

## Rahall Proposes Bill to End All Mining in the U.S.

by [Scott Harn](#)

Nick Rahall, chairman of the House Resources Committee, reintroduced mining reform legislation in the House of Representatives on January 27, 2009. The Congressman has obviously been away from real work for far too long. H.R. 699, the Hardrock Mining and Reclamation Act of 2009, should be labeled H.R. 666 because it appears to have been written by the Devil himself. If it passes as written, it will completely destroy an entire industry.

Here are a few “highlights” from H.R. 699:

- Casual use would be redefined to allow only those activities that do not cause “any disturbance of public lands and resources.” The collection of samples, use of gold pans and non-motorized sluices would be the only activities allowed without a Notice or Plan. Taking a vehicle off-road would also require a Notice or Plan. Any extraction of minerals for sale or use would require a Notice or Plan.
- H.R. 699 would be retroactive. Existing mining that is not already operating under a Notice of Plan would require proof of a valuable discovery to retain a mining claim, and those operating under a Notice or Plan would have ten years to bring their operation under compliance with the new regulations.
- The patenting of mining claims, which has been suspended by yearly legislation since 1994, would be permanently discontinued.
- The federal government would be entitled to an 8 percent gross royalty for all locatable minerals for any new mining operation. Even if the miner is unable to make a reasonable profit at current commodity prices, he would have to give 8 percent to the federal government. Existing operations at the time the bill is passed would be subject to a 4 percent gross royalty, and any federal lands added to the operation after enactment of the bill would be subject to the 8 percent royalty.
- The reporting requirements are absurd. Anyone transporting a locatable mineral, concentrate or product derived from a locatable mineral shall carry documentation declaring the amount, origin and intended destination. Miners shall create and maintain reports relating to the quantity, quality, composition, volume, weight and assay value of all minerals extracted from a mining claim. Failure to produce these reports when requested by any officer or employee designated by the federal government may result in involuntary forfeiture of the mining claim.
- The federal government would be authorized to conduct audits of all claim holders, operators, transporters, purchasers, processors, or other persons directly or indirectly involved in the production or sales of locatable minerals.
- Mining claim maintenance fees would be raised to \$150 per claim, and would be adjusted at least every five years based on the Consumer Price Index. The location fee would be increased to \$50 per claim.
- Tens of millions of acres would be added to existing areas that are already off-limits to mining, including Wilderness Study Areas; areas of critical environmental concern; areas designated for inclusion in the National Wild and Scenic Rivers System; areas designated for potential addition, or eligible for inclusion; and any area identified in the set of inventoried roadless maps contained in the Forest Service Roadless Area Conservation Final Environmental Impact Statement, Volume 2, dated November 2000.
- Any State, political subdivision of a State, or Indian tribe could petition the Secretary of Interior to withdraw areas based on drinking water supplies, wildlife habitat, cultural or historic resources, scenic vistas or other similar values. Indian tribes could also petition for the withdrawal of areas for religious or cultural value.
- The bill would give the Secretary the authority to deny any operation that may cause undue degradation.
- To get an approved Plan, the operator would have to be able to show that no treatment of discharged water will be necessary 10 years after mine closure, and any Plan could be changed or halted if additional information about scientific, cultural or biological resources becomes available.
- The miner would have to submit an application to the federal government to request any cessation of operations greater than 180 days. A miner would have to obtain consent of the federal government to transfer ownership of any operation, and the transfer would require a fee to be paid to cover the government’s administrative costs.
- Financial assurance (bonding) would be required for any operation—presumably this would also apply to suction gold dredging—and the amount would be evaluated and adjusted every 3 years. Where water treatment is necessary, financial assurance funds would not be released until there is 5 full years where treatment is not necessary.
- States would be allowed to implement regulations that exceed the regulations in this bill.
- The federal government would be allowed to collect administrative fees to cover expenses incurred while regulating mining operations.
- Mining operations would be subjected to a minimum of one complete inspection per year.
- The bill would provide environmental lawyers an unending source of income. Any citizen would be allowed to file a civil lawsuit against the miner or the federal government to force compliance with the mining laws after giving sixty days written notice. The court would be allowed to award the costs of litigation, including attorney and witness fees, as the court deems appropriate.
- Any miner who fails to comply with any portion of a permit would be subjected to a fine of \$25,000 per day.
- Any citizen who believes they are being adversely affected by a mining operation could request an inspection. If the Secretary agrees that an inspection is warranted, the complainant would be allowed to join in the inspection. Complainants could remain anonymous if desired.
- Any person who engages in mineral activities without the required permit, if convicted, would be punished by a fine of not less than \$5,000 per day or by imprisonment for up to 3 years or both.
- Designated employees of the Department of Interior and Department of Agriculture would be given full law enforcement powers over permitted miners, including the power to subpoena miners to force attendance, testimony, and disclosure of all

paperwork, and warrantless searches of vehicles and buildings expected to contain locatable minerals or products derived from them would be allowed.

- The Secretary would be forced to prevent mineral activities that could have an adverse impact on the resources and values of National Conservation System Units.

H.R. 699 would completely wipe out all small-scale mining in the United States. Small-scale miners do not have the time and resources to handle the fees, lawsuits and reporting requirements.

Large-scale mining would be also phased out as mining companies would be unable to deal with the unattainable requirements of these regulations, citizen lawsuits, thin profit margins, reporting requirements, and the uncertainty that comes with the federal government's new authority to halt a mining operation when "undue degradation" is occurring or a scientific, biological or cultural resource is discovered. Many areas that may have potential would be inaccessible. No one in their right mind would provide funding for exploration or operations under the proposed conditions.

The most likely outcome would be that the environment would suffer as mining companies move all operations to countries with little or no regulations.

Like the current situation with oil, Americans would be forced to obtain natural resources overseas, sending money to countries that don't like Americans and would love to control our prices.

The legislation is co-sponsored by Reps. George Miller (D-CA), Henry Waxman (D-CA), Ed Markey (D-MA), Howard Berman (D-CA), Raúl Grijalva (D-AZ), Rush Holt (D-NJ), Jim Costa (D-CA), Donna Christensen (D-VI), Pete Stark (D-CA), Dale Kildee (D-MI), Maurice Hinchey (D-NY), Earl Blumenauer (D-OR), Patrick Kennedy (D-RI), Ron Kind (D-WI), Lois Capps (D-CA), Adam Schiff (D-CA), Mike Honda (D-CA), John Salazar (D-CO), Anna Eshoo (D-CA), Niki Tsongas (D-MA), and Gerry Connolly (D-VA).

The legislators who have sponsored this bill should be labeled as un-American, voted out of office, and sent packing for attempting to decimate one of the few industries that has managed to stay afloat and provide an honest paycheck during these tough economic times.

Please take a minute to contact your Representative and Senator to let them know your stance on H.R. 699. Better yet, why not start a recall effort if one of the bill's sponsors is in your area, or stop by their local office for a bigger impact?

Contact information for each of the bill sponsors:

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