due to existing federal and state regulations.²¹ The 2018 EPA decision was affirmed by the U.S. Court of Appeals in 2019.²² Fourteen mining states alone hold over \$6 billion in financial assurance.²³

However, existing legacy sites must be addressed. One solution is so-called “Good Samaritan” legislation, such as S.3571 (Heinrich, D-NM), which would allow non-governmental third parties to help in AML cleanup.²⁴ There has also been an argument for many years that a remediation fund, like what exists for abandoned coal mines, should be created for hardrock mines. While such a fund does not currently exist, Congress authorized \$3 billion for hardrock remediation efforts in the *Infrastructure Investment and Jobs Act* (IIJA; Public Law 117-58). H.R. 7580 would establish a Hardrock Minerals Reclamation Fund to carry out the hardrock remediation activities authorized in the IIJA. The Hardrock Minerals Reclamation Fund would receive 75 percent of the royalties, rents, maintenance fees, and other revenues streams created by this bill. (The remaining 25 percent would be disbursed to the state where mining takes place.) Another major source of revenue for this fund would come from a new fee called a displaced material reclamation fee, often known as a “dirt tax,” at a rate of 7 cents per ton of displaced material from each operator.

If the real goal is to decrease the number of AML sites, then assessing a high royalty and adding new burdensome fees is not an effective way to achieve this. Instead, operators would have an incentive to move their operations abroad, or at least onto private or state lands. This would leave the AML problem relatively unchanged, but the U.S. could lose much of its domestic production in the process.

Internal Conflict within the Biden Administration: President Biden has issued Executive Orders to rapidly increase renewable energy deployment, thus increasing demand for minerals. For instance, by 2030, the President aims to have 50 percent of new cars and light trucks sold in the United States be zero-emission vehicles,²⁵ but EVs require six times the mineral input as a conventional car.²⁶ The Biden administration acknowledged this reality in a June 2021 report, which stressed the importance

¹⁸ U.S. Environmental Protection Agency, “Navajo Nation: Cleaning Up Abandoned Uranium Mines,” <https://www.epa.gov/navajo-nation-uranium-cleanup/abandoned-mines-cleanup>.

¹⁹ Letter to Sen. Lisa Murkowski from Secretary of Agriculture Tom Vilsack, re: responding to Sen. Murkowski’s letter of March 8, 2011 regarding actions of the Environmental Protection Agency (EPA) on hardrock mining, July 20, 2011.

²⁰ *Id.*

²¹ 83 FR 7556.

²² United States Court of Appeals for the District of Columbia Circuit, No. 18-1141, Decided July 19, 2019, <https://nma.org/wp-content/uploads/2019/07/DC-Circuit-Opinion-108b.pdf>.

²³ National Mining Association, “Commonsense Regulation that Recognizes Existing State and Federal Protections,” Fact Sheet, <https://nma.org/wp-content/uploads/2018/03/CERCLA-2019.pdf>.

²⁴ S.2941 (117th Congress), *Good Samaritan Health Professionals Act of 2021*, <https://www.congress.gov/bill/117th-congress/senate-bill/2941>.

²⁵ Exec. Order 14037, 86 Fed. Reg. 43583 (Aug. 10, 2021).

²⁶ International Energy Agency, “The Role of Critical Minerals in Clean Energy Transitions,” May 2021, <https://iea.blob.core.windows.net/assets/278ae0c8-28b8-402b-b9ab-6e45463c273f/TheRoleofCriticalMineralsinCleanEnergyTransitions.pdf>.

of minerals like copper, nickel, lithium, and cobalt to reach the administration's ultimate goal of net-zero emissions by 2050.²⁷

On February 22, 2022, President Biden hosted a roundtable with mining companies, states, and other stakeholders to discuss the importance of responsible domestic mining.²⁸ The Biden administration issued a statement saying, "global demand for these critical minerals is set to skyrocket by 400-600 percent," and sited the importance of "expanding domestic mining, production, processing, and recycling of critical minerals and materials."²⁹ Since then, the administration has invoked Title III of the Defense Production Act (DPA; Public Law 81-774) to incentivize domestic production of critical minerals, focusing on five minerals needed for EV batteries, and will provide loans and grants aimed at feasibility studies for domestic processing.³⁰ A month later, the President submitted a \$33 billion request to Congress for Ukrainian aid, which contained \$500 million for use under the DPA.³¹ On May 2, 2022, the administration announced \$3.1 billion in grants for EV battery processing, manufacturing, and recycling in the U.S., acknowledging that most battery metals are refined and processed abroad.³²

Unfortunately, these efforts will go nowhere without major improvements to permitting and certainty for mining projects. The Biden administration has not taken any steps to increase certainty or decrease permitting timelines for the *extraction* of minerals and DOI has taken several actions in complete conflict with the administration's interest in producing battery metals. Specifically, DOI cancelled Twin Metal Minnesota's decades-old mineral leases³³ and is seeking to withdraw the entire area from development.³⁴ Further, Congressional Democrats³⁵ and the Biden administration³⁶ continue their attempts to stymie the Resolution Copper project in Arizona.

There seems to be a contradiction in the Biden administration regarding mining policy. On one hand, the White House and other Departments³⁷ are increasingly emphasizing the need for minerals to meet their renewable energy goals. At the same time, DOI is working hard to put extremely valuable domestic mineral deposits off-limits for development. There is also a clear split in the Democratic Party on this issue, as demonstrated by the significant differences between H.R. 7580 and its Senate

²⁷ The White House. Report. BUILDING RESILIENT SUPPLY CHAINS, REVITALIZING AMERICAN MANUFACTURING, AND FOSTERING BROAD-BASED GROWTH. June 2021. <https://www.whitehouse.gov/wp-content/uploads/2021/06/100-day-supply-chain-review-report.pdf>.

²⁸ The White House, "President Biden Hosts a Roundtable on Securing Critical Minerals for a Future Made in America," February 22, 2022, <https://www.youtube.com/watch?v=DYZfC8JNsZ0>.

²⁹ The White House, "FACT SHEET: Securing a Made in America Supply Chain for Critical Minerals," February 22, 2022, <https://www.whitehouse.gov/briefing-room/statements-releases/2022/02/22/fact-sheet-securing-a-made-in-america-supply-chain-for-critical-minerals/>.

³⁰ The White House, Memorandum on Presidential Determination Pursuant to Section 303 of the Defense Production Act of 1950, as amended, March 31, 2022, <https://www.whitehouse.gov/briefing-room/presidential-actions/2022/03/31/memorandum-on-presidential-determination-pursuant-to-section-303-of-the-defense-production-act-of-1950-as-amended/>.

³¹ Jael Holzman and Kelsey Brugger, "Biden stuffs mining money into Ukraine aid request," E&E News, April 28, 2022, <https://www.eenews.net/articles/biden-stuffs-mining-money-into-ukraine-aid-request/>.

³² Arianna Skibell, "Biden admin offers \$3.1B for domestic EV batteries," E&E News, May 2, 2022, <https://subscriber.politicopro.com/article/eenews/2022/05/02/biden-admin-offers-3-1b-for-domestic-ev-batteries-00029360>

³³ Decision of Tommy Beaudreau, Deputy Secretary of the Interior, January 26, 2022, https://www.blm.gov/sites/blm.gov/files/docs/2022-01/2022.01.26%20Twin%20Metals%20Lease%20Cancellation%20Decision_0.pdf

³⁴ U.S. Department of the Interior, "Biden Administration Takes Action to Complete Study of Boundary Waters Area Watershed," Press Release, October 20, 2021, <https://www.doi.gov/pressreleases/biden-administration-takes-action-complete-study-boundary-waters-area-watershed>.

³⁵ H.R. 1884 (Grijalva), Save Oak Flat Act

³⁶ Letter from Advisory Council on Historic Preservation (ACHP) Vice Chairman Rick Gonzalez to Secretary of Agriculture Tom Vilsack, Ref: Resolution Copper Mining Project and Land Exchange, Tonto National Forest, Pinal County, Arizona, March 29, 2021, <https://www.achp.gov/sites/default/files/2021-03/VilsackResolutionCopperLTR20210329.pdf>.

³⁷ "Energy Secretary Granholm says U.S. needs to produce more EV minerals," Reuters, March 9, 2021, <https://www.reuters.com/article/us-usa-mining-granholm/energy-secretary-granholm-says-u-s-needs-to-produce-more-ev-minerals-idUSKBN2B12QA>.

companion, S. 4083 (Heinrich).³⁸ If the Biden administration and Congressional Democrats don't embrace *all* parts of the mineral supply chain, extraction included, their aggressive renewable energy goals have no hope of coming to fruition. This much is clear: H.R. 7580 would lead the U.S. in entirely the wrong direction.

IV. MAJOR PROVISIONS OF H.R. 7580

Title I – Mineral Leasing, Exploration, and Development

- Assesses a gross royalty of not less than 12.5% of the value of production from new hardrock mines on federal lands, and not less than 8% of the value of production from existing hardrock mines on federal lands.
 - Authorizes the Secretary of the Interior to reduce the 12.5% royalty rate to less than 6.25%, if evidence shows that production would not occur without a reduction in royalty, or to encourage production of minerals classified as strategic and critical by the Department of Energy (rental rates may also be reduced for this purpose).
- Converts the existing mining claim system into a leasing system.
 - Existing mining claims *without* an approved plan of operations have 10 years to convert to a noncompetitive lease, including a determination by the Secretary that the area contains a valuable mineral deposit, or the land rights will be considered invalid.
 - Existing mining claims *with* an approved plan of operation have 10 years to convert to a noncompetitive lease, or they will be subject to a fee of \$100 per acre per day.
 - Raises claims maintenance fees from \$165 to \$200 annually.
 - All hardrock prospecting requires a prospecting license or small miners license, subject to an application fee and annual rentals.
 - Previously unknown deposits may be leased noncompetitively for up to 20 years, with the right to renew for 10-year periods if production is occurring. The new royalty and annual rental rates of \$10 per acre are required and acreage held cannot exceed 20,480 per state
 - Known valuable mineral deposits without any other existing claims, licenses, or leases may only be leased on a competitive basis. Total acreage per lease cannot exceed 2,560 acres and are subject to the new-mine royalty.
- New restrictions.
 - The Secretary is authorized to prevent mineral activities that could have an adverse impact on the resources or values of National Conservation System units (as defined by this Act to include any unit of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, and other federally managed lands).
 - Prohibits mining in: sacred sites as defined by this Act, wilderness study areas, designated critical habitat, areas of critical environmental concern, inventoried roadless areas, and any units of the National Conservation System.

³⁸ S.4083 (117th Congress), *Clean Energy Minerals Reform Act of 2022*, <https://www.congress.gov/bill/117th-congress/senate-bill/4083?q=%7B%22search%22%3A%22s.4083%22%7D&s=1&r=1>.

Title II – Consultation Procedure

- Agencies shall engage in tribal consultation prior to any mineral activities that may have substantial direct, indirect, or cumulative impacts on tribal lands, including any allotted, ceded, or traditional lands, regardless of whether the tribe currently occupies such land. This must occur prior to the issuance of any license.
 - Consultation requirements under this Act do not exempt agencies from consultations required by any other law, such as NEPA.
- The lead federal agency in the consultation process is directed to, as early as possible in the planning stage of a mineral activity, compile a draft of the scope of the project and 1) identify areas that contain sites important to Indian Tribes whether or not such sites are explicitly known to the agency and 2) identify any geographic areas important to Indian Tribes that might be affected and any other anticipated impacts to Tribal interests.
- The scoping stage is ended with a memorandum of agreement (MOA) signed by the head of the agency and the affected tribes. The MOA includes recommendations and requirements for the proposed mining project, including provisions for termination of the project if it is not completed within a specified time.
 - The only exception to ending scoping with an MOA is if the agency fails to engage the affected tribes after a good faith effort. In that case, the agency may terminate scoping after notifying the tribes and may then proceed to the decision on the project.
- After the scoping process is completed, a proposal for the planned mineral activities and anticipated impacts on tribal interests shall be circulated among tribal parties and held open for 90-day public comment, with an additional extension of 30 days or more upon request. A preliminary decision on whether to move forward with the proposed activity shall be issued, followed by a 60-day response period, followed by a final decision on the activity.
 - At the request of an Indian tribe, consultations may be closed to the public and any information identified by an Indian tribe as sensitive shall be deleted from any public publication for a mining activity.

Title III – Environmental Considerations of Mineral Exploration and Development

- Prohibits mineral activities that may disturb land, air, ground water and surface water, or fish and wildlife without a permit established by this title.
 - Permits established under this title include an “exploration permit” and an “operations permit.”
 - A savings clause in Title V clarifies that nothing in this Act alters existing environmental protection laws, including but not limited to the NEPA, CERCLA, and the Clean Air Act.
- Exploration permits shall not exceed a term length of 10 years. Extraction of minerals for sale is prohibited under an exploration permit; only such activities needed for exploration and reclamation planning are acceptable.
 - Exploration permit applications must include an exploration plan, reclamation plan, and documentation to ensure compliance with state and federal environmental laws and

regulations.

- Operations permit term lengths shall be the shorter of 1) the period necessary to accomplish the proposed mineral activities, or 2) the length of time remaining on the applicant's hardrock mining lease. A 10-year renewal is available.
 - Operations permit applications shall include site characterization data, an operations plan, a reclamation plan, monitoring plans, long-term maintenance plans, and documentation to ensure compliance with state and federal environmental laws and regulations.
 - The Secretary may require modification to any operations plan or reclamation plan if the requirements of this Act cannot be met by the plan(s) as written.
- Following public participation under NEPA, the Secretary shall issue an operations permit if an applicant fully complies with extensive requirements, including but not limited to:
 - The proposed reclamation can be and is likely to be accomplished and will not cause undue degradation;
 - The condition of the land, including the fish and wildlife resources and habitat, will be restored after the completion of mineral activities;
 - Financial assurance requirements under this Act are met; and
 - 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.
- After a permit is issued but prior to any exploration or operations, the operator must provide financial assurance for required restoration, water treatment, or other land management.
 - The amount and terms of the financial assurance may be adjusted by the Secretary
 - Financial assurance shall include the estimated cost of water treatment after mining is completed. The portion of the financial assurance dedicated to water treatment shall not be released until the discharge has ceased for a period of 5 years, or, if the discharge continues, until the operator has met all applicable water quality standards for 5 full years without treatment.
- The Secretaries of the Interior and of Agriculture shall promulgate regulations for operations and reclamation standards for mineral activities to assess the effectiveness of reclamation.
 - Such regulations shall address: protection or replacement of topsoil, managing stability of surface areas, control of erosion and drainage, minimization of acidic or otherwise harmful leachate, reduction of visual impact of mineral activities, establishment of seasonal local vegetation, design and maintenance of leach and waste operations, road and structure removal and sealing of drill holes, mitigation of fish and wildlife habitat, preservation of cultural and paleontological resources, and fire suppression.

Title IV – Abandoned Hardrock Mine Reclamation

- Establishes the Hardrock Minerals Reclamation Fund to carry out section 40704 of the Infrastructure Investment and Jobs Act, which authorized \$3 billion for the remediation of abandoned hardrock mines. This Fund shall primarily be funded by:

- Royalties, rents, maintenance fees, and applicable interest, fines, and penalties established under this Act (75% go to the fund; the remaining 25% of that revenue are disbursed to the state where the mining operations take place);
- A displaced material reclamation fee (often known as a “dirt tax”) of 7 cents per ton of displaced material from each hardrock operator (except small miners); and
- Additional revenue streams include: interest on the Fund, donations from the public, fees on any necessary rights-of-way to carry out operations, “user fees” to reimburse the government for administration of this Act, and any penalties from failing to report the volume and value of minerals produced from operations

Title V – Additional Provisions

- Inspections of mineral activities shall be carried out once or twice annually until release of financial assurance. Additionally, any individual who believes they have been adversely affected due to mineral activities violating a permit may request an inspection.
- Operators are required to monitor compliance with requirements of a permit, and the Secretary may require additional monitoring. The operator must file reports with the Secretary on the results of the monitoring process, and the Secretary shall take enforcement action if any violations are identified.
- Any person may commence a civil action against any person, including the Secretary of the Interior or the Secretary of Agriculture, who is alleged to be in violation of any provision of this Act or applicable regulation. Suit may also be filed against the Secretary of the Interior or Agriculture for not performing their duties under this Act.
- Operators must report annually on the total amount and value of hardrock minerals produced. Failure to report results in a penalty of not more than \$25,000 per day.
- Establishes procedures for enforcement of penalties and violations.
- Requires holders of oil shale claims to follow the same reclamation requirements established by this Act.

V. COST

CBO has not scored the legislation.

VI. ADMINISTRATION POSITION

Unknown.

V. EFFECT ON CURRENT LAW (RAMSEYER):

[H.R. 7580](#)