



# United States: US Department Of The Interior Launches Interagency Working Group For Mining Law Reform

by J. Paul Forrester

02 March 2022

On February 22, 2022, the US Department of the Interior (Interior) announced the launch of a new interagency working group (Working Group) on reforming hardrock mining laws, regulations and permitting policies in the United States.

The Working Group implements a recommendation made in the 100-day reports required under President Biden's February 24, 2021, Executive Order on America's Supply Chains and is intended to inform potential rulemaking efforts on mining to help support President Biden's vision for a whole-of-government effort to promote the sustainable and responsible domestic production of critical minerals.

In connection with the announcement, Interior Secretary Deb Haaland stated:

"The 150th anniversary of the Mining Law of 1872 is a great opportunity to take a hard look at how we regulate and permit mining in this country. We look forward to working with our federal partners to update mining policies to reflect our current realities."

Hardrock mining on public lands—which includes gold, silver, copper, uranium, lithium and nearly all critical minerals—is still governed by the General Mining Law of 1872, a law born out of the California Gold Rush that allows mining companies to stake claims on the vast majority of public lands, regardless of potential conflicts with other uses. The law does not require royalties to be paid to the taxpayer for the extraction and sale of valuable minerals, and does not include any environmental, reclamation or financial assurance provisions.

According to the announcement, the Working Group will bring together experts in mine permitting and environmental law to review existing mining laws, regulations and permitting processes. The group will then make recommendations for improvements necessary to ensure that new production meets strong environmental, community and tribal engagement standards during all stages of mine development, from initial exploration through reclamation, while improving the efficiency and outcomes of the permitting process, consistent with the newly-released Biden administration's Fundamental Principles for Domestic Mining Reform. The

Working Group will also assess the content and effectiveness of mining governance structures in other jurisdictions and identify potential best practices that could be adopted by the United States.

Of course, this isn't the first time that reforms have been sought of the General Mining Law of 1872, which has attracted the attention of a broad number and variety of critics and other commentators, including the Cato Institute and the Pew Charitable Trusts. In addition, Congress has also taken up mining law reform, having done so in January 2009 when the US Senate held a related hearing.

With significant current interest in better supply chain diversification and management, as well as substantial known and probable US reserves of lithium and other critical mineral resources, perhaps the time for reform of the General Mining Law of 1872 has finally come.