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1ST SESSION

H. R. 1830

To provide for claim maintenance fees and royalties on hardrock mining claims, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 6, 1997

Ms. FURSE introduced the following bill; which was referred to the Committee on Resources

A BILL

To provide for claim maintenance fees and royalties on hardrock mining claims, 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. DEFINITIONS.**

4 (a) DEFINITIONS.—As used in this Act:

5 (1) The term “locatable mineral” means any
6 mineral not subject to disposition under any of the
7 following:

8 (A) the Mineral Leasing Act (30 U.S.C.
9 181 and following);

1 (B) the Geothermal Steam Act of 1970
2 (30 U.S.C. 100 and following);

3 (C) the Act of July 31, 1947, commonly
4 known as the Materials Act of 1947 (30 U.S.C.
5 601 and following); or

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

8 (2) The term “mineral activities” means any
9 activity for, related to or incidental to mineral explo-
10 ration, mining, beneficiation and processing activi-
11 ties for any locatable mineral, including access.
12 When used with respect to this term—

13 (A) The term “exploration” means those
14 techniques employed to locate the presence of a
15 locatable mineral deposit and to establish its
16 nature, position, size, shape, grade and value.

17 (B) The term “mining” means the proc-
18 esses employed for the extraction of a locatable
19 mineral from the earth.

20 (C) The term “beneficiation” means the
21 crushing and grinding of locatable mineral ore
22 and such processes as are employed to free the
23 mineral from other constituents, including but
24 not necessarily limited to, physical and chemical
25 separation techniques.

1 (D) The term “processing” means proc-
2 esses downstream of beneficiation employed to
3 prepare locatable mineral ore into the final
4 marketable product, including but not limited
5 to, smelting and electrolytic refining.

6 (3) The term “mining claim” means a claim for
7 the purposes of mineral activities.

8 (4) The term “Secretary” means, unless other-
9 wise provided in this Act, the Secretary of the Inte-
10 rior acting through the Director of the Minerals
11 Management Service.

12 **SEC. 2. MINING CLAIM MAINTENANCE REQUIREMENTS.**

13 (a) IN GENERAL.—The holder of each mining claim
14 located on lands open to location shall pay to the Secretary
15 an annual claim maintenance fee of \$100 per claim per
16 calendar year.

17 (b) TIME OF PAYMENT.—The claim maintenance fee
18 payable pursuant to subsection (a) for any year shall be
19 paid on or before August 31 of each year, except that for
20 the initial calendar year in which the location is made,
21 the locator shall pay the initial claim maintenance fee at
22 the time the location notice is recorded with the Bureau
23 of Land Management.

24 (c) OIL SHALE CLAIMS SUBJECT TO CLAIM MAINTENANCE FEES UNDER ENERGY POLICY ACT OF 1992.—
25

1 This section shall not apply to any oil shale claims for
2 which a fee is required to be paid under section 2511(e)(2)
3 of the Energy Policy Act of 1992 (106 Stat. 3111; 30
4 U.S.C. 242).

5 (d) CLAIM MAINTENANCE FEES PAYABLE UNDER
6 1993 ACT.—The claim maintenance fees payable under
7 this section for any period with respect to any claim shall
8 be reduced by the amount of the claim maintenance fees
9 paid under section 10101 of the Omnibus Budget Rec-
10 onciliation Act of 1993 with respect to that claim and with
11 respect to the same period.

12 (e) WAIVER.—(1) The claim maintenance fee re-
13 quired under this section may be waived for a claim holder
14 who certifies in writing to the Secretary that on the date
15 the payment was due, the claim holder and all related par-
16 ties held not more than 10 mining claims on lands open
17 to location. Such certification shall be made on or before
18 the date on which payment is due.

19 (2) For purposes of paragraph (1), with respect to
20 any claim holder, the term “related party” means each
21 of the following:

22 (A) The spouse and dependent children (as de-
23 fined in section 152 of the Internal Revenue Code of
24 1986), of the claim holder.

25 (B) Any affiliate of the claim holder.

1 (f) CO-OWNERSHIP.—Upon the failure of any one or
2 more of several co-owners to contribute such co-owner or
3 owners' portion of the fee under this section, any co-owner
4 who has paid such fee may, after the payment due date,
5 give the delinquent co-owner or owners notice of such fail-
6 ure in writing (or by publication in the newspaper nearest
7 the claim for at least once a week for at least 90 days).
8 If at the expiration of 90 days after such notice in writing
9 or by publication, any delinquent co-owner fails or refuses
10 to contribute his portion, his interest in the claim shall
11 become the property of the co-owners who have paid the
12 required fee.

13 **SEC. 3. ROYALTY.**

14 (a) RESERVATION OF ROYALTY.—Production of all
15 locatable minerals from any mining claim located under
16 the general mining laws, or mineral concentrates or prod-
17 ucts derived from locatable minerals from any mining
18 claim located under the general mining laws, as the case
19 may be, shall be subject to a royalty of 8 percent of the
20 gross income from such production. The claimholder and
21 any operator to whom the claimholder has assigned the
22 obligation to make royalty payments under the claim and
23 any person who controls such claimholder or operator shall
24 be jointly and severally liable for payment of such royal-
25 ties.

1 (b) DUTIES OF CLAIM HOLDERS, OPERATORS, AND
2 TRANSPORTERS.—(1) A person—

3 (A) who is required to make any royalty pay-
4 ment under this section shall make such payments
5 to the United States at such times and in such man-
6 ner as the Secretary may by rule prescribe; and

7 (B) shall notify the Secretary, in the time and
8 manner as may be specified by the Secretary, of any
9 assignment that such person may have made of the
10 obligation to make any royalty or other payment
11 under a mining claim.

12 (2) Any person paying royalties under this section
13 shall file a written instrument, together with the first roy-
14 alty payment, affirming that such person is liable to the
15 Secretary for making proper payments for all amounts due
16 for all time periods for which such person has a payment
17 responsibility. Such liability for the period referred to in
18 the preceding sentence shall include any and all additional
19 amounts billed by the Secretary and determined to be due
20 by final agency or judicial action. Any person liable for
21 royalty payments under this section who assigns any pay-
22 ment obligation shall remain jointly and severally liable
23 for all royalty payments due for the claim for the period.

24 (3) A person conducting mineral activities shall—

1 (A) develop and comply with the site security
2 provisions in operations permit designed to protect
3 from theft the locatable minerals, concentrates or
4 products derived therefrom which are produced or
5 stored on a mining claim, and such provisions shall
6 conform with such minimum standards as the Sec-
7 retary may prescribe by rule, taking into account the
8 variety of circumstances on mining claims; and

9 (B) not later than the 5th business day after
10 production begins anywhere on a mining claim, or
11 production resumes after more than 90 days after
12 production was suspended, notify the Secretary, in
13 the manner prescribed by the Secretary, of the date
14 on which such production has begun or resumed.

15 (4) The Secretary may by rule require any person en-
16 gaged in transporting a locatable mineral, concentrate, or
17 product derived therefrom to carry on his or her person,
18 in his or her vehicle, or in his or her immediate control,
19 documentation showing, at a minimum, the amount, ori-
20 gin, and intended destination of the locatable mineral, con-
21 centrate, or product derived therefrom in such cir-
22 cumstances as the Secretary determines is appropriate.

23 (c) RECORDKEEPING AND REPORTING REQUIRE-
24 MENTS.—(1) A claim holder, operator, or other person di-
25 rectly involved in developing, producing, processing, trans-

1 porting, purchasing, or selling locatable minerals, con-
2 centrates, or products derived therefrom, subject to this
3 Act, through the point of royalty computation shall estab-
4 lish and maintain any records, make any reports, and pro-
5 vide any information that the Secretary may reasonably
6 require for the purposes of implementing this section or
7 determining compliance with rules or orders under this
8 section. Such records shall include, but not be limited to,
9 periodic reports, records, documents, and other data. Such
10 reports may also include, but not be limited to, pertinent
11 technical and financial data relating to the quantity, qual-
12 ity, composition volume, weight, and assay of all minerals
13 extracted from the mining claim. Upon the request of any
14 officer or employee duly designated by the Secretary or
15 any State conducting an audit or investigation pursuant
16 to this section, the appropriate records, reports, or infor-
17 mation which may be required by this section shall be
18 made available for inspection and duplication by such offi-
19 cer or employee or State.

20 (2) Records required by the Secretary under this sec-
21 tion shall be maintained for 6 years after cessation of all
22 mining activity at the claim concerned unless the Sec-
23 retary notifies the operator that he or she has initiated
24 an audit or investigation involving such records and that
25 such records must be maintained for a longer period. In

1 any case when an audit or investigation is underway,
2 records shall be maintained until the Secretary releases
3 the operator of the obligation to maintain such records.

4 (d) AUDITS.—The Secretary is authorized to conduct
5 such audits of all claim holders, operators, transporters,
6 purchasers, processors, or other persons directly or indi-
7 rectly involved in the production or sales of minerals cov-
8 ered by this Act, as the Secretary deems necessary for the
9 purposes of ensuring compliance with the requirements of
10 this section. For purposes of performing such audits, the
11 Secretary shall, at reasonable times and upon request,
12 have access to, and may copy, all books, papers and other
13 documents that relate to compliance with any provision
14 of this section by any person.

15 (e) COOPERATIVE AGREEMENTS.—(1) The Secretary
16 is authorized to enter into cooperative agreements with the
17 Secretary of Agriculture to share information concerning
18 the royalty management of locatable minerals, con-
19 centrates, or products derived therefrom, to carry out in-
20 spection, auditing, investigation, or enforcement (not in-
21 cluding the collection of royalties, civil or criminal pen-
22 alties, or other payments) activities under this section in
23 cooperation with the Secretary, and to carry out any other
24 activity described in this section.

1 (2) Except as provided in paragraph (4)(A) of this
2 subsection (relating to trade secrets), and pursuant to a
3 cooperative agreement, the Secretary of Agriculture shall,
4 upon request, have access to all royalty accounting infor-
5 mation in the possession of the Secretary respecting the
6 production, removal, or sale of locatable minerals, con-
7 centrates, or products derived therefrom from claims on
8 lands open to location under the general mining laws.

9 (3) Trade secrets, proprietary, and other confidential
10 information shall be made available by the Secretary pur-
11 suant to a cooperative agreement under this subsection to
12 the Secretary of Agriculture upon request only if—

13 (A) the Secretary of Agriculture consents in
14 writing to restrict the dissemination of the informa-
15 tion to those who are directly involved in an audit
16 or investigation under this section and who have a
17 need to know;

18 (B) the Secretary of Agriculture accepts liabil-
19 ity for wrongful disclosure; and

20 (C) the Secretary of Agriculture demonstrates
21 that such information is essential to the conduct of
22 an audit or investigation under this subsection.

23 (f) INTEREST AND SUBSTANTIAL UNDERREPORTING
24 ASSESSMENTS.—(1) In the case of mining claims where
25 royalty payments are not received by the Secretary on the

1 date that such payments are due, the Secretary shall
2 charge interest on such under payments at the same inter-
3 est rate as is applicable under section 6621(a)(2) of the
4 Internal Revenue Code of 1986. In the case of an under-
5 payment, interest shall be computed and charged only on
6 the amount of the deficiency and not on the total amount.

7 (2) If there is any underreporting of royalty owed on
8 production from a claim for any production month by any
9 person liable for royalty payments under this section, the
10 Secretary may assess a penalty of 10 percent of the
11 amount of that underreporting.

12 (3) If there is a substantial underreporting of royalty
13 owed on production from a claim for any production
14 month by any person responsible for paying the royalty,
15 the Secretary may assess an additional penalty of 10 per-
16 cent of the amount of that underreporting.

17 (4) For the purposes of this subsection, the term
18 “underreporting” means the difference between the roy-
19 alty on the value of the production which should have been
20 reported and the royalty on the value of the production
21 which was reported, if the value which should have been
22 reported is greater than the value which was reported. An
23 underreporting constitutes a “substantial underreporting”
24 if such difference exceeds 10 percent of the royalty on the
25 value of production which should have been reported.

1 (5) The Secretary shall not impose the assessment
2 provided in paragraphs (2) or (3) of this subsection if the
3 person liable for royalty payments under this section cor-
4 rects the underreporting before the date such person re-
5 ceives notice from the Secretary that an underreporting
6 may have occurred, or before 90 days after the date of
7 the enactment of this section, whichever is later.

8 (6) The Secretary shall waive any portion of an as-
9 sessment under paragraph (2) or (3) of this subsection
10 attributable to that portion of the underreporting for
11 which the person responsible for paying the royalty dem-
12 onstrates that—

13 (A) such person had written authorization from
14 the Secretary to report royalty on the value of the
15 production on basis on which it was reported, or

16 (B) such person had substantial authority for
17 reporting royalty on the value of the production on
18 the basis on which it was reported, or

19 (C) such person previously had notified the Sec-
20 retary, in such manner as the Secretary may by rule
21 prescribe, of relevant reasons or facts affecting the
22 royalty treatment of specific production which led to
23 the underreporting, or

24 (D) such person meets any other exception
25 which the Secretary may, by rule, establish.

1 (7) All penalties collected under this subsection shall
2 be deposited in the Treasury.

3 (g) EXPANDED ROYALTY OBLIGATIONS.—Each per-
4 son liable for royalty payments under this section shall
5 be jointly and severally liable for royalty on all locatable
6 minerals, concentrates, or products derived therefrom lost
7 or wasted from a mining claim located or converted under
8 this section when such loss or waste is due to negligence
9 on the part of any person or due to the failure to comply
10 with any rule, regulation, or order issued under this sec-
11 tion.

12 (h) EXCEPTION.—No royalty shall be payable under
13 subsection (a) with respect to minerals processed at a fa-
14 cility by the same person or entity which extracted the
15 minerals if an urban development action grant has been
16 made under section 119 of the Housing and Community
17 Development Act of 1974 with respect to any portion of
18 such facility.

19 (i) DISBURSEMENT OF REVENUES.—The receipts
20 from royalties collected under this section with respect to
21 any mining claim shall be disbursed in the same manner
22 as provided in section 35 of the Mineral Leasing Act (30
23 U.S.C. 181 and following).

24 (j) EFFECTIVE DATE.—The royalty under this sec-
25 tion shall take effect with respect to the production of

1 locatable minerals after the enactment of this Act, but any
2 royalty payments attributable to production during the
3 first 12 calendar months after the enactment of this Act
4 shall be payable at the expiration of such 12-month period.

5 **SEC. 4. PURCHASING POWER ADJUSTMENT.**

6 The Secretary shall adjust all dollar amounts estab-
7 lished in this Act for changes in the purchasing power of
8 the dollar every 10 years following the date of enactment
9 of this Act, employing the Consumer Price Index for all-
10 urban consumers published by the Department of Labor
11 as the basis for adjustment, and rounding according to
12 the adjustment process of conditions of the Federal Civil
13 Penalties Inflation Adjustment Act of 1990 (104 Stat.
14 890).

15 **SEC. 5. SAVINGS CLAUSE.**

16 Nothing in this Act shall be construed as repealing
17 or modifying any Federal law, regulation, order or land
18 use plan, in effect prior to the effective date of this Act,
19 that prohibits or restricts the application of the general
20 mining laws, including such laws that provide for special
21 management criteria for operations under the general
22 mining laws as in effect prior to the effective date of this
23 Act, to the extent such laws provide environmental protec-
24 tion greater than required under this Act.

1 **SEC. 6. EFFECTIVE DATE.**

2 This Act shall take effect on the date 1 year after
3 the date of enactment of this Act.

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