
5 IN THE HOUSE OF REPRESENTATIVES

6
7 May 26, 2015

8 Mr. _____ of California (for himself, Mr. _____
9 of _____, and Mr. _____ of
10 _____) introduced the following bill; which was referred to
11 the Committee on Natural Resources
12

13
A BILL

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17 GREEN & ENVIROMENTALLY FRIENDLY MINING, JOBS, SOCIO-
18 ECONOMIC GROWTH, THE UNITED STATES SUPPLYING ITSELF WITH
19 STRATEGIC MINERALS, METALS AND RARE EARTHS AND
20 THE SECURITY OF THE NATION.
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22 To improve federal regulations of mineral development in the National interest.

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24 Be it enacted by the Senate and House of Representatives of the United States of
25 America in Congress assembled,
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1 SECTION 1. Short title; table of contents.

2 (a) Short title.—This Act may be cited as the “Mineral and Mining Regulation Reform Act—A
3 Clear Path”.

4 (b) Table of contents.—The table of contents for this Act is as follows:

5 Short title; table of contents.

6 [ADD THIS LATER]

7 SEC. 101. Findings:

8 Congress has in the Mining and Minerals Policy Act of 1970 declared that it is the
9 responsibility of the Secretary of the Interior to carry out policies concerning the development of
10 national mineral resources;

11 Fragmented and inconsistent regulation of mineral development has impeded the
12 accomplishment of these important national policy goals, and requires a fundamental
13 reorganization of the regulation of mineral development on federal land;

14 Mineral development necessarily must proceed where minerals are located, and while
15 best management practices can minimize environmental effects, requirements to adopt such
16 practices to mitigate environmental effects shall not materially interfere with mineral
17 development.

18 SEC. 102. Improving regulatory accountability.

19 Any miner who prevails in an appeal shall be awarded his reasonable fees and expenses
20 of attorneys, including any expert witness charges, to be paid as provided in sections 2414 and
21 2517 of title 28, except that if the basis for the award is a finding that the United States acted in
22 bad faith, then the award shall be paid by any agency found to have acted in bad faith and shall
23 be in addition to any relief provided in the judgment.

24 In any other case involving the exercise of rights under the 1872 Mining Act, as
25 amended, section 2412(d)(1)(A) of title 28 shall be applied without regard to the language
26 beginning with the word “unless”.

27 Section 103. Removing overlapping and duplicative authorities.

28 (a) 16 U.S.C. § 478 is amended by:

29 (i) Adding, after “such rules and regulations as may be prescribed by the Secretary of
30 Agriculture,” the phrase “provided, however, that neither the Secretary of Agriculture nor the
31 Secretary of Interior may prohibit or materially restrict motorized access to federal mining
32 claims over historical, visibly-existing or previously-existing trails and roads”; and

33 (ii) Striking “for all proper and lawful purposes, including that of” and striking “the
34 rules and regulations covering such national forests” and inserting “the rules of the Department
35 of Interior concerning mineral development”.

1 (b) 16 U.S.C. § 1604 is amended by adding a new subsection (n):

2 “Renewable resource planning shall not extend to the development of mineral resources,
3 and renewable resource planning shall be conducted to give full effect to federal mineral
4 development policy as administered by the Secretary of Interior.”

5 (c) 30 U.S.C. § 612(b) is amended by adding at the end of subsection: “Provided
6 further, that no state or political subdivision of a state shall have authority to regulate any
7 prospecting, mining or processing operations on federal land.”

8 Section 104. Uniform federal regulation.

9 (a) 43 U.S.C. § 1702 is amended as follows:

10 (i) New subsections (q), (r) are added:

11 “(q) ‘mine operator’ means any person or entity exercising rights of or
12 through the holder of a federal mining claim.

13 “(r) ‘mining casual use’ means excavation or processing of less than 1,000
14 cubic yards of material per claim; surface disturbance of less than five acres of
15 ground; use of motorized earth-moving equipment of less than 21 horsepower;
16 use or occupancy of visibly-existing or previously-existing roads, trails, tunnels,
17 millsites, or existing mining-related buildings; staging, use or occupancy of
18 portable or removable equipment or buildings; subsurface operations; or any
19 combination of the foregoing or similarly-limited mineral development
20 activities.”

21 (b) A new § 1748c is added to Title 43, as follows:

22 “(a) Federal mining claims are tracts of public land dedicated to the particular
23 purpose of mineral development, and the exercise of the property rights in federal mining
24 claims are to be managed exclusively in accordance with this section.”

25 “(b) Notices of Initiation (NOI)—

26 “(i) Mine operators may proceed with mining casual use without notice
27 or approval from the Secretary.

28 “(ii) Mine operators must provide a Notice of Initiation to BLM thirty
29 (30) days in advance of commencing mining operations beyond casual use. If BLM fails
30 to respond to the NOI within thirty (30) days, the mine operator may commence
31 operations, unless the operation involves a surface disturbance in excess of 100 acres, in
32 which case BLM shall have ninety (90) days to respond.

33 “(c) Upon receipt of a NOI, BLM shall review the proposed operations for
34 compliance with best management practices adopted pursuant to section 105, and issue a
35 determination as to what, if any, additional best management practices are required.
36 NOIs may be of any duration specified by the mine operator, and the Secretary’s

1 determination with respect to the NOI shall remain effective for so long as operations
2 continue as specified in the NOI, and may be assigned to future mine operators.

3 “(d) Any personnel employed by BLM to review an NOI shall have
4 qualifications of at least a bachelor’s degree in mine engineering with a minimum of two
5 (2) years or more experience in private sector commercial production mining operations
6 or over five (5) years production mining experience in lode, placer and milling
7 operations.

8 “(e) If BLM determines that any mine operator is conducting operations
9 beyond casual use without providing an NOI, or that any mine operator is conducting
10 operations contrary to best management practices, BLM must provide formal, written
11 notice to the mine operator through a Notice of Noncompliance. Such notice shall
12 describe the noncompliance and shall specify the action to comply and the time within
13 which such action is to be completed, generally not to exceed thirty (30) days, *provided,*
14 *however,* that days during which the area of operations is inaccessible shall not be
15 included when computing the number of days allowed for compliance. Actual notice
16 shall be presumed effective when mailed by certified mail, return receipt requested to the
17 owner of the mining claim and operator of record as specified in BLM records, or
18 personally served upon the mine operator. No enforcement action, civil or criminal, may
19 be commenced until after delivery of such notice, and no adverse action may be taken
20 against a mine operator until after a hearing with the protections of 5 U.S.C. § 554. No
21 enforcement action shall halt compliant operations.

22 “(f) All determinations of BLM may be appealed to the mining district
23 involved, then to the closest Minerals & Mining Advisory Council (MMAC)
24 Administrative District, , and thereafter to the United States District Court for a district in
25 which operations are proposed.

26 “(g) Action with respect to any NOI shall not be ‘major federal action’ within
27 the meaning of 42 U.S.C. § 4332 or ‘agency action’ within the meaning of 16 U.S.C. §
28 1536(a)(2).”

29 Section 105. Minerals and Mining Advisory Council (MMAC) A new section 1748d
30 is created:

31 “(a) Each mining claimant within a mining district shall be entitled to
32 nominate, one person from the district to serve a four-year term on the MMAC. Persons
33 shall be eligible to serve if they own an interest in a federal mining claim and should have
34 not less than ten years’ experience in a private sector commercial production mining
35 business. The Secretary shall appoint from the list of all persons nominated into the
36 MMAC Administrative districts no more than 15 members to constitute the United States
37 Department of Minerals & Mining (USDMM) and provide no fewer than Five (5) full-
38 time staff for the USDMM.

39 “(b) The Secretary shall, in consultation with the USDMM and the MMAC
40 administrative districts, promulgate best management practices to minimize

1 environmental impacts of mineral development without material interference in such
2 development. MMAC’s administrative districts shall operate as a liaison between local
3 mining districts and the USDMM and the Secretary . The USDMM’s adoption of such
4 best management practices may be reviewed, at the request of the Secretary or any
5 adversely affected party, in the United States District Court for the District of Columbia.

6 “(c) The MMAC shall operate as first level adjudicator of controversies
7 between the Secretary, local district and claimant , and thereafter to the United States
8 District Court for a district in which operations are proposed.”

9 Section 106. The Secretary of Interior shall review and revise existing federal
10 regulations, including but not limited to 36 C.F.R. Part 9 and 43 C.F.R. Parts 4 & 3800, to make
11 them congruent with this Act. The Secretary of Agriculture shall review and revise existing
12 federal regulations to make them congruent with this Act, including but not limited to the repeal
13 of 36 C.F.R. Part 228. Rules adopted with respect to mineral development shall be reviewed and
14 approved by the USDMM.

15 Section 107. All mining not involving the use of non-biodegradable chemicals,
16 chemicals that have a Material Safety Data Sheet (MSDS) that reads, “This product is not
17 classified as dangerous for the environment” or “the risk of environmental effects is considered
18 small” in ore processing shall be exempt from the requirements of the federal Clean Water Act.

19 Section 108. Upon the mine operator’s written request, the BLM shall have the sole
20 responsibility for obtaining any and all additional permits for mining operations required under
21 federal law.

22 Section 109. 30 U.S.C. § 803 is amended to add the following at the end of the section:

23 “provided, however, that operations without any employees are exempt from the
24 provisions of this Chapter and any regulations promulgated thereunder.”

25 Section 109. No federal consent decree may be entered which addresses mineral
26 development upon federal lands without notice to the USDMM and relevant mining districts, and
27 an opportunity for those parties to be heard in connection with entry of the decree.

28 Section 110. 43 U.S.C. § 1712(e)(3) is amended by substituting for the phrase “public
29 lands shall be removed from or restored to the operation of the Mining Law of 1872, as amended
30 (R.S. 2318–2352; 30 U.S.C. 21 et seq.) or transferred to another department, bureau, or agency
31 only by withdrawal action pursuant to section 1714 of this title or other action pursuant to
32 applicable law;” the phrase “no public lands shall be removed from operation of the Mining Law
33 of 1872, as amended (R.S. 2318–2352; 30 U.S.C. 21 et seq.), except by Act of Congress.”

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36 MMAC has put a lot of effort, money and lives into the changing of federal laws to make the
37 lives of miners and mining districts better. By changing federal laws the miner can then change
38 state and local laws. THIS IS NOT A FINISHED PRODUCT. DRAFT ONLY

1 Please respond in writing with specific suggestions and changes with page and line(s) to
2 billinput@mmacusa.org
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