



The Rahall-Shays-Inslee Mining Reform Bill

The antiquated General Mining Law of 1872 is one of the last remaining American dinosaurs of the old public resource giveaways. This 131-year-old law allows private companies to take valuable minerals from public lands without paying any royalties, and to purchase public land at the 1872 price of less than \$5.00 an acre. Because the Mining Law contains no environmental provisions, hardrock mining wreaks havoc on ecosystems. Mining has polluted 40 percent of the headwaters of Western watersheds, according to the Environmental Protection Agency.

To address these issues and others, Representatives Nick Rahall (D-WV), Chris Shays (R-CT), and Jay Inslee (D-WA) have introduced a new mining law reform bill, the Mineral Exploration and Development Act of 2003. The bill includes fiscal reform, environmental protection provisions, recognition of other land resource values besides mining, and a program to clean up abandoned mines. In more detail, the bill:

*Protecting
Communities
and the
Environment*

Protects Special Places from Irresponsible Mining

Under the federal government's current interpretation of the mining law, mining is considered the highest and best use for public lands. As such, federal land managers give preference to mining over all other land uses – from recreation to clean water to hunting. The mining reform bill would remove mining from the top of the land use hierarchy in 3 ways:

1. **Authorizing a land suitability test before a mine proposal is considered.** When a mine is proposed, agencies must review the land involved to ensure that it is “suitable” for mineral development, - it will not cause significant permanent damage to important resource values.
2. **Authorizing the discretion to deny mine permits.** If a mine is proposed in lands not deemed unsuitable for mineral development, a permit for the mine can only be granted if the damage from the mine can be minimized and if the mine can be reclaimed to set standards (see below) after mining ceases.
3. **Increasing acreage of lands off limits to exploration and development.** Wilderness study areas, lands recommended for wilderness designation, lands managed as roadless areas, lands in the Wild and Scenic River System or recommended for such, and lands administratively withdrawn or segregated would be off limits to mineral exploration and development. Operations permitted before bill passage would be grandfathered in.

Establishes Environmental Standards

Under current law, there are practically no environmental standards written specifically for mining. The Clean Water Act does not protect groundwater from mining pollution, and there is no definition of how to reclaim a mine, for example. The mining reform bill establishes mining specific standards, such as the following:

- **Preventing “significant, permanent and irreparable damage”**– if a proposed mine would cause significant, permanent and irreparable damage, the Secretary of the Interior must find that the area in question is unsuitable for mining.
- **Ensuring adequate reclamation** – a reclaimed mine site must be restored so that it can sustain either premining uses, or uses conforming to the applicable land use plan.
- **Protecting fish and wildlife** – habitat must be restored to premining conditions.
- **Providing proper vegetation** – native vegetation must be restored to premining conditions. Success of revegetation is measured 5 years (10 for arid areas) after seeding ceases.
- **Safeguarding surface and ground water** – operations must minimize damage to surface and groundwater resources, and restore premining hydrological conditions.
- **Restoring landscapes** – buildings, structures, and roads must be removed after mining is over.

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Implements Fiscal Reforms

Current law allows extraction of public minerals without payment to taxpayers. The 1872 Mining Law still allows multinational mining companies to buy (patent) mineral bearing public land for less than \$5.00 per acre – although the annually renewed patenting moratorium has stopped new patents since 1995. The mining reform bill addresses fiscal reform as follows:

- **Ends patenting** – Under the 1872 Mining Law, mining interests have patented an area roughly equivalent in size to the state of Connecticut containing mineral values exceeding \$245 billion.
- **Establishes an 8% royalty** – BLM estimates that \$982 million in hardrock minerals were taken from public lands in 2000. Industry paid no royalty for those minerals. 8% of that is \$79 million. Coal, oil and natural gas extractors pay between 8% and 12.5%.
- **Makes permanent the claim maintenance fee** – Currently subject to renewal, the claim maintenance fee requires a claim holder to pay \$100 per mining claim per year to maintain their right to mine the claimed deposit. At present, the claim maintenance fee generates the only revenue associated with hardrock mining: approximately \$25 million per year.
- **Statutorily enshrine reclamation bonding** – The recently enacted Interior Department mining regulations contain provisions that mining companies must post bonds to cover the full costs of mine clean ups. However, the regulations no longer provide cleanup standards. Without such standards, it is unclear exactly what such reclamation bonds will pay for, and taxpayers may still be exposed to liability in the future. The reform bill requires reclamation bonds with clear cleanup standards, so that taxpayers will be better protected.

Creates an Abandoned Mine Land Fund

There are more than 500,000 abandoned hardrock mines in the United States that will cost between \$32 and \$72 billion dollars to reclaim. Currently there is no funding source for abandoned hardrock mine reclamation. The mining reform bill establishes a reclamation fund for abandoned hardrock mines on federal lands.

- **All revenues from royalties and fees go to the AML fund.** The cost of processing permits would be paid by the mining industry.
- **Priorities of the fund** – (1) Public health and safety from surface and groundwater pollution; (2) general public health and safety; (3) restoration of land, water, fish and wildlife resources.

Requires Enforcement

The mining reform bill would require substantially better industry oversight, including the following concepts:

- **The Secretary must use all legal powers available to prevent mining in protected areas.**
- **Failure of a mining company to address a violation requires the Secretary to stop operations causing the violation.**
- **Regular inspections are permitted without advance notice.** They must occur at least once per quarter. The public is allowed to request an inspection.
- **Violators can be fined up to \$25,000 per violation per day.**
- **Citizen suits are authorized.**
- **Operators that are currently violating laws cannot receive new permits.** Past law-breakers can only receive a permit if their past violations are not part of a willful pattern of abuses.