

A PRIMER ON THE PEOPLE'S MINING BILL (HOUSE BILL 4315)



THE CENTER FOR
ENVIRONMENTAL
CONCERNS - PHILIPPINES



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INTRODUCTION

On March 6, 1995, the Philippine government enacted Republic Act (RA) 7942, or the Philippine Mining Act of 1995, which liberalized foreign control over the domestic mining industry. RA 7942 was instituted along with policies liberalizing existing country controls in other strategic economic sectors.¹

RA 7942 was opposed by many, including civil society organizations (CSOs), environmentalists and indigenous peoples (IPs). In 2004, the Supreme Court (SC) declared it unconstitutional in the case *La Bugal B'laan Tribal Association vs. Ramos*. But, controversially and suddenly, the SC reversed its own decision after lobbying from the executive branch and business groups.

RA 7942 dragged on for sixteen years. Former President Gloria Macapagal-Arroyo harmonized other laws and shifted state policy from 'active tolerance' to 'promotion' of foreign and large-scale mining—a road that President Benigno Aquino III pursued. As of March 29, 2011, the government approved 785 mining agreements, including six Financial and Technical Assistance Agreements (FTAA), 339 Mineral Production and Sharing Agreements (MPSAs), 115 Exploration Permits (EP), 57 Mineral Processing and Production Permits, 212 Industrial Sand and Gravel Permits, and 56 lease contracts. These cover 1,042,531 hectares or 3% of the country's total land area.

IMPACTS OF THE MINING LIBERALIZATION POLICY

The Philippines has around 7.1 billion metric tons (BMT) of metallic mineral reserves (such as gold and nickel) and 51 BMT of non-metallic deposits. Their total value is estimated at around \$840 billion to \$1 trillion: ten times the country's gross domestic product and immensely larger than its entire external debt. If properly developed, these vast and rich reserves can

¹ These were among the structural adjustment programs promoted by development aid institutions such as the World Bank, International Monetary Fund, and the Asian Development Bank since the 1980s.

sustain a strong, self-reliant and progressive domestic economy balancing agriculture and industrialization and breaking the existing cycle of underdevelopment.

However, this has not been the case with the country's current mining policy. The Philippine mining industry has historically been liberalized, laid open to foreign and private control without developing downstream industries, and limited to extraction, export of ores, and dependence on foreign capital, expertise and technology.

RA 7942 has deprived people of access to land and other natural resources, stunted the domestic economy, and destroyed the environment. It triggered some of the Philippines' worst ecological disasters, such as the Marcopper (1996) and Rapu-Rapu (2005) mine spills. Its losses loom in comparison to the industry's promised economic gains. Mining areas are still among the poorest communities nationwide. It is responsible for human rights violations; many were killed, sued, and harassed for their opposition. It separated IP communities—the last bastions of our precolonial heritage—from their ancestral lands through coercion, exigency, or collusion.

TOWARDS A NEW PHILIPPINE MINING POLICY

RA 7942 is unsustainable from an economic, ecological, cultural, and human rights perspective. It must be scrapped to protect our finite mineral resources from more plunder and depletion.

CSOs, communities, and local governments want a new mining law. The First People's Conference on Mining on 9 May 2002 resolved to scrap RA 7942 and develop the industry through national industrialization. In October 2002, the Dapitan Initiative also advocated for new legislation. In 2005, the People's Mining Policy (PMP), an alternative policy framework, was drafted and affirmed by *Defend Patrimony* though nationwide consultations with people's organizations. Local officials have also set moratoriums on large-scale and/or open pit mining.

These grassroots initiatives are challenges the national government should face. House Bill

(HB) 4315 is an amalgamation of these proposals which have collectively supported the wise and sustainable development of our mineral resources: a framework which upholds social justice, respect for people's rights and welfare, environmental conservation, and the defense of national sovereignty and patrimony.

FREQUENTLY ASKED QUESTIONS

1. What is the People's Mining Bill?

House Bill 4315 (*An Act Re-Orienting the Philippine Mining Industry, Ensuring the Highest Industry Development Standards, and for other Purposes*) seeks to reorient the current policy on the ownership, management and governance of metallic and non-metallic minerals, quarry resources, and gemstones towards a rational manner for national industrialization and local development. It covers onshore and offshore, large-scale and small-scale mining operations and their conservation, exploration, development, utilization, processing and transportation.

Mineral resources are defined in the bill as all naturally-occurring inorganic substances in solid, gas, liquid, or any intermediate state, excluding energy materials such as petroleum, natural gas, radioactive materials, and geothermal energy.

2. When did the bill first appear in legislative policy and what is its current status?

The bill was filed in the 15th Congress on March 2, 2011 by Reps. Teddy A. Casino, Neri Javier Colmenares, Rafael V. Mariano, Luzviminda C. Ilagan, Raymond V. Palatino, Emerenciana A. De Jesus, and Antonio L. Tinio. It is currently pending with the Committee on Natural Resources.



Bayan Muna Rep.
Teodoro A. Casino,
principal author
of HB 4315

3. How is the bill different from RA 7942 in terms of framework and principles?

It reverses the liberalization of the mining industry in RA 7942. It upholds the Filipino people’s Constitutional right to appropriately use, manage, and enjoy the benefits of the country’s mineral resources, considering these as national patrimony and as irreplaceable and non-renewable wealth (Sec. 6). It gives the State the primary responsibility over the industry’s management, conservation, utilization, and development and considers mining a shared responsibility among national and local governments, corporations, and communities (Sec.7).

It aims to develop the Philippine mining industry within the framework of national industrialization and agrarian reform, in an economically-viable, ecologically-sound and democratic manner. Mining industry development shall be based on a National Industrialization Program (NIP) and Mining Plan (MP), reoriented away from market forces and external investments and supporting a strategically and domestically-planned economy.

3. How does the bill define national industrialization?

Within the context of the mining industry, national industrialization denotes the primacy of mineral production, processing and distribution for the primary benefit of the domestic economy. This includes creating favorable conditions for Filipino entrepreneurs to engage in mining through various state-private agreements that shall ensure that mining shall help spur more domestic investments, increase agricultural production and produce both consumer and producer goods and manufactures (Sec. 14, mm).

4. How should mining develop under national industrialization?

The State should strategically and systematically pursue the industry’s development according to a National Industrialization Program (NIP) and Mining Plan (MP), based on the following priorities (Sec. 2 to 4):

- Domestic needs-based development to create processing capacity for industrial metals (such as base metals, basic chemicals and petrochemicals) and downstream industries to generate employment and our own basic,

medium, and heavy industries for consumer, intermediate and capital goods (Sec. 10).

- Agrarian reform and agricultural modernization to integrate mineral development and agricultural production and prohibit mining in areas specified for food production.
- Domestic capitalization of mining through participation of Filipino corporations and internal funding for capital requirements from re-channeling government budgets for foreign debt payments, military expenditures, and government shares from the Malampaya Natural Gas Project.
- Respect for indigenous people's and Moro communities rights to self-determination.
- Support for workers rights and occupational safety standards
- Support for small-scale miners and their integration into the national mining industry
- Demilitarization of mining operations by military, police, private security, and paramilitary groups.
- Development of industrial knowledge, technology, and methods to be more appropriate, economically-efficient and less environmentally-destructive.
- Promotion, development, enforcement, and monitoring of ecologically-sound mining practices and standards
- Rehabilitation of all mining-affected areas and abandoned mines.

5. How can mining under national industrialization help modernize agriculture?

Mining outputs can be used produce technology for the production, post-harvest, and processing of raw materials and agricultural goods. Minerals can be used for the production of mechanized tools and technology needed to

modernize the country’s agricultural industry and meet industrial needs. These metals needed to produce such tools and technology shall be prioritized and considered as strategic mineral resources. Mining will not be pursued in prime agricultural lands, prioritizing food security and production (Sec. 4, 11, 30).

6. How is the decision-making process in HB 4315 different from RA 7942?

In RA 7942, decision-making for large-scale mining permits is almost exclusively in the hands of the President, the DENR, and the MGB. In HB 4315, the decision-making process is expanded to the affected community, stakeholders, and local government units through the creation of Multi-sectoral Mineral Councils (MSMCs) responsible for the approval and monitoring of mineral agreements.

The bill affirms the role of the MGB as a scientific research institution under the DENR.

The MGB shall establish a national and regional filing and recording system and mineral resource and rights management database system, where mineral areas are to be demarcated. It shall also maintain an inventory of watershed continuums and all available mineral resources; and identification of strategic mineral resources for local industries, agricultural modernization, and rural development (Sec. 19, 29, 30, 32).

The MGB shall have exclusive and direct responsibility for mining exploration on behalf of the State, with preference for non-invasive exploration methods in order to minimize impacts (Sec. 21).

MSMCs will be created in all demarcated mineral areas. They shall be convened by the MGB and composed of representatives from the DENR, affected LGUs, communities and other stakeholders. MSMCs shall determine if mining operations shall be allowed or not, deliberate on proposed mining projects, monitor the conduct of mining operations, and establish internal rules of procedure (Sec. 35).

TABLE 1. COMPARISON OF DEVELOPMENT FRAMEWORKS

Mining Act of 1995	HB 4315 (People’s Mining Bill)
State responsible for promoting the rational exploration, development, utilization, and conservation of minerals through the combined efforts of government and the private sector.	State leads mining industry development according to a National Industrialization Program and Mining Plan that considers medium and long-term needs; technological advancement; the right to self-determination of IPs and Moros; and other accepted principles on human, labor, womens, and childrens rights and environmental protection and preservation as embodied in existing international conventions the country is a signatory to.
Mining is to be revitalized through fiscal reforms, additional benefits and incentives for foreign investors. This has left the industry mostly limited to extraction and export of mineral ores; dependent on foreign capital, imported technology, and foreign expertise; and controlled by an elite few.	Mining is to be developed within the framework of 1. nationalizing the industry towards self-sufficiency, and 2. achieving genuine agrarian reform, the modernization of its agricultural base and rural development. It seeks optimum benefit for the national and local economy and public participation/ representation over projects.

TABLE 2. COMPARISON OF DECISION-MAKING PROCESSES ON MINING

Mining Act of 1995	HB 4315 (People’s Mining Bill)
Emphasis on Presidential prerogative. Decisions over mining permits highly concentrated in the hands of the President, upon recommendation of the DENR Secretary.	Based on strategic and local plans and consultations. Industry development is based on a National Industrialization Program and Mining Plan; decision-making is centralized in Multi-Sectoral Mineral Councils composed of representatives from the government and affected community.
All areas assumed open to mining unless declared “closed” by the Government	All areas are closed to mining unless declared “open” by the MSMCs, through a two-thirds vote.
Role of gov’t agencies. DENR has the authority to enter into mineral agreements. MGB in charge of the administration and disposition of mineral lands and resources, researches and exploration surveys. MGB Director recommends to the DENR Secretary the granting of mining agreements to qualified persons.	MGB is a scientific research institution under the DENR and a central repository of information on mining operations. It is responsible for resource database, inventory, and prioritization, mining exploration on behalf of the State, public Information, and pre-screening of mining proposals.

Under HB 4315, the process for accepting a mining proposal is as follows (Sec. 44-49):

- a. MSMC vote.** The MSMC will decide if an area will be opened to mining through a two-thirds vote.²
- b. Call for proposals.** If the MSMC votes to open an area to mining, the MGB will prepare information sheets and issue a call for proposals based on the MP.
- c. MGB pre-screening and endorsement.** The MGB will pre-screen all proposals based on the NIP, identify the top three proposals and recommend these to the MSMC for deliberation.
- d. MSMC deliberations with LGUs and IPs/ICCs.** LGUs shall conduct mandatory public hearings within affected communities and require the approval of

² The MSMC shall consider the MGB exploration report, existence of downstream industries, potential environmental, public health, and cultural resources and impacts, conflict and risk assessments, potential economic benefits, existing and alternative land uses and the area’s carrying capacity (Sec. 37).

the affected *sanggunians* and a majority vote of the affected LGUs (Sec. 47). Separate deliberations will be conducted for affected IPs/ICCs using their own systems and processes, free from any external manipulation, interference, coercion and the like.

- e. MSMC final deliberations.** The MSMC will choose among the top three proposals, considering which is most acceptable to its own socio-economic, environmental, and cultural program.
- f. Public announcement.** The MSMC forwards its decision to the MGB, which will publish the accepted proposal and issue a permit after six weeks if it is not contested.

For small-scale mining, HB 4315 recognizes the applicability of RA 7076 or the *People’s Small-Scale Mining Act of 1991*. It, however, expands the composition of the Provincial/City Mining Regulatory Board (Sec. 25 of RA 7076) to include at least two more representatives from civil society. Only one NGO representative was previously allowed

under RA 7076. All quarrying permits shall require the recommendation of the MSMC prior to the final approval of the provincial government unit (Sec. 81).

7. How does HB 4315 uphold and protect our national patrimony?

a. It allows only mining permits which Filipinos can derive the most benefit from and which will support the strategic and prudent extraction of minerals needed for industrialization. In terms of large-scale mining, it scraps the controversial FTAA and EPs. It retains other permits in RA 7942 but considerably reduces their scope and rights. It requires a stringent screening process to secure consent and approve environmental and social impact plans. The three large-scale mining permits allowed are:

- **Mineral Production Sharing Agreement** the contractor is granted the exclusive right to conduct mining and have shares in the

gross output, while providing financing, technology, and management.

- **Co-production Agreement (CA)** agreement between the government and the contractor where the government shall provide inputs to mining operations other than the mineral resource.
- **Joint Venture Agreement (JVA)** a joint-venture company is organized by the government and the contractor with both parties having equity shares; government is entitled to a share in the gross output.

Large-scale mining permit areas shall not exceed 500 hectares. No one shall be awarded more than 750 hectares in any watershed area. Terms shall not exceed 15 years and include rehabilitation. Permits can not be extended without just cause (such as war or instances arising from force majeure). They are non-transferable; any changes in corporate ownership or financing structure should be reported (Sec. 51-52, 61).

TABLE 3. COMPARISON OF MAJOR MINING PERMIT TYPES WITH RA 7942

Permit Type	Mining Act of 1995	People’s Mining Bill
Exploration Permit (EP)	Duration of operations: Two years, maximum of eight years Maximum area: 32,000 ha. onshore, 81,000 ha. offshore Economic privileges: 100% repatriation of capital and profits; exemption from income tax (6 years), export tax (10 years), and import tax; employment of foreign nationals allowed, right to transfer or sell mining permit, confidentiality rights Political rights: timber rights, water rights, easement rights, entry into private lands and concession areas	None The MGB has the exclusive right and responsibility to conduct mining exploration throughout the country.
Financial and Technical Assistance Agreement	Duration of operations: 25 years, renewable up to 50 years Maximum area: 81,000 ha. onshore, 324,000 ha. offshore Capitalization: 100% foreign (\$50 million minimum investment) Economic privileges and political rights: Same as EP	None FTAA is deleted.
MPSA CA JVA	Duration of operations: 25 years, renewable up to 50 years Maximum area: 16,200 ha. onshore, 40,500 ha. offshore Capitalization: 60% Filipino, 40% foreign Economic privileges and political rights: Same as EP	Duration of operations: Up to 15 years Maximum area: Up to 500 hectares Capitalization: 60% Filipino, 40% foreign

References: HB 4315, RA 7942

Small scale mining permits (SSMPs) shall only be granted to individuals and cooperatives. The term for permits shall be three (3) years, extendable to a maximum of fifteen (15) years (Sec. 63). Large-scale mining will not be allowed in small-scale mining areas without the consent of the affected small-scale miners.

Quarrying permits on private lands may given to qualified Filipinos, except in ancestral domains and public lands for building and construction. A mineral agreement is required for the extraction of sand for its metallic contents (magnetite) from rivers/shorelines, and large-scale quarrying involving cement raw materials, marble, granite, sand, gravel and construction aggregates. Permits shall not be granted for areas covered by a mineral agreement. Permits shall be limited to five hectares and five years, renewable up to 20 years (Sec. 75-80).

b. It sets stringent terms for foreign participation in the Philippine mining industry.

Only Filipino corporations shall be allowed to hold permits. *It removes EPs, as the MGB is tasked to oversee and conduct all exploration activities. It also prohibits FTAAAs or other similar agreements where the right to explore, develop and use mineral resources is awarded to foreign entities (Sec. 41).*

Foreign firms are allowed to invest in exceptional cases identified by the government and based on the NIP and the country's capability and capacity. They will be required to undergo rigorous screening, regulations and a mandatory program for technology transfer and equity shares. Capital accumulation and reinvestment in the country is encouraged over profit repatriation. Foreign firms with a bad track record here are banned.

c. It ensures that mining firms will pay taxes, fees, and shares to governments and communities.

RA 7942 has a lengthy list of tax exemptions, incentives, and investment guarantees for mining investors. These severely limited the

shares of government and local communities and allowed foreign mining investors to practically siphon most of their profits out of the country.

On the other hand, HB 4315 requires the payment of requisite taxes, fees, and shares of government and affected communities from mining revenues and the domestic investment of mining capitalization and finance. This ensures that the government and communities are properly and adequately compensated and that mining revenues are directed towards supporting the local economy (Sec. 90-99).

8. How does HB 4315 uphold respect for human rights and the welfare of the social sectors and stakeholders affected by mining projects?

a. Upholding workers' rights and occupational safety.

The bill respects workers rights to organize and form associations, to collective bargaining and to strike. It requires that job security, adequate wages, benefits, and safe working conditions for mine workers be ensured. All projects shall strictly comply with rules and regulations on mines safety and provide safeguards for the health and well-being of workers. These include RA 7305 or the Magna Carta of Public Health Workers; prohibition of forced and child labor; and supervisor-worker ratios of mining engineer and one foreman for every 50 workers employed. Government officials may conduct safety and labor conditions inspections. The MGB may issue orders to remedy erring practices and suspend operations posing imminent danger to life or property. Trade union representatives shall have visitorial rights (Sec. 4, 100-106).

TABLE 4. QUARRYING PERMIT TYPES ALLOWED

Quarry Permit Type	Coverage	Grantee	Authority	Maximum Area	
1. Commercial Sand and Gravel Permit	Sand, gravel, or other other loose or unconsolidated materials outside ancestral domains used in their natural state	Any qualified person	Provincial Governor	Not exceeding five hectares	
2. Industrial Sand and Gravel Permit	Sand and gravel and other loose or unconsolidated materials outside ancestral domains needing mechanical processing		MGB	Not exceeding five hectares for 3 years up to twenty years.	
3. Exclusive Sand and Gravel Permit	Sand and gravel or other loose or unconsolidated materials from public lands for his own (not commercial) use		Provincial Governor		
4. State Gratuitous Permit	Sand, gravel, quarry or loose unconsolidated materials in the construction of public infrastructure	Any government entity	Provincial Governor	Not more than two hectares; same lenth with construction	
5. Guano Permit	Loose unconsolidated guano and other organic fertilizer materials			Any qualified Filipino	Specific caves and/or confined sites
6. Gemstone Permit	Loose stones useful as gemstones				Rivers, other sites

TABLE 5. COMPARISON OF TAXES, FEES AND BENEFIT SHARING

Mining Act of 1995	HB 4315 (People's Mining Bill)
<p>Limited government share. Government share is limited to excise taxes of 2% required by law.</p>	<p>Government and community shares increased: a.) National government share, b.) LGU share, c.) Indigenous cultural communities' royalty, d.) Scientific Research and Development Fund, e.) Legal Services Fund, f.) Mine Wastes and Tailings Fee</p>
<p>Limited taxes and fees, including semi-annual mine wastes and occupation fees. Mining permits enjoy 6 years income tax exemption, 10 years export tax exemption, and import tax exemption.</p>	<p>Taxes and fees are increased to include, but are not limited to, the following: semi-annual Mine Wastes and Tailings fees, contractor's income tax, customs, duties and fees on imported capital equipment, value-added tax on imported goods and services, withholding tax on interest payments to foreign loans and on dividends to foreign stockholders, documentary stamps tax, capital gains tax, excise tax on minerals, local business tax, real property tax, community tax, occupation fees, registration, accreditation and permit fees, and water usage fees.</p>
<p>Generous fiscal and non-fiscal incentives. Through the Omnibus Investments Code of 1987, contractors enjoy incentives for Pollution Control Devices, Income Tax-Carry Forward of Losses, Income Tax-Accelerated Depreciation, Investment Guarantees.</p>	<p>Incentives shall be given for the use of pollution control or mitigation devices.</p>
<p>Investment guarantees. Includes (a) Repatriation of investments, (b) Remittance of earnings, (c) Foreign loans/contracts,(d) Freedom from expropriation, (e) Requisition of investment and (f) Confidentiality</p>	<p>All large-scale mining contractors required to deposit their capital investment and profits in Philippine banks or financial institutions. Those with foreign financial assistance are required to fully disclose all profits, and allowed to repatriate profits up to 50% of the total posted annually. Full repatriation of profits allowed one year after mining and rehabilitation ends.</p>

b. Requiring the consent of indigenous peoples at all stages of mining.

Free, Informed and Prior Consent (FPIC) from ICCs and IPs is required for all types and stages of mining projects in their ancestral lands and domains. Permit holders shall respect and comply with customary laws, practices, and processes of affected ICCs/IPs. FPIC for use of water resources within IP lands (including those within the same groundwater network and downstream users) is also be required prior to the granting of water permits by the NWRB (Sec. 65, 71, 118, 133).

c. Promoting livelihood and technology support for small-scale mining communities.

It seeks to strengthen small-scale mining communities by requiring FPIC, environmental/social impact plans, and research and livelihood support. This can reduce dependence on backward technologies, middlemen/financiers, and export of ores. It give them livelihood support, including access to minerals markets and financing, facilitation of partnerships with mining companies, contractors (for processing and recycling) and SSM cooperatives. The Bangko Sentral ng Pilipinas shall ensure that buying stations acquire gold from small-scale traders at prevailing gold market prices and exchange rates (Sec. 69-70).

d. Penalizing human rights violations committed in relation to mining.

Unlike RA 7942, the bill explicitly emphasizes the human rights obligations and strict liability of mining corporations (Sec. 128, 134). Learning from the lessons of the past, the bill recognizes as violations of human rights extrajudicial killings, torture, involuntary disappearance, forcible displacement of populations, setting up of checkpoints and imposition of toll fees which impede the freedom of movement in mineral areas, deprivation of food and water sources, vote-buying and bribery for the purpose of securing consent or endorsement

for the mining project, and other similar acts. The employment of paramilitary groups for mining is prohibited (Sec 130).

e. Reducing the incidence of harassment suits and strengthening public litigation

The bill attempts to eliminate **harassment suits**, known as Strategic Legal Actions against Public Participation³ (SLAPPs), by giving courts thirty days to determine whether it is a SLAPP or not and move for its dismissal.

Conversely, it supports people’s capacity to pursue litigation for violations of the law by 1.) allowing citizens to file civil, criminal and administrative suits and 2.) recognizing the lawsuits filed after the termination of contracts (Sec. 125). Indigents suits are exempted from fee payments and provided with legal support (Sec. 131-136).

f. Requiring consultations and monitoring with all affected communities

Mandatory consultations with affected communities and consent with the lawful occupants of lands for mining shall be secured in all phases. A multi-partite monitoring team will monitor compliance with mining permits and their environmental plans and conduct ocular inspections, (Sec. 55-56, 59, 64).

g. Supporting the development of communities, and domestic science, and technology

Contractors shall support community development projects consistent with local development plans and separate from their royalty payment to IPs/ICCs and LGUs. Priority is given to the employment of Filipino labor, experts and training of local community members and the use of indigenous goods, services and technologies in all stages of mining employment. (Sec. 86-88).

³ SLAPP is any legal action, whether civil, criminal or administrative, filed to harass, vex, exert legal action or stifle legal recourses of citizens complaining against violations of this Act or enforcing the provisions of the Act, or exercising their freedom of assembly or right of public participation.

9. How does HB 4315 ensure environmental protection?

a. “No mining” areas

Mining is banned in environmentally-critical areas, including areas vulnerable to acid mine drainage; critical watersheds and habitats; key biodiversity areas, geohazard and climate disaster-prone areas; small island ecosystems; old growth, natural, primary, mangrove, and mossy forests, watershed forest reserves, wilderness areas, national parks, protection/provincial/municipal forests, parks, greenbelts, game refuge, bird sanctuaries, buffer zones, and Palawan province under RA 7611.

It is banned in residential or agricultural production areas, such as densely-populated or prime agricultural lands; agrarian reform areas; traditional swidden farms, hunting grounds; archeological, historical, cultural sites and property under RA 10066; areas near public or private buildings, and infrastructure projects; military or government reservations⁴; high conflict areas (Sec. 37).

b. Environmental impact assessment and mitigation plans

An environmental economic audit or resource valuation of the area, shall be conducted with a multisectoral group of experts and stakeholders and made publicly available. HB 4315 requires contractors to submit an Environmental and Social Impact Assessment and Mitigation Plan (ESIAMP) and secure an Environmental and Social Impact Compliance Certificate (ESICC) before issuing any large or small-scale permit (Sec. 37, 45, 50, and 66).

c. Precautionary measures and rehabilitation funding

The bill upholds the precautionary principle and requires contractors to pursue rehabilitation, build tailings impoundments and dams away from watershed drainage areas according to international standards; implement the Clean Water Act and Clean Air Act provisions on waste dumping, use chemicals or reagents to minimize destruction, and preserve removed topsoil for other uses.

⁴ Except upon written consent of the government agency and/or private entity concerned

The bill upholds the “polluter pays principle,” by requiring contractors to pay for damage rehabilitation through an environmental insurance contract, Calamity and Human Rights Protection Fund, Performance Bond, and Mine Rehabilitation Fund (Sec.107-117).

d. Priority for people’s access to clean water

Permit holders enjoyed water rights under RA 7942, often diverting freshwater away from communities and food production. HB 4315 prioritizes water for domestic, municipal, and agricultural purposes. Existing uses of water in the affected area shall be studied and the consent of all users in the same groundwater and downstream network required. Contractors shall recycle water and treat them to approximate baseline water quality prior to their release (Sec. 118-120).

e. Mitigation measures for acid mine drainage (AMD)

AMD occurs when polluted and highly-acidic water flows or seeps out from old mining areas. This drainage may be contaminated with toxic heavy metals which can affect the people’s health and the surrounding ecology. The bill aims to mitigate AMD by banning the use of acid-generating waste rock for infrastructure; establishing a prediction and monitoring system for potential AMD sites; avoiding waterways in the planning of mining infrastructure; and reminding to recover remaining minerals (Sec. 121-124).

f. Research and technology support for small-scale mining

Research & development for appropriate, clean, efficient, culturally-sensitive and industrially-viable technologies shall be pursued to mitigate environmental and health effects of mercury and cyanide use and eventually replace current hazardous practices in small-scale mining (Sec. 67).

g. Rehabilitation of mining areas

Contractors are required to conduct progressive rehabilitation activities i for at least five years. No clearance for withdrawal shall be issued unless these f are implemented. The Rehabilitation Fund and Performance Bond will be used if the mine is abandoned without rehabilitation (Sec. 52, 110-111).

10. What are the grounds for cancelling mineral agreements and other penal provisions?

TABLE 6. GROUNDS FOR CANCELLATION OF MINING PERMITS

Mining Act of 1995	HB 4315 (People's Mining Bill)
<p>Grounds are only limited to administrative violations, such as late or non-filing of registration, violation of permit terms, and non-payment of taxes and fees. The law does recognize human rights violations of corporations as a ground for cancellation.</p>	<p>Grounds include 1.) violations of any provision of the Act, 2.) non-payment of taxes; 3.) bribery, use of force, intimidation, threat, coercion of public officials and communities; 4.) acts creating or contributing to conflicts; and the like, and 5.) failure to initiate mining operations within two years.</p> <p>Grounds for immediate cancellation are 1.) human rights violations by the contractor or any of its agents; 2.) use of paramilitary forces to protect mining operations, and 3.) violations of environmental provisions, which shall also require compensation and rehabilitation (Sec. 129-130).</p> <p>Permit holders found guilty are perpetually banned from participating directly or indirectly in mining operations in the Philippines. Government officials guilty of administrative violations shall be removed from office and perpetually disqualified from holding any government post (Sec. 151-152).</p>

TABLE 7. COMPARISON OF PENAL PROVISIONS AND FINES

Penal provisions and penalties/ fines under the People's Mining Bill		Mining Act of 1995
False statements	Maximum fine of P100,000	Maximum fine of P10,000
Illegal exploration	Maximum fine of P5,000,000	Maximum fine of P50,000
Theft of minerals	Imprisonment from six months to six years and/or fine ranging from P100,000 to P1,000,000 plus damages	Imprisonment (six months to six years) and/or fine of P10,000 to P20,000, damages
Destruction of structures	Imprisoned for up to five (5) years and damages	
Mines arson	Punishment, upon conviction, according to the Revised Penal Code and damages	
Willful damage to a mine	Imprisonment up to five (5) years and damages	
Illegal obstruction to permittees or contractors	Fine not exceeding P5,000	Fine not exceeding P5,000.00 and/or imprisonment
Vitiating of FPIC	<p>For non-government entities: Imprisonment (six years, one day to ten years), minimum fine of two million pesos</p> <p>For government officials: Imprisonment from (8 years, one day to 12 years; minimum fine of four million pesos; prohibition from assuming public office; disqualification from other government benefits</p>	None
Human rights violations	Imprisonment from 10-14 years; fine of at least five million pesos and indemnification for the victims	
Abandonment	Perpetual ban or disqualification from direct/indirect involvement in mining operations	
Violations of Anti-Dummy Law	Fine of five million pesos and a perpetual ban in the mining industry	
Violations to the Amendment to Sec. 27 of the Small-scale Mining Act	Imprisonment of 6 years and one day to 12 years, confiscation of equipment, tools, instruments, closure or suspension of mining activities, permit revocation	

References: HB 4315 Sec. 138-150; RA 7942 Chapter XIX

11. What are the bill's transitory provisions?

The bill proposes a moratorium on all mining activities under all systems are in place for the Act's proper implementation and deems cancelled all existing mining permits, licenses, and agreements. A review of the current mineral land classification will be pursued; current classifications and the President's power to declare mineral reservations rendered ineffective. The State shall be responsible for extending aid to mine workers and small-scale miners and their families who shall be temporarily displaced by the moratorium while the new policy and mechanisms are being put into place.