

The Mining Regulatory Clarity Act clarifies that a mining claim includes exploration and extraction activities for related activities on some public lands.

SUMMARY

The *Mining Regulatory Clarity Act* amends the 1993 Omnibus Reconciliation Act, to address the recent Rosemont judicial decision, which could upend responsible mining projects by prohibiting mining-support activities, like waste or processing, on lands that do not contain economically valuable minerals. The decision is a significant departure from long-held mining practices, and without Congressional action, could threaten critical mineral projects. This bill reaffirms the long-held practice and previous legal interpretation that some public land use under a mining claim accompanies exploration and extraction activities for other mining-support activities. The regulatory certainty provided by this bill will allow mining firms to continue investing in critical minerals projects and protect jobs in the industry.

HISTORY:

It has been a long-standing practice for mining companies to co-locate exploration and extraction efforts with associated mining-support activities, such as waste storage and processing. The [1872 Mining Law](#) had held for 150 years that such support activities on adjacent parcels, had the same rights as exploration and extraction efforts issued a valid mining claim. However, in 2022, the 9th Circuit Court of Appeals affirmed a Federal Court decision from [2019](#) that reconsidered this interpretation and ruled that the Federal Government must validate that valuable mineral resources exist under any land used as part of a mining claim, including support activities.

This bill aims to clarify the terms of the mining act and include activities incident to mining exploration and extraction under the same approved mining claims on public lands.

SPECIFICS:

Section 10101 of the Omnibus Budget Reconciliation Act of 1993 ([30 U.S.C. 28f](#)) is amended by clarifying that:

- Covered operations for mining claimants under the law refer to any activity or work related to prospecting, exploration, discovery and assessment, development, extraction, processing, or the reclamation of disturbed areas.
- In addition, “any activity reasonably incident to” those described above, is valid as part of these covered operations, regardless of whether that incidental activity is carried out on a mining claim.
- These incident activities could include the construction and maintenance of any road, transmission line, pipeline, or any other necessary infrastructure or means of access on public land for a support facility.
- Claimants could engage in these operations “with or without the discovery of a valuable mineral deposit,” if they comply with additional requirements.

ORIGINAL SPONSORS:

Senate:

Sen. Catherine Cortez Masto (D-NV)

Sen. Jim Risch (R-ID)

House:

Rep. Mark Amodei (R-NV)

COSPONSORS:

Senate:

Sen. Mike Crapo (R-ID), Sen. Kyrsten Sinema (I-AZ), Sen. Jacky Rosen (D-NV), Sen. Lisa Murkowski (R-AK)

House:

Rep. Mary Peltola (D-AK)

SUPPORT: ClearPath Action, National Mining Association, Northern Nevada Central Labor Council, Zero Emission Transportation Association (ZETA), Advanced Energy United, Nevada Vanadium, Bipartisan Policy Center Action, Nevada Mining Association.

CONGRESS.GOV LINK: [S. 1281](#) [H.R. 2925](#)