



Establishing a Hardrock Mining Royalty

The Problem

For hundreds of years, the federal government has shortchanged tribal nations, state and local authorities, and the American public by failing to establish a hardrock mining royalty, foregoing potentially billions in revenue.

Currently, taxpayers receive zero dollars in royalties for the extraction of hardrock minerals, such as gold, silver, copper, and other metals, from publicly-owned lands.¹ This antiquated — and expensive — policy is pursuant to the General Mining Law of 1872. Originally intended to incentivize companies to develop new lands in the West, it has barely been updated since President Ulysses S. Grant signed it into law just after the Civil War.² While no-royalty mining may have served its purpose in the 19th century, today it effectively serves as a free pass for hardrock mining companies to avoid paying their fair share to taxpayers.

For comparison, oil and gas companies typically pay a 12.5% royalty fee for onshore oil and gas extraction and 18.75% for offshore deep-water oil and gas extraction.³ According to one estimate, the value of the hardrock minerals extracted from public lands since 1872 totals approximately \$300 billion — and taxpayers have shared none of this profit.⁴ The United States lags behind the rest of the world by refusing to establish a federal royalty for these minerals.⁵ And, to add insult to injury, hardrock mining companies have also received generous subsidies and tax breaks for their use of public lands.⁶

The government doesn't collect even basic information on hardrock mining operations. As a result, it is especially difficult to conduct oversight of mining activity and to ensure the public fully understands the risks and effects of hardrock mining operations.

¹ 30 U.S.C. § 22 (2020), <https://www.law.cornell.edu/uscode/text/30/22>.

² Raúl M. Grijalva, "Our Mining Laws are More Than a Century Old — Time to Update Them," *Sierra*, May 15, 2018, <https://www.sierraclub.org/sierra/our-mining-laws-are-more-century-old-time-update-them>.

³ Mineral Leasing Act of 1920 as Amended, 30 U.S.C. § 226(b)(1)(A) (2019), <https://www.law.cornell.edu/uscode/text/30/226>; 43 U.S.C § 1344(a)(4) (2020), <https://www.law.cornell.edu/uscode/text/43/1344>.

⁴ "The 1872 Mining Law: Enriching Foreign Companies at Taxpayer Expense for 150 years," Earthworks, Earthjustice, and the Western Organization of Resource Councils, March 21, 2019, https://www.earthworks.org/cms/assets/uploads/2019/03/FS_1872MiningLaw_EW-EJ-WORC_201903.pdf.

⁵ James Otto et al., *Mining Royalties: A Global Study of Their Impact on Investors, Government, and Civil Society*, (Washington: The World Bank, 2006), 40, <http://hdl.handle.net/10986/7105>.

⁶ Peter Schroeder and Michelle Price, "U.S. mining lobby in push to preserve tax break repealed by Democrats," Reuters, June 24, 2020, <https://www.reuters.com/article/us-health-coronavirus-watchdog-tax-idINKBN23V1KL>.

The Solution

- **Modernize the General Mining Law of 1872.** Congress must work closely with state and local governments, industry, impacted communities, and other stakeholders to determine an appropriate hardrock mining royalty rate. One proposal, which POGO supports, would establish an 8% royalty on new mines and a 4% royalty on existing ones, both based on gross income.⁷ According to lawmakers, these proposed royalty rates would together generate approximately \$2 billion over ten years in federal revenue.⁸
- **Strengthen data collection and transparency around hardrock mining.** Since the federal government has not ever imposed a hardrock mining royalty, there is a noticeable lack of aggregated, reliable data about hardrock mining activities in the United States. For example, federal agencies do not currently coordinate to collect information on the number of locatable hardrock mines on federal land, the level of individual production for those mines, or even the total production of those mines.⁹ Agencies should work together to develop a centralized hub to collect and share this data, which should also be released to the public. Robust and quantifiable data are necessary to ensure adequate oversight and accountability for the hardrock mining industry.

Additional Context

[POGO Letter Urging Lawmakers to Increase Onshore Oil and Gas Royalties, Establish a Hardrock Mining Royalty](#)

[POGO Testimony Before the House Natural Resources Committee, Subcommittee on Oversight and Investigations](#)

[Data on Oil, Gas, Mining Projects Often Incomplete, Missing or Inaccessible](#)

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⁷ S. Con. Res. 14. 117th Cong., § 70807(b) (2021),

<http://docs.house.gov/meetings/II/II00/20210902/114019/BILLS-117pih-CommitteePrint.pdf>.

⁸ House Natural Resources Committee, “Committee Approves \$25.6 Billion Reconciliation Measure to Fund Climate Corps, Coastal Protection, Wildfire Management, Tribal & Territorial Needs,” Press Release, September 9, 2021, <https://naturalresources.house.gov/media/press-releases/committee-approves-256-billion-reconciliation-measure-to-fund-climate-corps-coastal-protection-wildfire-management-tribal-and-territorial-needs>.

⁹ Mia Steinle, “Data on Oil, Gas, Mining Projects Often Incomplete, Missing or Inaccessible,” Project On Government Oversight, November 20, 2014, <https://www.pogo.org/investigation/2014/11/data-on-oil-gas-mining-projects-often-incomplete-missing-or-inaccessible/>; Nicole Gentile, “Multinational Mining Corporations are Exploiting U.S. Taxpayers,” Center for American Progress, November 21, 2019, <https://www.americanprogress.org/issues/green/reports/2019/11/21/477569/multinational-mining-corporations-exploiting-u-s-taxpayers/>.