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(Original Signature of Member)

110TH CONGRESS
1ST SESSION

H. R.

To modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. RAHALL introduced the following bill; which was referred to the Committee on _____

A BILL

To modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Hardrock Mining and Reclamation Act of 2007”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions and references.
- Sec. 3. Application rules.

TITLE I—MINERAL EXPLORATION AND DEVELOPMENT

- Sec. 101. Limitation on patents.
- Sec. 102. Royalty.

TITLE II—PROTECTION OF SPECIAL PLACES

- Sec. 201. Lands open to location.

TITLE III—ENVIRONMENTAL CONSIDERATIONS OF MINERAL EXPLORATION AND DEVELOPMENT

- Sec. 301. Environmental protection standards.
- Sec. 302. Permits.
- Sec. 303. Operations permit.
- Sec. 304. Persons ineligible for permits.
- Sec. 305. Financial assurance.
- Sec. 306. Operation and reclamation.
- Sec. 307. State law and regulation.

TITLE IV—MINING MITIGATION

Subtitle A—Abandoned Locatable Minerals Mine Reclamation Fund

- Sec. 401. Abandoned locatable minerals mine reclamation.
- Sec. 402. Use and objectives of the fund.
- Sec. 403. Eligible lands and waters.
- Sec. 404. Fund expenditures.
- Sec. 405. Authorization of appropriations.

Subtitle B—Locatable Minerals Community Impact Assistance

- Sec. 421. Locatable minerals community impact assistance.
- Sec. 422. Use and objectives of the Fund.
- Sec. 423. Allocation of funds.

TITLE V—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

Subtitle A—Administrative Provisions

- Sec. 501. Policy functions.
- Sec. 502. User fees.
- Sec. 503. Inspection and monitoring.
- Sec. 504. Citizens suits.
- Sec. 505. Administrative and judicial review.
- Sec. 506. Enforcement.
- Sec. 507. Regulations; effective dates.

Subtitle B—Miscellaneous Provisions

- Sec. 511. Oil shale claims subject to special rules.
- Sec. 512. Purchasing power adjustment.
- Sec. 513. Savings clause.
- Sec. 514. Availability of public records.
- Sec. 515. Miscellaneous powers.

Sec. 516. Multiple mineral development and surface resources.

Sec. 517. Mineral materials.

1 **SEC. 2. DEFINITIONS AND REFERENCES.**

2 (a) IN GENERAL.—As used in this Act:

3 (1) The term “affiliate” means with respect to
4 any person, any of the following:

5 (A) Any person who controls, is controlled
6 by, or is under common control with such per-
7 son.

8 (B) Any partner of such person.

9 (C) Any person owning at least 10 percent
10 of the voting shares of such person.

11 (2) The term “applicant” means any person ap-
12 plying for a permit under this Act or a modification
13 to or a renewal of a permit under this Act.

14 (3) The term “beneficiation” means the crush-
15 ing and grinding of locatable mineral ore and such
16 processes as are employed to free the mineral from
17 other constituents, including but not necessarily lim-
18 ited to, physical and chemical separation techniques.

19 (4) The term “claim holder” means a person
20 holding a mining claim, millsite claim, or tunnel site
21 claim located under the general mining laws and
22 maintained in compliance with such laws and this
23 Act. Such term may include an agent of a claim
24 holder.

1 (5) The term “control” means having the abil-
2 ity, directly or indirectly, to determine (without re-
3 gard to whether exercised through one or more cor-
4 porate structures) the manner in which an entity
5 conducts mineral activities, through any means, in-
6 cluding without limitation, ownership interest, au-
7 thority to commit the entity’s real or financial as-
8 sets, position as a director, officer, or partner of the
9 entity, or contractual arrangement.

10 (6) The term “environmental protection re-
11 quirements” means the requirements and standards
12 of title III, and such other standards as are estab-
13 lished by the Secretary governing mineral activities
14 pursuant to this Act.

15 (7) The term “exploration” means those tech-
16 niques employed to locate the presence of a locatable
17 mineral deposit and to establish its nature, position,
18 size, shape, grade, and value not associated with
19 mining, beneficiation, processing, or marketing of
20 minerals.

21 (8) The term “Indian lands” means lands held
22 in trust for the benefit of an Indian tribe or indi-
23 vidual or held by an Indian tribe or individual sub-
24 ject to a restriction by the United States against
25 alienation.

1 (9) The term “Indian tribe” means any Indian
2 tribe, band, nation, pueblo, or other organized group
3 or community, including any Alaska Native village
4 or regional corporation as defined in or established
5 pursuant to the Alaska Native Claims Settlement
6 Act (43 U.S.C. 1601 and following), that is recog-
7 nized as eligible for the special programs and serv-
8 ices provided by the United States to Indians be-
9 cause of their status as Indians.

10 (10)(A) The term “locatable mineral” means
11 any mineral, the legal and beneficial title to which
12 remains in the United States and that is not subject
13 to disposition under any of the following:

14 (i) The Mineral Leasing Act (30 U.S.C.
15 181 and following).

16 (ii) The Geothermal Steam Act of 1970
17 (30 U.S.C. 1001 and following).

18 (iii) The Act of July 31, 1947, commonly
19 known as the Materials Act of 1947 (30 U.S.C.
20 601 and following).

21 (iv) The Mineral Leasing for Acquired
22 Lands Act (30 U.S.C. 351 and following).

23 (B) The term “locatable mineral” does not in-
24 clude any mineral held in trust by the United States
25 for any Indian or Indian tribe, as defined in section

1 2 of the Indian Mineral Development Act of 1982
2 (25 U.S.C. 2101), or any mineral owned by any In-
3 dian or Indian tribe, as defined in that section, that
4 is subject to a restriction against alienation imposed
5 by the United States.

6 (11) The term “millsite claim” means a claim
7 to public land that—

8 (A) does not exceed 5 acres for each 20
9 acres of mining claim for a vein or lode or plac-
10 er claim deposit with which it is associated;

11 (B) is nonmineral and noncontiguous to
12 such vein or lode or placer claim deposit; and

13 (C) is needed by a mining claim holder for
14 mining, milling, processing, beneficiation, or
15 other similar operations in connection with the
16 mining claim.

17 (12) The term “mineral activities” means any
18 activity on a mining claim, millsite claim, or tunnel
19 site claim for, related to, or incidental to, mineral
20 exploration, mining, beneficiation, processing, or rec-
21 lamation activities for any locatable mineral.

22 (13) The term “National Conservation System
23 unit” means any unit of the National Park System,
24 National Wildlife Refuge System, National Wild and
25 Scenic Rivers System, or National Trails System, or

1 a National Conservation Area, a National Recreation
2 Area, a National Monument, or any unit of the Na-
3 tional Wilderness Preservation System.

4 (14) The term “operator” means any person,
5 conducting mineral activities subject to this Act or
6 any agent of such a person.

7 (15) The term “person” means an individual,
8 Indian tribe, partnership, association, society, joint
9 venture, joint stock company, firm, company, cor-
10 poration, cooperative, or other organization and any
11 instrumentality of State or local government includ-
12 ing any publicly owned utility or publicly owned cor-
13 poration of State or local government.

14 (16) The term “processing” means processes
15 downstream of beneficiation employed to prepare
16 locatable mineral ore into the final marketable prod-
17 uct, including but not limited to smelting and elec-
18 trolytic refining.

19 (17) The term “Secretary” means the Secretary
20 of the Interior, unless otherwise specified.

21 (18) The term “temporary cessation” means a
22 halt in mine-related production activities for a con-
23 tinuous period of no longer than 5 years.

24 (b) TITLE II.—

1 (1) VALID EXISTING RIGHTS.—As used in title
2 II, the term “valid existing rights” means a mining
3 claim or millsite claim located on lands described in
4 section 201(b), that—

5 (A) was properly located and maintained
6 under this Act prior to and on the applicable
7 date; or

8 (B)(i) was properly located and maintained
9 under the general mining laws prior to the ap-
10 plicable date;

11 (ii) was supported by a discovery of a valu-
12 able mineral deposit within the meaning of the
13 general mining laws on the applicable date, or
14 satisfied the limitations under existing law for
15 millsite claims; and

16 (iii) continues to be valid under this Act.

17 (2) APPLICABLE DATE.—As used in paragraph
18 (1), the term “applicable date” means one of the fol-
19 lowing:

20 (A) For lands described in paragraph (1)
21 of section 201(b), the date of the recommenda-
22 tion referred to in paragraph (1) of that section
23 if such recommendation is made on or after the
24 date of the enactment of this Act.

1 (B) For lands described in paragraph (1)
2 of section 201(b), if the recommendation re-
3 ferred to in paragraph (1) of that section is
4 made before the date of the enactment of this
5 Act, the earlier of—

6 (i) the date of the enactment of this
7 Act; or

8 (ii) the date of any withdrawal of such
9 lands from mineral activities.

10 (C) For lands described in paragraph
11 (3)(B) of section 201(b), the date of the enact-
12 ment of this Act.

13 (D) For lands described in paragraph
14 (3)(A) or (3)(C) of section 201(b), the date of
15 the enactment of the amendment to the Wild
16 and Scenic Rivers Act (16 U.S.C. 1271 and fol-
17 lowing) listing the river segment for study.

18 (E) For lands described in paragraph
19 (3)(B) of section 201(b), the date of the deter-
20 mination of eligibility of such lands for inclu-
21 sion in the Wild and Scenic River System.

22 (F) For lands described in paragraph (4)
23 of section 201(b), the date of the withdrawal
24 under other law.

1 (c) REFERENCES TO OTHER LAWS.—(1) Any ref-
2 erence in this Act to the term general mining laws is a
3 reference to those Acts that generally comprise chapters
4 2, 12A, and 16, and sections 161 and 162, of title 30,
5 United States Code.

6 (2) Any reference in this Act to the Act of July 23,
7 1955, is a reference to the Act entitled “An Act to amend
8 the Act of July 31, 1947 (61 Stat. 681) and the mining
9 laws to provide for multiple use of the surface of the same
10 tracts of the public lands, and for other purposes” (30
11 U.S.C. 601 and following).

12 **SEC. 3. APPLICATION RULES.**

13 (a) IN GENERAL.—This Act applies to any mining
14 claim, millsite claim, or tunnel site claim located under
15 the general mining laws, prior to, on, or after the date
16 of enactment of this Act, except as provided in subsection
17 (b).

18 (b) PREEXISTING CLAIMS.—(1) Any unpatented min-
19 ing claim or millsite located under the general mining laws
20 before the date of enactment of this Act for which a plan
21 of operation has not been approved or a notice filed prior
22 to the date of enactment shall, upon the effective date of
23 this Act, be subject to the requirements of this Act, except
24 as provided in paragraphs (2) and (3).

1 (2)(A) If a plan of operations had been approved for
2 mineral activities on any claim or site referred to in para-
3 graph (1) prior to the date of enactment of this Act, for
4 a period of 5 years after the effective date of this Act min-
5 eral activities at such claim or site shall be subject to such
6 plan of operations (or a modification or amendment there-
7 to prepared in accordance with the provisions of law appli-
8 cable prior to the enactment of this Act). During such 5-
9 year period, modifications of, or amendments to, any such
10 plan may be made in accordance with the provisions of
11 law applicable prior to the enactment of this Act if such
12 modifications or amendments are deemed minor by the
13 Secretary concerned. After such 5-year period the require-
14 ments of title III shall apply, subject to the limitations
15 of section 308. In order to meet the requirements of title
16 III, the person conducting mineral activities under such
17 plan of operations (or modified or amended plan) shall
18 apply for a modification under section 303(f) no later than
19 3 years after the date of enactment of this Act. For pur-
20 poses of this paragraph, any modification or amendment
21 that extends the area covered by the plan (except for inci-
22 dental boundary revisions) or that increases the risk of
23 undue degradation of the environment shall not be subject
24 to this paragraph and shall be subject to other provisions
25 of this Act.

1 (B) During the 5-year period referred to in subpara-
2 graph (A), the provisions of section 305 (relating to finan-
3 cial assurance), section 503 (relating to inspection and
4 monitoring), and section 506 (relating to enforcement)
5 shall apply on the basis of the surface management re-
6 quirements applicable to such plans of operations prior to
7 the effective date of this Act.

8 (C) Where an application for modification or amend-
9 ment of a plan of operations referred to in subparagraph
10 (A) has been timely submitted and an approved plan ex-
11 pires prior to Secretarial action on the application, mineral
12 activities and reclamation may continue in accordance
13 with the terms of the expired plan until the Secretary
14 makes an administrative decision on the application.

15 (c) APPLICATION OF ACT TO BENEFICIATION AND
16 PROCESSING OF NON-FEDERAL MINERALS ON FEDERAL
17 LANDS.—The provisions of this Act (including the envi-
18 ronmental protection requirements of title III) shall apply
19 in the same manner and to the same extent to mining
20 claims, millsite claims, and tunnel site claims used for
21 beneficiation or processing activities for any mineral with-
22 out regard to whether or not the legal and beneficial title
23 to the mineral is held by the United States. This sub-
24 section applies only to minerals that are locatable minerals
25 or minerals that would be locatable minerals if the legal

1 and beneficial title to such minerals were held by the
2 United States.

3 **TITLE I—MINERAL EXPLO-**
4 **RATION AND DEVELOPMENT**

5 **SEC. 101. LIMITATION ON PATENTS.**

6 (a) MINING CLAIMS.—

7 (1) DETERMINATIONS REQUIRED.—After the
8 date of enactment of this Act, no patent shall be
9 issued by the United States for any mining claim lo-
10 cated under the general mining laws unless the Sec-
11 retary determines that, for the claim concerned—

12 (A) a patent application was filed with the
13 Secretary on or before September 30, 1994;
14 and

15 (B) all requirements established under sec-
16 tions 2325 and 2326 of the Revised Statutes
17 (30 U.S.C. 29 and 30) for vein or lode claims
18 and sections 2329, 2330, 2331, and 2333 of
19 the Revised Statutes (30 U.S.C. 35, 36, and
20 37) for placer claims were fully complied with
21 by that date, including the parameters set forth
22 in section 2(a)(10) of this Act.

23 (2) RIGHT TO PATENT.—If the Secretary makes
24 the determinations referred to in subparagraphs (A)
25 and (B) of paragraph (1) for any mining claim, the

1 holder of the claim shall be entitled to the issuance
2 of a patent in the same manner and degree to which
3 such claim holder would have been entitled to prior
4 to the enactment of this Act, unless and until such
5 determinations are withdrawn or invalidated by the
6 Secretary or by a court of the United States.

7 (b) MILLSITE CLAIMS.—

8 (1) DETERMINATIONS REQUIRED.—After the
9 date of enactment of this Act, no patent shall be
10 issued by the United States for any millsite claim lo-
11 cated under the general mining laws unless the Sec-
12 retary determines that for the millsite concerned—

13 (A) a patent application for such land was
14 filed with the Secretary on or before September
15 30, 1994; and

16 (B) all requirements applicable to such
17 patent application were fully complied with by
18 that date.

19 (2) RIGHT TO PATENT.—If the Secretary makes
20 the determinations referred to in subparagraphs (A)
21 and (B) of paragraph (1) for any millsite claim, the
22 holder of the claim shall be entitled to the issuance
23 of a patent in the same manner and degree to which
24 such claim holder would have been entitled to prior
25 to the enactment of this Act, unless and until such

1 determinations are withdrawn or invalidated by the
2 Secretary or by a court of the United States.

3 **SEC. 102. ROYALTY.**

4 (a) RESERVATION OF ROYALTY.—

5 (1) IN GENERAL.—Production of all locatable
6 minerals from any mining claim located under the
7 general mining laws and maintained in compliance
8 with this Act, or mineral concentrates or products
9 derived from locatable minerals from any such min-
10 ing claim, as the case may be, shall be subject to a
11 royalty of 8 percent of the net smelter return from
12 such production. The claim holder and any operator
13 to whom the claim holder has assigned the obligation
14 to make royalty payments under the claim and any
15 person who controls such claim holder or operator
16 shall be jointly and severally liable for payment of
17 such royalties.

18 (2) DEPOSIT.—Of the amounts received by the
19 United States as royalties under this subsection—

20 (A) $\frac{2}{3}$ shall be deposited into the account
21 established under section 401; and

22 (B) $\frac{1}{3}$ shall be deposited into the account
23 established under section 421.

24 (b) DUTIES OF CLAIM HOLDERS, OPERATORS, AND
25 TRANSPORTERS.—(1) A person—

1 (A) who is required to make any royalty pay-
2 ment under this section shall make such payments
3 to the United States at such times and in such man-
4 ner as the Secretary may by rule prescribe; and

5 (B) shall notify the Secretary, in the time and
6 manner as may be specified by the Secretary, of any
7 assignment that such person may have made of the
8 obligation to make any royalty or other payment
9 under a mining claim.

10 (2) Any person paying royalties under this section
11 shall file a written instrument, together with the first roy-
12 alty payment, affirming that such person is liable to the
13 Secretary for making proper payments for all amounts due
14 for all time periods for which such person has a payment
15 responsibility. Such liability for the period referred to in
16 the preceding sentence shall include any and all additional
17 amounts billed by the Secretary and determined to be due
18 by final agency or judicial action. Any person liable for
19 royalty payments under this section who assigns any pay-
20 ment obligation shall remain jointly and severally liable
21 for all royalty payments due for the claim for the period.

22 (3) A person conducting mineral activities shall—

23 (A) develop and comply with the site security
24 provisions in operations permit designed to protect
25 from theft the locatable minerals, concentrates or

1 products derived therefrom which are produced or
2 stored on a mining claim, and such provisions shall
3 conform with such minimum standards as the Sec-
4 retary may prescribe by rule, taking into account the
5 variety of circumstances on mining claims; and

6 (B) not later than the 5th business day after
7 production begins anywhere on a mining claim, or
8 production resumes after more than 90 days after
9 production was suspended, notify the Secretary, in
10 the manner prescribed by the Secretary, of the date
11 on which such production has begun or resumed.

12 (4) The Secretary may by rule require any person en-
13 gaged in transporting a locatable mineral, concentrate, or
14 product derived therefrom to carry on his or her person,
15 in his or her vehicle, or in his or her immediate control,
16 documentation showing, at a minimum, the amount, ori-
17 gin, and intended destination of the locatable mineral, con-
18 centrate, or product derived therefrom in such cir-
19 cumstances as the Secretary determines is appropriate.

20 (c) RECORDKEEPING AND REPORTING REQUIRE-
21 MENTS.—(1) A claim holder, operator, or other person di-
22 rectly involved in developing, producing, processing, trans-
23 porting, purchasing, or selling locatable minerals, con-
24 centrates, or products derived therefrom, subject to this
25 Act, through the point of royalty computation shall estab-

1 lish and maintain any records, make any reports, and pro-
2 vide any information that the Secretary may reasonably
3 require for the purposes of implementing this section or
4 determining compliance with rules or orders under this
5 section. Such records shall include, but not be limited to,
6 periodic reports, records, documents, and other data. Such
7 reports may also include, but not be limited to, pertinent
8 technical and financial data relating to the quantity, qual-
9 ity, composition volume, weight, and assay of all minerals
10 extracted from the mining claim. Upon the request of any
11 officer or employee duly designated by the Secretary or
12 any State conducting an audit or investigation pursuant
13 to this section, the appropriate records, reports, or infor-
14 mation that may be required by this section shall be made
15 available for inspection and duplication by such officer or
16 employee or State. Failure by a claim holder, operator,
17 or other person referred to in the first sentence to cooper-
18 ate with such an audit, provide data required by the Sec-
19 retary, or grant access to information may, at the discre-
20 tion of the Secretary, result in involuntary forfeiture of
21 the claim.

22 (2) Records required by the Secretary under this sec-
23 tion shall be maintained for 10 years after release of fi-
24 nancial assurance under section 305 unless the Secretary
25 notifies the operator that the Secretary has initiated an

1 audit or investigation involving such records and that such
2 records must be maintained for a longer period. In any
3 case when an audit or investigation is underway, records
4 shall be maintained until the Secretary releases the oper-
5 ator of the obligation to maintain such records.

6 (d) AUDITS.—The Secretary is authorized to conduct
7 such audits of all claim holders, operators, transporters,
8 purchasers, processors, or other persons directly or indi-
9 rectly involved in the production or sales of minerals cov-
10 ered by this Act, as the Secretary deems necessary for the
11 purposes of ensuring compliance with the requirements of
12 this section. For purposes of performing such audits, the
13 Secretary shall, at reasonable times and upon request,
14 have access to, and may copy, all books, papers and other
15 documents that relate to compliance with any provision
16 of this section by any person.

17 (e) COOPERATIVE AGREEMENTS.—(1) The Secretary
18 is authorized to enter into cooperative agreements with the
19 Secretary of Agriculture to share information concerning
20 the royalty management of locatable minerals, con-
21 centrates, or products derived therefrom, to carry out in-
22 spection, auditing, investigation, or enforcement (not in-
23 cluding the collection of royalties, civil or criminal pen-
24 alties, or other payments) activities under this section in

1 cooperation with the Secretary, and to carry out any other
2 activity described in this section.

3 (2) Except as provided in paragraph (3)(A) of this
4 subsection (relating to trade secrets), and pursuant to a
5 cooperative agreement, the Secretary of Agriculture shall,
6 upon request, have access to all royalty accounting infor-
7 mation in the possession of the Secretary respecting the
8 production, removal, or sale of locatable minerals, con-
9 centrates, or products derived therefrom from claims on
10 lands open to location under this Act.

11 (3) Trade secrets, proprietary, and other confidential
12 information protected from disclosure under section 552
13 of title 5, United States Code, popularly known as the
14 Freedom of Information Act, shall be made available by
15 the Secretary to other Federal agencies as necessary to
16 assure compliance with this Act and other Federal laws.
17 The Secretary, the Secretary of Agriculture, the Adminis-
18 trator of the Environmental Protection Agency, and other
19 Federal officials shall ensure that such information is pro-
20 vided protection in accordance with the requirements of
21 that section.

22 (f) INTEREST AND SUBSTANTIAL UNDERREPORTING
23 ASSESSMENTS.—(1) In the case of mining claims where
24 royalty payments are not received by the Secretary on the
25 date that such payments are due, the Secretary shall

1 charge interest on such underpayments at the same inter-
2 est rate as the rate applicable under section 6621(a)(2)
3 of the Internal Revenue Code of 1986. In the case of an
4 underpayment, interest shall be computed and charged
5 only on the amount of the deficiency and not on the total
6 amount.

7 (2) If there is any underreporting of royalty owed on
8 production from a claim for any production month by any
9 person liable for royalty payments under this section, the
10 Secretary shall assess a penalty of not greater than 25
11 percent of the amount of that underreporting.

12 (3) For the purposes of this subsection, the term
13 “underreporting” means the difference between the roy-
14 alty on the value of the production that should have been
15 reported and the royalty on the value of the production
16 which was reported, if the value that should have been
17 reported is greater than the value that was reported. An
18 underreporting constitutes a “substantial underreporting”
19 if such difference exceeds 10 percent of the royalty on the
20 value of production that should have been reported.

21 (4) The Secretary may waive or reduce the assess-
22 ment provided in paragraph (2) of this subsection if the
23 person liable for royalty payments under this section cor-
24 rects the underreporting before the date such person re-
25 ceives notice from the Secretary that an underreporting

1 may have occurred, or before 90 days after the date of
2 the enactment of this section, whichever is later.

3 (5) The Secretary shall waive any portion of an as-
4 sessment under paragraph (2) of this subsection attrib-
5 utable to that portion of the underreporting for which the
6 person responsible for paying the royalty demonstrates
7 that—

8 (A) such person had written authorization from
9 the Secretary to report royalty on the value of the
10 production on basis on which it was reported,

11 (B) such person had substantial authority for
12 reporting royalty on the value of the production on
13 the basis on which it was reported,

14 (C) such person previously had notified the Sec-
15 retary, in such manner as the Secretary may by rule
16 prescribe, of relevant reasons or facts affecting the
17 royalty treatment of specific production which led to
18 the underreporting, or

19 (D) such person meets any other exception
20 which the Secretary may, by rule, establish.

21 (6) All penalties collected under this subsection shall
22 be deposited in the Abandoned Locatable Minerals Mine
23 Reclamation Fund established under title IV.

24 (g) DELEGATION.—For the purposes of this section,
25 the term “Secretary” means the Secretary of the Interior

1 acting through the Director of the Minerals Management
2 Service.

3 (h) EXPANDED ROYALTY OBLIGATIONS.—Each per-
4 son liable for royalty payments under this section shall
5 be jointly and severally liable for royalty on all locatable
6 minerals, concentrates, or products derived therefrom lost
7 or wasted from a mining claim located under the general
8 mining laws and maintained in compliance with this Act
9 when such loss or waste is due to negligence on the part
10 of any person or due to the failure to comply with any
11 rule, regulation, or order issued under this section.

12 (i) NET SMELTER RETURN DEFINED.—For the pur-
13 poses of this section, for any locatable mineral, the term
14 “net smelter return” has the same meaning as the term
15 “gross income” in section 613(c)(1) of the Internal Rev-
16 enue Code of 1986.

17 (j) EFFECTIVE DATE.—The royalty under this sec-
18 tion shall take effect with respect to the production of
19 locatable minerals after the enactment of this Act, but any
20 royalty payments attributable to production during the
21 first 12 calendar months after the enactment of this Act
22 shall be payable at the expiration of such 12-month period.

23 (k) FAILURE TO COMPLY WITH ROYALTY REQUIRE-
24 MENTS.—Any person who fails to comply with the require-
25 ments of this section or any regulation or order issued to

1 implement this section shall be liable for a civil penalty
2 under section 109 of the Federal Oil and Gas Royalty
3 Management Act (30 U.S.C. 1719) to the same extent as
4 if the claim located under the general mining laws and
5 maintained in compliance with this Act were a lease under
6 that Act.

7 **TITLE II—PROTECTION OF**
8 **SPECIAL PLACES**

9 **SEC. 201. LANDS OPEN TO LOCATION.**

10 (a) LANDS OPEN TO LOCATION.—Except as provided
11 in subsection (b), mining claims may be located under the
12 general mining laws on—

13 (1) such lands and interests as were open to the
14 location of mining claims under the general mining
15 laws immediately before the enactment of this Act;
16 or

17 (2) such lands and interests as are opened to
18 the location of mining claims on or after the date of
19 enactment of this Act by reason of any administra-
20 tive action or statute.

21 (b) LANDS NOT OPEN TO LOCATION.—Notwith-
22 standing any other provision of law and subject to valid
23 existing rights, each of the following shall not be open to
24 the location of mining claims under the general mining
25 laws on or after the date of enactment of this Act:

1 (1) Lands recommended for wilderness designa-
2 tion by the agency managing the surface, pending a
3 final determination by the Congress of the status of
4 such recommended lands, or otherwise being man-
5 aged as roadless areas under an applicable land use
6 plan.

7 (2) Lands being managed by the Secretary, act-
8 ing through Bureau of Land Management, as wil-
9 derness study areas or National Monuments on the
10 date of enactment of this Act except where the loca-
11 tion of mining claims is specifically allowed to con-
12 tinue by the statute designating the study area,
13 pending a final determination by the Congress of the
14 status of such lands.

15 (3) Lands that are—

16 (A) in designated Wild and Scenic Rivers
17 and under study for inclusion in the National
18 Wild and Scenic River System pursuant to sec-
19 tion 5(a) of the Wild and Scenic Rivers Act (16
20 U.S.C. 1276(a)), pending a final determination
21 by the Congress of the status of such lands;

22 (B) determined by a Federal agency under
23 section 5(d) of such Act (16 U.S.C. 1276(d)) to
24 be eligible for inclusion in such system, pending

1 a final determination by the Congress of the
2 status of such lands; or

3 (C) designated Wild and Scenic Rivers that
4 have been withdrawn from mineral entry by ac-
5 tion of the Secretary of the Interior.

6 (4) Lands withdrawn or segregated from min-
7 eral entry under authority of other law.

8 (5) Lands designated as Areas of Critical Envi-
9 ronmental Concern.

10 (6) Lands identified as “sacred sites” in ac-
11 cordance with Executive Order 13007.

12 (7) Lands identified in the Roadless Area Con-
13 servation Rule of January 2001.

14 **TITLE III—ENVIRONMENTAL**
15 **CONSIDERATIONS OF MIN-**
16 **ERAL EXPLORATION AND DE-**
17 **VELOPMENT**

18 **SEC. 301. ENVIRONMENTAL PROTECTION STANDARDS.**

19 Notwithstanding section 302(b) of the Federal Land
20 Policy and Management Act of 1976 (43 U.S.C. 1732(b)),
21 the first section of the Act of June 4, 1897 (chapter 2;
22 30 Stat. 36 16 U.S.C. 478), and the National Forest Man-
23 agement Act of 1976 (16 U.S.C. 1600 et seq.), and in
24 accordance with this title and applicable law, the Sec-
25 retary—

1 (1) shall require that mineral activities on min-
2 ing claims, millsite claims, or tunnel site claims con-
3 ducted by any person shall protect the environment,
4 public health, and public safety from undue degrada-
5 tion; and

6 (2) shall assure that mineral activities on min-
7 ing claims, millsite claims, or tunnel site claims are
8 conducted in a manner that recognizes the value of
9 such lands for other uses, including but not limited
10 to recreation, wildlife habitat, and water supply.

11 **SEC. 302. PERMITS.**

12 (a) PERMITS REQUIRED.—No person may engage in
13 mineral activities on lands on which mining claims may
14 be located under section 201 that may cause a disturbance
15 of surface resources, including but not limited to land, air,
16 ground water and surface water, and fish and wildlife, un-
17 less—

18 (1) the claim was properly located under the
19 general mining laws and maintained in compliance
20 with such laws and this Act; and

21 (2) a permit was issued to such person under
22 this title authorizing such activities.

23 (b) NEGLIGIBLE DISTURBANCE.—Notwithstanding
24 subsection (a)(2), a permit under this title shall not be
25 required for mineral activities that are a casual use of the

1 public lands, including the collection of geochemical, rock,
2 soil, or mineral specimens using hand tools; and hand pan-
3 ning. Casual use does not include—

4 (1) the use of mechanized earth moving equip-
5 ment, suction dredging, or explosives;

6 (2) the use of motor vehicles in areas closed to
7 off-road vehicles; and

8 (3) the construction of roads, drill pads, or the
9 use of toxic or hazardous materials.

10 **SEC. 303. OPERATIONS PERMIT.**

11 (a) OPERATIONS PERMIT.—Any claim holder that is
12 in compliance with the general mining laws and section
13 10101 of Public Law 103–66 (30 U.S.C. 28f) may apply
14 to the Secretary, or for National Forest System lands, the
15 Secretary of Agriculture, for an operations permit author-
16 izing the claim holder to carry out mineral activities on
17 any mining claim, millsite claim, or tunnel site claim for
18 any activity greater than casual use (as that term is used
19 in section 302(b)). If the Secretary decides to issue such
20 permit, the permit shall include such terms and conditions
21 as prescribed by such Secretary to carry out this title.

22 (b) PERMIT APPLICATION REQUIREMENTS.—An ap-
23 plication for an operations permit under this section shall
24 be submitted in a manner satisfactory to the Secretary
25 concerned and shall contain site characterization data, an

1 operations plan, a reclamation plan, monitoring plans,
2 long-term maintenance plans, to the extent necessary, and
3 such documentation as necessary to ensure compliance
4 with applicable Federal and State environmental laws and
5 regulations. If the proposed mineral activities will be car-
6 ried out in conjunction with mineral activities on adjacent
7 non-Federal lands, information on the location and nature
8 of such operations may be required by the Secretary. At
9 a minimum, each of the following shall be required for all
10 applications:

11 (1) An identification of the mining claims that
12 will be subject to the plan of operations.

13 (2) The name, mailing address, and social secu-
14 rity number or tax identification number, as applica-
15 ble, of each of the following:

16 (A) The applicant for the permit and any
17 agent of the applicant.

18 (B) The operator (if different than the ap-
19 plicant) of the claim concerned.

20 (C) Each claim holder (if different than
21 the applicant) of the claim concerned.

22 (D) Each affiliate and each officer or di-
23 rector of the applicant and of the operator.

24 (3) A statement of whether the applicant or op-
25 erator, or any subsidiary, affiliate, or person con-

1 trolled by or under common control with the appli-
2 cant or operator, is currently in violation of, or was,
3 during the 5-year period preceding the date of appli-
4 cation, found to be in violation of any of the fol-
5 lowing and if so, a brief explanation of the facts in-
6 volved, including identification of the site and the
7 nature of the violation:

8 (A) Any provision of this Act or any regu-
9 lation under this Act.

10 (B) Any applicable Federal or State toxic
11 substance, solid waste, air, water quality, rec-
12 lamation, or fish and wildlife conservation law
13 or regulation at any site where mining,
14 beneficiation, or processing activities are occur-
15 ring or have occurred.

16 (C) The Surface Mining Control and Rec-
17 lamation Act of 1977 (30 U.S.C. 1201 and fol-
18 lowing) or the Mineral Leasing Act (30 U.S.C.
19 181 and following) or any regulation under
20 those Acts at any site where mining operations
21 have occurred or are occurring.

22 (4) A statement of whether the applicant or op-
23 erator, and any subsidiary, affiliate, or person con-
24 trolled by or under common control with the appli-
25 cant or operator, has ever held a Federal or State

1 mining permit that has been suspended or revoked
2 or has had a mining bond or similar security depos-
3 ited in lieu of bond forfeited and, if so, a brief expla-
4 nation of the facts involved.

5 (5) A statement of any current or previous per-
6 mits or plans of operations issued under the Surface
7 Mining Control and Reclamation Act of 1977 (30
8 U.S.C. 1201 and following) or the Federal Land
9 Policy and Management Act of 1976 (43 U.S.C.
10 1701 and following).

11 (6) A description of the type and method of
12 mineral activities proposed, the engineering tech-
13 niques proposed to be used, and the equipment pro-
14 posed to be used.

15 (7) The anticipated starting and termination
16 dates of each phase of the mineral activities pro-
17 posed, including any planned temporary cessation of
18 operations.

19 (8) Accurate maps, to an appropriate scale,
20 clearly showing the lands, watersheds, and surface
21 waters, to be affected by the proposed mineral activi-
22 ties; surface and mineral ownership; facilities, in-
23 cluding roads and other man-made structures; pro-
24 posed disturbances; soils and vegetation; topography;
25 and water supply intakes and surface water bodies.

1 (9) A description of the biological resources in
2 or associated with the area subject to or potentially
3 impacted by planned mineral activities, including
4 vegetation, fish and wildlife, and riparian and wet-
5 land habitats.

6 (10) A description of measures planned to ex-
7 clude fish and wildlife resources from the area sub-
8 ject to mineral activities by covering, containment,
9 or fencing of open waters, beneficiation, and proc-
10 essing materials; or maintenance of all facilities in a
11 condition that is not harmful to fish and wildlife.

12 (11) A description of the quantity and quality
13 of surface and ground water resources in or associ-
14 ated with the area subject to mineral activities,
15 based on predisturbance monitoring sufficient to es-
16 tablish seasonal variations.

17 (12) An analysis of the potential hydrologic
18 consequences of the mineral activities, both on and
19 off the area subject to mineral activities, with re-
20 spect to the hydrologic regime, quantity and quality
21 of water in surface and ground water systems in-
22 cluding the dissolved and suspended solids under
23 seasonal flow conditions, and the collection of suffi-
24 cient data for the mine site and surrounding areas
25 so that an assessment can be made by the Secretary

1 regarding the possible cumulative impacts of the an-
2 ticipated mineral activities in the area upon the hy-
3 drology of the area and particularly upon water
4 availability and quality. To the extent that this anal-
5 ysis relies on hydrologic or other modeling, the mod-
6 els used shall be approved by the Secretary for ap-
7 plication at the site. Such a model may not be ap-
8 proved if it is considered proprietary and therefore
9 unavailable for public review. In describing the po-
10 tential impacts of mineral activities, the applicant
11 shall include information on the range of predicted
12 impacts, the key factors in any sensitivity analyses
13 undertaken, and the probabilities of various out-
14 comes, to the extent such information is available.

15 (13) A description of the monitoring and re-
16 reporting systems to be used to detect and determine
17 whether compliance has and is occurring consistent
18 with the environmental protection requirements and
19 with predicted outcomes, including the type and lo-
20 cation of monitoring devices, sampling parameters
21 and frequency, detection limits, analytical methods,
22 reporting procedures, and procedures to respond to
23 reporting results, that will monitor the effects of
24 mineral activities on the site and surrounding envi-
25 ronment, including but not limited to, ground water,

1 surface water, wetlands, air, soils, and fish and wild-
2 life resources.

3 (14) Accident contingency plans that include,
4 but are not limited to, immediate response strategies
5 and corrective measures to protect public safety and
6 prevent adverse environmental impacts, and appro-
7 priate insurance to cover accident contingencies.

8 (15) Any measures to comply with any condi-
9 tions on minerals activities that are required in the
10 applicable land use plan.

11 (16) Information determined necessary by the
12 Secretary to assess the cumulative impacts of min-
13 eral activities, as required to comply with the Na-
14 tional Environmental Policy Act of 1969, if impacts
15 of the proposed mineral activities are additions to
16 the impacts associated with other mineral activities.

17 (17) Such other environmental baseline data as
18 the Secretaries, by joint regulation, shall require suf-
19 ficient to validate the determinations required for
20 issuance of a permit under this Act.

21 (18) Evidence of appropriate financial assur-
22 ance as specified in section 305.

23 (19) A description of the site security provisions
24 designed to protect from theft the locatable min-

1 erals, concentrates, or products derived therefrom
2 that will be produced or stored on a mining claim.

3 (20) A full characterization of soils and geology
4 in the area to be affected by mineral activities.

5 (21) A copy of the applicant's advertisement to
6 be published as required by subsection (k).

7 (c) OPERATION AND RECLAMATION PLANS APPLICA-
8 TION REQUIREMENTS.—The operation and reclamation
9 plans referred to in subsection (b) shall include such rec-
10 lamation measures as prescribed by the Secretary, or for
11 National Forest System lands the Secretary of Agri-
12 culture, and each of the following:

13 (1) A description of the condition of the land,
14 including the fish and wildlife resources and habitat
15 contained thereon, subject to the permit prior to the
16 commencement of any mineral activities.

17 (2) A discussion of the applicable land use plan
18 and how the proposed reclamation activities will
19 render the post-mining and reclamation condition of
20 the land and resources consistent with that plan.

21 (3) A description of operation and reclamation
22 measures proposed pursuant to the requirements of
23 section 306.

1 (4) The engineering techniques to be used in
2 operation and reclamation and the equipment pro-
3 posed to be used.

4 (5) The anticipated starting and termination
5 dates of each phase of the reclamation proposed.

6 (6) A description of the proposed condition of
7 the land, including the fish and wildlife resources
8 and habitat contained thereon, following the comple-
9 tion of reclamation.

10 (7) A description of the maintenance measures
11 that will be necessary to meet the environmental
12 protection requirements of this Act, including but
13 not limited to, drainage, water treatment facilities,
14 or liner maintenance and control. This description
15 shall include an estimate of the costs of operating
16 and maintaining such facilities for the length of time
17 such facilities will be required.

18 (d) PERMIT ISSUANCE OR DENIAL.—(1) After pro-
19 viding notice and opportunity for public comment and
20 hearing pursuant to subsection (k), the Secretary, or for
21 National Forest System lands the Secretary of Agri-
22 culture, shall issue an operations permit if such Secretary
23 makes each of the following determinations in writing, and
24 shall deny a permit if such Secretary finds that the appli-

1 cation and applicant do not fully meet the following re-
2 quirements:

3 (A) The permit application, including the site
4 characterization data, operations plan, and reclama-
5 tion plan, are complete and accurate and sufficient
6 for developing a good understanding of the antici-
7 pated impacts of the mineral activities and the effec-
8 tiveness of proposed mitigation and control.

9 (B) The applicant has demonstrated that the
10 proposed reclamation in the operation and reclama-
11 tion plan can be and is likely to be accomplished by
12 the applicant consistent with the goals of the envi-
13 ronmental protection standard under section 301.

14 (C) The condition of the land, including the fish
15 and wildlife resources and habitat contained thereon,
16 after the completion of mineral activities and final
17 reclamation, will conform to the land use plan appli-
18 cable to the area subject to mineral activities and
19 are returned to a productive use.

20 (D) The area subject to the proposed plan is
21 open to location for the types of mineral activities
22 proposed.

23 (E) The applicant has obtained the necessary
24 Federal, State, and local permits to demonstrate
25 that the mineral activities will be in compliance with

1 this Act and all other applicable Federal require-
2 ments, and any applicable State requirements agreed
3 to by the appropriate Secretary pursuant to coopera-
4 tive agreements under section 307 and local land use
5 and zoning requirements.

6 (F) The assessment of the probable cumulative
7 impact of all anticipated mining in the area on the
8 hydrologic balance specified in subsections (b)(11)
9 and (b)(12) demonstrates that impacts to human
10 health, water resources, wildlife habitat, and other
11 natural resources will not cause undue degradation,
12 and the proposed operation has been designed and
13 will operate to minimize disturbances to the pre-
14 vailing hydrologic balance of the permit area.

15 (G) The applicant has fully complied with the
16 requirements of section 305 (relating to financial as-
17 surance).

18 (H) The Secretary has determined that there
19 will be no undue degradation of natural or cultural
20 resources.

21 (I) Neither the applicant nor operator, nor any
22 subsidiary, affiliate, or person controlled by or under
23 common control with the applicant or operator, is in-
24 eligible to receive a permit under section 304.

1 (J) The reclamation plan demonstrates that 10
2 years following mine closure, no treatment of surface
3 or ground water for carcinogens or toxins will be re-
4 quired to meet water quality standards at the point
5 of discharge.

6 (2) Issuance of an operations permit under this sec-
7 tion shall be based on information supplied by the appli-
8 cant or other interested parties and the applicant shall
9 have the burden of establishing that the application meets
10 the environmental standard established in section 301.

11 (3) With respect to any activities specified in the re-
12 clamation plan referred to in subsection (b) that constitutes
13 a removal or remedial action under section 101 of the
14 Comprehensive Environmental Response, Compensation,
15 and Liability Act of 1980 (42 U.S.C. 9601 and following),
16 the Secretary shall consult with the Administrator of the
17 Environmental Protection Agency prior to the issuance of
18 an operations permit. The Administrator shall ensure that
19 the reclamation plan does not require activities which
20 would increase the costs or likelihood of removal or reme-
21 dial actions under the Comprehensive Environmental Re-
22 sponse, Compensation and Liability Act of 1980 (42
23 U.S.C. 9601 and following) or corrective actions under the
24 Solid Waste Disposal Act (42 U.S.C. 6901 and following).

25 (e) TERM OF PERMIT; RENEWAL.—

1 (1) An operations permit shall be for a stated
2 term. The term shall be no longer than that nec-
3 essary to accomplish the proposed mineral activities
4 subject to the permit, and in no case for more than
5 10 years.

6 (2) Failure by the operator to commence min-
7 eral activities within two years of the date scheduled
8 in an operations permit shall require a modification
9 of the permit if the Secretary concerned determines
10 that modifications are necessary to comply with sec-
11 tion 201.

12 (3) An operations permit shall carry with it the
13 right of successive renewal upon expiration only with
14 respect to operations on areas within the boundaries
15 of the existing permit as issued. A renewal of such
16 permit shall not be issued if such Secretary deter-
17 mines, in writing, any of the following:

18 (A) The terms and conditions of the exist-
19 ing permit are not being met.

20 (B) The operator has not demonstrated
21 that the financial assurance would continue to
22 apply in full force and effect for the renewal
23 term.

1 (C) Any additional revised or updated in-
2 formation required by the Secretary concerned
3 has not been provided.

4 (D) The applicant has not demonstrated
5 that the mineral activities will be in compliance
6 with the requirements of this Act, all other ap-
7 plicable Federal requirements, and any State
8 requirements agreed to by the Secretary con-
9 cerned pursuant to cooperative agreements
10 under section 307.

11 (4) A renewal of an operations permit shall be
12 for a term of 10 years or for such shorter term as
13 the Secretary concerned deems appropriate. Applica-
14 tion for renewal shall be made at least 18 months
15 prior to the expiration of the existing permit. If a
16 renewal application has been timely submitted and a
17 permit expires prior to Secretarial action on the re-
18 newal application, reclamation shall and other min-
19 eral activities may continue in accordance with the
20 terms of the expired permit until the Secretary con-
21 cerned makes a decision on the renewal application
22 but in no case longer than 2 years.

23 (f) PERMIT MODIFICATION.—

24 (1) During the term of an operations permit
25 the operator may submit an application to modify

1 the permit (including the operations plan or rec-
2 lamation plan, or both). To approve a proposed
3 modification, the Secretary, or for National Forest
4 System lands the Secretary of Agriculture, shall
5 make the same determinations as are required in the
6 case of an original operations permit, except that the
7 Secretaries may establish joint rules regarding the
8 extent to which requirements for original permits
9 under this section shall apply to applications to mod-
10 ify a permit based on whether such modifications are
11 deemed significant or minor.

12 (2) The Secretary, or for National Forest Sys-
13 tem lands the Secretary of Agriculture, may, at any
14 time, require reasonable modification to any oper-
15 ations plan or reclamation plan upon a determina-
16 tion that the requirements of this Act cannot be met
17 if the plan is followed as approved. Such determina-
18 tion shall be based on a written finding and subject
19 to public notice and hearing requirements estab-
20 lished by the Secretary concerned.

21 (3) A permit modification is required before
22 changes are made to the approved plan of oper-
23 ations, or if unanticipated events or conditions exist
24 on the mine site, including in the case of—

25 (A) development of acid or toxic drainage;

1 (B) loss of springs or water supplies;

2 (C) water quantity, water quality, or other
3 resulting water impacts that are significantly
4 different than those predicted in the applica-
5 tion;

6 (D) the need for long-term water treat-
7 ment;

8 (E) significant reclamation difficulties or
9 reclamation failure;

10 (F) the discovery of significant scientific,
11 cultural, or biological resources that were not
12 addressed in the original plan; or

13 (G) the discovery of hazards to public safe-
14 ty.

15 (g) TEMPORARY CESSATION OF OPERATIONS.—(1)

16 An operator conducting mineral activities under an oper-
17 ations permit in effect under this title may not temporarily
18 cease mineral activities for a period greater than 180 days
19 unless the Secretary concerned has approved such tem-
20 porary cessation or unless the temporary cessation is per-
21 mitted under the original permit. Any operator tempo-
22 rarily ceasing mineral activities for a period greater than
23 90 days under an operations permit issued before the date
24 of the enactment of this Act shall submit, before the expi-
25 ration of such 90-day period, a complete application for

1 temporary cessation of operations to the Secretary con-
2 cerned for approval unless the temporary cessation is per-
3 mitted under the original permit.

4 (2) An application for approval of temporary ces-
5 sation of operations shall include such information re-
6 quired under subsection (b) and any other provisions pre-
7 scribed by the Secretary concerned to minimize impacts
8 on the environment. After receipt of a complete applica-
9 tion for temporary cessation of operations such Secretary
10 shall conduct an inspection of the area for which tem-
11 porary cessation of operations has been requested.

12 (3) To approve an application for temporary ces-
13 sation of operations, the Secretary concerned shall make
14 each of the following determinations:

15 (A) A determination that the methods for se-
16 curing surface facilities and restricting access to the
17 permit area, or relevant portions thereof, will effec-
18 tively ensure against hazards to the health and safe-
19 ty of the public and fish and wildlife.

20 (B) A determination that reclamation is in com-
21 pliance with the approved reclamation plan, except
22 in those areas specifically designated in the applica-
23 tion for temporary cessation of operations for which
24 a delay in meeting such standards is necessary to fa-
25 cilitate the resumption of operations.

1 (C) A determination that the amount of finan-
2 cial assurance filed with the permit application is
3 sufficient to assure completion of the reclamation ac-
4 tivities identified in the approved reclamation plan in
5 the event of forfeiture.

6 (D) A determination that any outstanding no-
7 tices of violation and cessation orders incurred in
8 connection with the plan for which temporary ces-
9 sation is being requested are either stayed pursuant
10 to an administrative or judicial appeal proceeding or
11 are in the process of being abated to the satisfaction
12 of the Secretary concerned.

13 (h) PERMIT REVIEWS.—The Secretary, or for Na-
14 tional Forest System lands the Secretary of Agriculture,
15 shall review each permit issued under this section every
16 3 years during the term of such permit, shall provide pub-
17 lic notice of the permit review, and, based upon a written
18 finding, such Secretary shall require the operator to take
19 such actions as the Secretary deems necessary to assure
20 that mineral activities conform to the permit, including
21 adjustment of financial assurance requirements.

22 (i) FEES.—Each application for a permit pursuant
23 to this section shall be accompanied by a fee payable to
24 the Secretary or for the National Forest System, the Sec-
25 retary of Agriculture, in such amount as may be estab-

1 lished by such Secretary, or for National Forest System
2 lands by the Secretary of Agriculture. Such amount shall
3 be equal to the actual or anticipated cost to the Secretary,
4 or for National Forest System lands the Secretary of Agri-
5 culture, of reviewing, administering, and enforcing such
6 permit, as determined by such Secretary. All moneys re-
7 ceived under this subsection shall be deposited in the
8 Abandoned Locatable Minerals Mine Reclamation Fund
9 established under title IV.

10 (j) TRANSFER, ASSIGNMENT, OR SALE OF RIGHTS.—

11 (1) No transfer, assignment, or sale of rights granted by
12 a permit under this section shall be made without the prior
13 written approval of the Secretary, or for National Forest
14 System lands the Secretary of Agriculture.

15 (2) The Secretary, or for National Forest System
16 lands, the Secretary of Agriculture, may allow a person
17 holding a permit to transfer, assign, or sell rights under
18 the permit to a successor, if such Secretary finds, in writ-
19 ing, that the successor—

20 (A) has submitted information required and is
21 eligible to receive a permit in accordance with sec-
22 tion 304;

23 (B) has submitted evidence of financial assur-
24 ance satisfactory under section 305; and

1 (C) meets any other requirements specified by
2 such Secretary.

3 (3) The successor in interest shall assume the liability
4 and reclamation responsibilities established by the existing
5 permit and shall conduct the mineral activities in full com-
6 pliance with this Act, and the terms and conditions of the
7 permit as in effect at the time of transfer, assignment,
8 or sale.

9 (4) Each application for approval of a permit trans-
10 fer, assignment, or sale pursuant to this subsection shall
11 be accompanied by a fee payable to the Secretary of the
12 Interior, or for National Forest System lands, the Sec-
13 retary of Agriculture, in such amount as may be estab-
14 lished by such Secretary, or for National Forest System
15 lands, by the Secretary of Agriculture. Such amount shall
16 be equal to the actual or anticipated cost to the Secretary
17 or, for National Forest System lands, to the Secretary of
18 Agriculture, of reviewing and approving or disapproving
19 such transfer, assignment, or sale, as determined by such
20 Secretary. All moneys received under this subsection shall
21 be deposited in the Abandoned Locatable Minerals Mine
22 Reclamation Fund established under title IV.

23 (k) PUBLIC PARTICIPATION.—(1) Concurrent with
24 submission of an application for a permit under this section
25 or a renewal or significant modification thereof, the appli-

1 cant shall publish a notice in a newspaper of local circula-
2 tion at least once a week for 4 consecutive weeks. In addi-
3 tion, the Secretary shall place a notice of the receipt of
4 the application in the Federal Register. Such notices by
5 the applicant and the Secretary shall include the name of
6 the applicant, the location of the proposed mineral activi-
7 ties, the type and expected duration of the proposed min-
8 eral activities, the proposed use of the land after the com-
9 pletion of mineral activities, and identification of a loca-
10 tion where such plans are publicly available. The notice
11 by the Secretary shall provide contact names and informa-
12 tion for members of the public wishing to obtain further
13 information, and shall specifically allow for commenters
14 to request a public hearing. The applicant shall also notify
15 in writing other Federal, State, and local government
16 agencies and Indian tribes that regulate mineral activities
17 or land planning decisions in the area subject to mineral
18 activities or that manage lands adjacent to the area sub-
19 ject to mineral activities. The applicant shall provide proof
20 of such notification to the Secretary, or for National For-
21 est System lands, the Secretary of Agriculture.

22 (2) The applicant for a permit under this section
23 shall make paper and digital copies of the complete permit
24 application, permit modifications, or permit renewals
25 available for public review at the office of the responsible

1 Federal agency located nearest to the location of the pro-
2 posed mineral activities, on the appropriate Internet
3 Websites of the appropriate Federal agencies and at such
4 other readily accessible public locations deemed appro-
5 priate by the State or local government for the county in
6 which the proposed mineral activities will occur prior to
7 final decision by the Secretary, or for National Forest Sys-
8 tem lands, the Secretary of Agriculture. Any person, and
9 the authorized representative of a Federal, State, or local
10 governmental agency or Indian tribe, shall have the right
11 to file written comments relating to the approval or dis-
12 approval of the permit application for a period of at least
13 45 days after the last day of newspaper publication. Such
14 comment period may be extended by the Secretary for an
15 additional 90-day period and shall be extended for a period
16 no less than 30 days following a public hearing carried
17 out in accordance with subsection (3). The Secretary con-
18 cerned shall also create a public docket of all materials
19 related to the application and all comments received.

20 (3) Any person may file written comments during the
21 comment period specified in paragraph (2) and any person
22 who is, or may be, adversely affected by the proposed min-
23 eral activities may request a nonadjudicatory public hear-
24 ing to be held in the county in which the mineral activities
25 are proposed. The Secretary concerned shall consider all

1 written comments filed during such comment period. If
2 a hearing is requested by any person who is, or may be,
3 adversely affected by the proposed mineral activities, the
4 Secretary concerned shall consider such request and may
5 conduct such hearing. The Secretary shall grant such re-
6 quest and whenever the Secretary determines that there
7 is significant public interest. When a hearing is to be held,
8 the Secretary shall notify all those who have provided com-
9 ments regarding the permit and notice of such hearing
10 shall be published in a newspaper of local circulation at
11 least once a week for 2 weeks prior to the hearing date.

12 (4) The public participation requirements in this sec-
13 tion shall apply to permit modifications that are consid-
14 ered more than minor under subsection (f).

15 **SEC. 304. PERSONS INELIGIBLE FOR PERMITS.**

16 (a) CURRENT VIOLATIONS.—Unless corrective action
17 has been taken in accordance with subsection (c), no per-
18 mit under this title shall be issued or transferred to an
19 applicant if the applicant or any agent of the applicant,
20 the operator (if different than the applicant) of the claim
21 concerned, any claim holder (if different than the appli-
22 cant) of the claim concerned, or any affiliate or officer
23 or director of the applicant is currently in violation of any
24 of the following:

1 (1) A provision of this Act or any regulation
2 under this Act.

3 (2) An applicable State or Federal toxic sub-
4 stance, solid waste, air, water quality, or fish and
5 wildlife conservation law or regulation at any site
6 where mining, beneficiation, or processing activities
7 are occurring or have occurred.

8 (3) The Surface Mining Control and Reclama-
9 tion Act of 1977 (30 U.S.C. 1201 and following) or
10 any regulation implementing that Act at any site
11 where surface coal mining operations have occurred
12 or are occurring.

13 (b) SUSPENSION.—The Secretary, or for National
14 Forest System lands the Secretary of Agriculture, shall
15 suspend an operations permit, in whole or in part, if such
16 Secretary determines that any of the entities described in
17 subsection (a) were in violation of any requirement listed
18 in subsection (a) at the time the permit was issued.

19 (c) CORRECTION.—(1) The Secretary, or for National
20 Forest System lands the Secretary of Agriculture, may
21 issue or reinstate a permit under this title if the applicant
22 submits proof that the violation referred to in subsection
23 (a) or (b) has been corrected or is in the process of being
24 corrected to the satisfaction of such Secretary and the reg-
25 ulatory authority involved or if the applicant submits proof

1 that the violator has filed and is presently pursuing, a di-
2 rect administrative or judicial appeal to contest the exist-
3 ence of the violation. For purposes of this section, an ap-
4 peal of any applicant's relationship to an affiliate shall not
5 constitute a direct administrative or judicial appeal to con-
6 test the existence of the violation.

7 (2) Any permit which is issued or reinstated based
8 upon proof submitted under this subsection shall be condi-
9 tionally approved or conditionally reinstated, as the case
10 may be. If the violation is not successfully abated or the
11 violation is upheld on appeal, the permit shall be sus-
12 pended or revoked.

13 (d) **PATTERN OF WILLFUL VIOLATIONS.**—No permit
14 under this Act may be issued to any applicant if there
15 is a demonstrated pattern of willful violations of the envi-
16 ronmental protection requirements of this Act by the ap-
17 plicant, any affiliate of the applicant, or the operator or
18 claim holder if different than the applicant.

19 **SEC. 305. FINANCIAL ASSURANCE.**

20 (a) **FINANCIAL ASSURANCE REQUIRED.**—(1) Before
21 any permit is issued under this title, the operator shall
22 file with the Secretary, or for National Forest System
23 lands the Secretary of Agriculture, evidence of financial
24 assurance payable to the United States on a form pre-
25 scribed and furnished by such Secretary and conditional

1 upon faithful performance of such permit and all other
2 requirements of this Act. The financial assurance shall be
3 provided in the form of a surety bond, trust fund, letters
4 of credits, government securities, certificates of deposit,
5 cash or equivalent.

6 (2) The financial assurance shall cover all lands with-
7 in the initial permit area and all affected waters that may
8 require restoration, treatment, or other management as a
9 result of mineral activities, and shall be extended to cover
10 all lands and waters added pursuant to any permit modi-
11 fication made under section 303(f) (relating to operations
12 permits), or affected by mineral activities.

13 (b) AMOUNT.—The amount of the financial assur-
14 ance required under this section shall be sufficient to as-
15 sure the completion of reclamation and restoration satis-
16 fying the requirements of this Act if the work were to be
17 performed by the Secretary concerned in the event of for-
18 feiture, including the construction and maintenance costs
19 for any treatment facilities necessary to meet Federal and
20 State environmental requirements. The calculation of such
21 amount shall take into account the maximum level of fi-
22 nancial exposure which shall arise during the mineral ac-
23 tivity and administrative costs associated with a govern-
24 ment agency reclaiming the site.

1 (c) DURATION.—The financial assurance required
2 under this section shall be held for the duration of the
3 mineral activities and for an additional period to cover the
4 operator's responsibility for reclamation, restoration, and
5 long-term maintenance as specified under section
6 306(b)(6)(B), and effluent treatment as specified in sub-
7 section (g).

8 (d) ADJUSTMENTS.—The amount of the financial as-
9 surance and the terms of the acceptance of the assurance
10 may be adjusted by the Secretary concerned from time to
11 time as the area requiring coverage is increased or de-
12 creased, or where the costs of reclamation or treatment
13 change, or pursuant to section 303(h) (relating to oper-
14 ations permits), but the financial assurance shall other-
15 wise be in compliance with this section. The Secretary con-
16 cerned shall review the financial guarantee as part of the
17 permit review under section 303(h).

18 (e) RELEASE.—Upon request, and after notice and
19 opportunity for public comment, and after inspection by
20 the Secretary, or for National Forest System lands, the
21 Secretary of Agriculture, such Secretary may, after con-
22 sultation with the Administrator of the Environmental
23 Protection Agency, release in whole or in part the financial
24 assurance required under this section if the Secretary
25 makes both of the following determinations:

1 (1) A determination that reclamation or res-
2 toration covered by the financial assurance has been
3 accomplished as required by this Act.

4 (2) A determination that the terms and condi-
5 tions of any other applicable Federal requirements,
6 and State requirements applicable pursuant to coop-
7 erative agreements under section 307, have been ful-
8 filled.

9 (f) **RELEASE SCHEDULE.**—The release referred to in
10 subsection (e) shall be according to the following schedule:

11 (1) After the operator has completed any re-
12 quired backfilling, regrading, and drainage control of
13 an area subject to mineral activities and covered by
14 the financial assurance, and has commenced revege-
15 tation on the regraded areas subject to mineral ac-
16 tivities in accordance with the approved plan, that
17 portion of the total financial assurance secured for
18 the area subject to mineral activities attributable to
19 the completed activities may be released except that
20 sufficient assurance must be retained to address
21 other required reclamation and restoration needs
22 and to assure the long-term success of the revegeta-
23 tion.

24 (2) After the operator has completed success-
25 fully all remaining mineral activities and reclamation

1 activities and all requirements of the operations plan
2 and the reclamation plan (including the provisions of
3 section 306(b)(6)(B) relating to revegetation, res-
4 toration, and effluent treatment required by sub-
5 section (g)), and all other requirements of this Act
6 have been fully met, the remaining portion of the fi-
7 nancial assurance may be released.

8 During the period following release of the financial assur-
9 ance as specified in paragraph (1), until the remaining
10 portion of the financial assurance is released as provided
11 in paragraph (2), the operator shall be required to comply
12 with the permit issued under this title.

13 (g) EFFLUENT.—Notwithstanding section 306(b)(4),
14 where any discharge or other water-related condition re-
15 sulting from the mineral activities requires treatment in
16 order to meet the applicable effluent limitations and water
17 quality standards, the financial assurance shall include the
18 estimated cost of maintaining such treatment for the pro-
19 jected period that will be needed after the cessation of
20 mineral activities. The portion of the financial assurance
21 attributable to such estimated cost of treatment shall not
22 be released until the discharge has ceased for a period of
23 5 years, as determined by ongoing monitoring and testing,
24 or, if the discharge continues, until the operator has met

1 all applicable effluent limitations and water quality stand-
2 ards for 5 full years without treatment.

3 (h) ENVIRONMENTAL HAZARDS.—If the Secretary,
4 or for National Forest System lands, the Secretary of Ag-
5 riculture, determines, after final release of financial assur-
6 ance, that an environmental hazard resulting from the
7 mineral activities exists, or the terms and conditions of
8 the operations permit of this Act were not fulfilled in fact
9 at the time of release, such Secretary shall issue an order
10 under section 506 requiring the claim holder or operator
11 (or any person who controls the claim holder or operator)
12 to correct the condition such that applicable laws and reg-
13 ulations and any conditions from the plan of operations
14 are met.

15 **SEC. 306. OPERATION AND RECLAMATION.**

16 (a) GENERAL RULE.—(1) Except as provided under
17 paragraphs (5) and (7) of subsection (b), the operator
18 shall restore lands subject to mineral activities carried out
19 under a permit issued under this title to a condition capa-
20 ble of supporting—

21 (A) the uses which such lands were capable of
22 supporting prior to surface disturbance by the oper-
23 ator, or

24 (B) other beneficial uses which conform to ap-
25 plicable land use plans as determined by the Sec-

1 retary, or for National Forest System lands, the
2 Secretary of Agriculture.

3 (2) Reclamation shall proceed as contemporaneously
4 as practicable with the conduct of mineral activities. In
5 the case of a cessation of mineral activities beyond that
6 provided for as a temporary cessation under this Act, rec-
7 lamation activities shall begin immediately.

8 (b) OPERATION AND RECLAMATION STANDARDS.—
9 Mineral activities shall be conducted in accordance with
10 the following standards, and any additional standards the
11 Secretaries may jointly promulgate under section 301 and
12 subsection (a) of this section to address specific environ-
13 mental impacts of selected methods of mining and to as-
14 sure that the direct and indirect impacts of mining are
15 consistent with applicable land use plans:

16 (1) SOILS.—(A) Soils, including top soils and
17 subsoils removed from lands subject to mineral ac-
18 tivities, shall be segregated from waste material and
19 protected to minimize erosion and sustain revegeta-
20 tion when reclamation begins. If such soil is not re-
21 placed on a backfill area within a time-frame short
22 enough to avoid deterioration of the topsoil, vegeta-
23 tive cover or other means shall be used so that the
24 soil is preserved from wind and water erosion, re-
25 mains free of contamination by acid or other toxic

1 material, and is in a usable condition for sustaining
2 vegetation when restored during reclamation.

3 (B) In the event the topsoil from lands subject
4 to mineral activities is of insufficient quantity or of
5 inferior quality for sustaining vegetation, and other
6 suitable growth media removed from the lands sub-
7 ject to the mineral activities are available that shall
8 support vegetation, the best available growth me-
9 dium shall be removed, segregated and preserved in
10 a like manner as under subparagraph (A) for sus-
11 taining vegetation when restored during reclamation.

12 (C) In the event the soil (other than topsoil)
13 from lands subject to mineral activities is of insuffi-
14 cient quantity or of inferior quality for sustaining
15 vegetation, and other suitable growth media removed
16 from the lands subject to the mineral activities are
17 available that support revegetation, these substitute
18 materials shall be removed, segregated, or preserved
19 in a like manner as under subparagraph (A) for
20 later use in reclamation.

21 (D) Mineral activities shall be conducted to pre-
22 vent contamination of soils to the extent possible
23 using the best technology currently available. If con-
24 tamination occurs, the operator shall decontaminate

1 or dispose of any contaminated soils which have re-
2 sulted from the mineral activities.

3 (2) STABILIZATION.—All surface areas subject
4 to mineral activities, including segregated soils or
5 other growth medium, waste material piles, ore piles,
6 subgrade ore piles, and open or partially backfilled
7 mine pits that meet the requirements of paragraph
8 (5), shall be engineered to a stable condition to pre-
9 vent hazards and to effectively control fugitive dust
10 and erosion and otherwise comply with toxic sub-
11 stance, solid waste, air and water pollution control
12 laws and other environmental laws.

13 (3) SEDIMENTS, EROSION, AND DRAINAGE.—
14 Facilities such as, but not limited to basins, ditches,
15 stream bank stabilization, diversions or other meas-
16 ures, shall be designed, constructed and maintained
17 where necessary to control sediments, prevent ero-
18 sion, and manage drainage of the area subject to
19 mineral activities.

20 (4) HYDROLOGIC BALANCE.—(A) Mineral ac-
21 tivities shall be conducted to minimize disturbances
22 to the prevailing hydrologic balance of the permit
23 area and surrounding hydrologic basins affected by
24 mining activities existing prior to the mineral activi-
25 ties in the permit area and in the surrounding wa-

1 tershed, as established by the baseline information
2 provided pursuant to section 303(b)(10) (relating to
3 operations permits). Hydrologic balance includes the
4 quality and quantity of ground water and surface
5 water and their interrelationships, including re-
6 charge and discharge rates. In all cases, the operator
7 shall comply with Federal and State laws related to
8 the quality and quantity of such waters, and mineral
9 activities shall not cause or contribute to violations
10 of water quality standards in affected waters.

11 (B) Mineral activities shall be conducted to pre-
12 vent to the fullest extent possible the formation of
13 acidic, toxic, or other contaminated water. Where
14 the formation of acidic, toxic, or other contaminated
15 water occurs, mineral activities shall be conducted so
16 as to minimize the formation of acidic, toxic, or
17 other contaminated water and to control the spread
18 of any such contamination.

19 (C) Mineral activities shall prevent any damage
20 off-site from contamination of surface and ground
21 water with acid or other toxic mine pollutants and
22 shall prevent or remove water from contact with acid
23 or toxic producing deposits.

24 (D) Reclamation shall restore approximate hy-
25 drologic balance existing prior to the mineral activi-

1 ties before the applicable water quality permit issued
2 under State or Federal law expires or is subject to
3 renewal.

4 (E) Where the quality or quantity of surface
5 water or ground water used for domestic, municipal,
6 agricultural, or industrial purposes is adversely im-
7 pacted by mineral activities, such water shall be
8 treated, or replaced with the same quantity and ap-
9 proximate quality of water, comparable to premining
10 conditions as established in paragraph (11) of sec-
11 tion 303(b) (relating to operations permits).

12 (5) SURFACE RESTORATION.—(A) The surface
13 area disturbed by mineral activities shall be shaped,
14 graded, and contoured to its natural topography.
15 Backfilling of an open pit mine shall be required if
16 it is determined by the Secretary to be the most ap-
17 propriate means of controlling long-term adverse im-
18 pacts on public health or the environment.

19 (B) In instances where complete backfilling of
20 an open pit is not required, the pit shall be graded
21 to blend with the surrounding topography as much
22 as practicable to minimize disturbance to the hydro-
23 logic balance, and revegetated in accordance with
24 paragraph (6), and the water quality in the pit and
25 other water impoundments and wells adjacent or

1 hydrologically connected by groundwater shall com-
2 ply with applicable Federal, State, and, where appro-
3 priate, local government water quality standards.

4 (6) VEGETATION.—(A) The area subject to
5 mineral activities shall be vegetated in order to es-
6 tablish a diverse, effective, and permanent vegetative
7 cover of the same seasonal variety native to the area
8 subject to mineral activities, capable of self-regen-
9 eration and plant succession and at least equal in
10 extent of cover to the natural revegetation of the
11 surrounding area, except that introduced species
12 may be used at the discretion of the Secretary, or
13 for National Forest System lands the Secretary of
14 Agriculture, in consultation with the Director of the
15 United States Fish and Wildlife Service, if such in-
16 troduction of such species is necessary as an interim
17 step in, and is part of a program to restore a native
18 plant community. In such instances where the com-
19 plete backfill of an open mine pit is not required
20 under paragraph (5), such Secretary shall prescribe
21 such vegetation requirements as conform to the ap-
22 plicable land use plan.

23 (B) In order to ensure compliance with sub-
24 paragraph (A), the period for determining successful
25 revegetation shall be 5 full years after the last year

1 of augmented seeding, fertilizing, irrigation, or other
2 work, except that such period shall be 10 full years
3 where the annual average precipitation is 26 inches
4 or less. The period may be a longer time at the dis-
5 cretion of the Secretary concerned where rainfall or
6 other factors indicate that successful revegetation
7 may be difficult to achieve or maintain.

8 (7) EXCESS WASTE.—(A) Waste material in ex-
9 cess of that required to comply with paragraph (5)
10 shall be transported and placed in approved areas,
11 in a controlled manner in such a way so as to assure
12 long-term mass stability, to prevent mass movement,
13 and to facilitate reclamation. In addition to the
14 measures described under paragraph (3), internal
15 drainage systems shall be employed, as may be re-
16 quired, to control erosion and drainage. The design
17 of such excess waste material piles shall be certified
18 by a qualified professional engineer.

19 (B) Excess waste material piles shall be graded
20 and contoured to blend with the surrounding topog-
21 raphy as much as practicable and revegetated in ac-
22 cordance with paragraph (6).

23 (8) SEALING.—All drill holes, and openings on
24 the surface associated with underground mineral ac-
25 tivities, shall be backfilled, sealed, or otherwise con-

1 trolled when no longer needed for the conduct of
2 mineral activities to ensure protection of the public
3 and the environment, protection of groundwater, and
4 management of fish and wildlife and livestock. Such
5 sealing must be designed and carried out using ma-
6 terials and methods that will provide long-term pro-
7 tection. Information regarding the location and na-
8 ture of sealed drill holes or openings or other areas
9 that should remain undisturbed or will require long-
10 term maintenance must be placed in the relevant
11 land records and provided to the Secretary and the
12 appropriate State and local agencies.

13 (9) REMOVAL OF STRUCTURES, ETC.—All
14 buildings, structures, roads, and equipment con-
15 structed, used, or improved during mineral activities
16 shall be removed, unless the Secretary concerned, in
17 consultation with the affected land managing agen-
18 cy, determines that use of the buildings, structures,
19 or equipment would be consistent with subsection (a)
20 or for environmental monitoring and the Secretary
21 concerned takes ownership of such structures.

22 (10) CULTURAL, PALEONTOLOGICAL, AND CAVE
23 RESOURCES.—The operator shall make reasonable
24 efforts to identify and shall not knowingly disturb,
25 alter, injure, or destroy any scientifically important

1 paleontologic remains or any historic, archaeologic,
2 or cave-related sites, structure, building, resource, or
3 object without including in the plan of operations a
4 proposed action to preserve the resource that is ap-
5 proved by the Secretary prior to the disturbance tak-
6 ing place.

7 (11) DESIGN, CONSTRUCTION, AND MAINTEN-
8 NANCE OF STRUCTURES, ETC.—All buildings, struc-
9 tures, roads, and equipment constructed, used, or
10 improved during mineral activities shall be designed,
11 constructed, and maintained to minimize erosion, sil-
12 tation, and air pollution and then removed after
13 mining, unless the Secretary concerned in consulta-
14 tion with the affected land managing agency, deter-
15 mines that use of the buildings, structures, roads, or
16 equipment would be consistent with subsection (a) or
17 for environmental monitoring, and the Secretary
18 concerned takes ownership of such structures, build-
19 ings, or equipment, or roads.

20 (12) DRILL HOLES.—(A) Drilling fluids shall
21 not be allowed to flow off the site or otherwise ad-
22 versely impact water or other natural resources.

23 (B) All drill holes shall be drilled, operated, and
24 plugged to prevent mixing of water from aquifers,

1 impacts to beneficial uses, and downward or upward
2 water loss.

3 (13) LEACHING OPERATIONS AND IMPOUND-
4 MENTS.—Leach pads, tailing impoundments, waste
5 rock and overburden, ponds, and solution holding fa-
6 cilities shall be designed, constructed, and operated
7 according to standard engineering practices to
8 achieve and maintain the stability of the site and fa-
9 cilitate reclamation. These facilities shall be con-
10 structed with a low-permeability liner or contain-
11 ment system that will detect leaks, and prevent the
12 release of solutions to the environment. All leaching
13 facilities and impoundments shall be designed and
14 operated to withstand a local 24-hour, 100-year
15 storm event in addition to the solution expected for
16 the facility, unless the Secretary determines that ad-
17 ditional protections are necessary due to proximity
18 to people or endangered species, or threatened spe-
19 cies or the presence of drinking water supplies.

20 (14) FIRE PREVENTION AND CONTROL.—All
21 applicable Federal and State fire laws and regula-
22 tions shall be complied with, including taking all rea-
23 sonable measures to prevent and suppress fire in the
24 project area.

1 (15) TEMPORARY CESSATION.—During tem-
2 porary cessation of operations, the operator shall
3 maintain the site, and take measures to stabilize the
4 excavation and workings, control toxic or deleterious
5 materials, and monitor site conditions. After a 5
6 year cessation, the operator shall commence rec-
7 lamation as described in section 306.

8 (c) SPECIAL RULE.—Reclamation activities for a
9 mining claim that has been forfeited, relinquished, or
10 lapsed, or a plan that has expired or been revoked or sus-
11 pended, shall continue subject to review and approval by
12 the Secretary, or for National Forest System lands the
13 Secretary of Agriculture.

14 (d) DEFINITIONS.—As used in this section:

15 (1) The term “waste material” means the mate-
16 rial resulting from mineral activities involving ex-
17 traction, beneficiation, and processing, including but
18 not limited to tailings, and such material resulting
19 from mineral activities involving processing, to the
20 extent such material is not subject to subtitle C of
21 the Solid Waste Disposal Act (42 U.S.C. 3251 and
22 following) or the Uranium Mill Tailings Radiation
23 Control Act of 1978 (42 U.S.C. 7901 and following).

1 (2) The term “ore piles” means ore stockpiled
2 for beneficiation prior to the completion of mineral
3 activities.

4 (3) The term “subgrade ore” means ore that is
5 too low in grade to be processed at the time of ex-
6 traction but which could reasonably be processed in
7 the foreseeable future.

8 (4) The term “soil” means the earthy or sandy
9 layer, ranging in thickness from a few inches to sev-
10 eral feet, composed of finely divided rock debris, of
11 whatever origin, mixed with decomposing vegetal and
12 animal matter, which forms the surface of the
13 ground and in which plants grow or may grow.

14 **SEC. 307. STATE LAW AND REGULATION.**

15 (a) STATE LAW.—(1) Any reclamation, land use, en-
16 vironmental, or public health protection standard or re-
17 quirement in State or local law or regulation that meets
18 or exceeds the requirements of section 306 shall not be
19 construed to be inconsistent with any such standard.

20 (2) Any bonding standard or requirement in State or
21 local law or regulation that meets or exceeds the require-
22 ments of section 305 shall not be construed to be incon-
23 sistent with such requirements.

24 (3) Any inspection standard or requirement in State
25 or local law or regulation that meets or exceeds the re-

1 requirements of section 503 shall not be construed to be in-
2 consistent with such requirements.

3 (b) APPLICABILITY OF OTHER STATE REQUIRE-
4 MENTS.—(1) Nothing in this Act shall be construed as af-
5 fecting any toxic substance, solid waste, or air or water
6 quality, standard or requirement of any State, county,
7 local, or tribal law or regulation, which may be applicable
8 to mineral activities on lands subject to this Act.

9 (2) Nothing in this Act shall be construed as affecting
10 in any way the right of any person to enforce or protect,
11 under applicable law, such person's interest in water re-
12 sources affected by mineral activities on lands subject to
13 this Act.

14 (c) COOPERATIVE AGREEMENTS.—(1) Any State
15 may enter into a cooperative agreement with the Sec-
16 retary, or for National Forest System lands the Secretary
17 of Agriculture, for the purposes of such Secretary applying
18 such standards and requirements referred to in subsection
19 (a) and subsection (b) to mineral activities or reclamation
20 on lands subject to this Act.

21 (2) In such instances where the proposed mineral ac-
22 tivities would affect lands not subject to this Act in addi-
23 tion to lands subject to this Act, in order to approve a
24 plan of operations the Secretary concerned shall enter into
25 a cooperative agreement with the State that sets forth a

1 common regulatory framework consistent with the envi-
2 ronmental protection requirements of this Act for the pur-
3 poses of such plan of operations.

4 (3) The Secretary concerned shall not enter into a
5 cooperative agreement with any State under this section
6 until after notice in the Federal Register and opportunity
7 for public comment and hearing.

8 (d) PRIOR AGREEMENTS.—Any cooperative agree-
9 ment or such other understanding between the Secretary
10 concerned and any State, or political subdivision thereof,
11 relating to the management of mineral activities on lands
12 subject to this Act that was in existence on the date of
13 enactment of this Act may only continue in force until one
14 year after the date of enactment of this Act. During such
15 one-year period, the State and the Secretary shall review
16 the terms of the agreement and make changes that are
17 necessary to be consistent with this Act.

18 **TITLE IV—MINING MITIGATION**

19 **Subtitle A—Abandoned Locatable**

20 **Minerals Mine Reclamation Fund**

21 **SEC. 401. ABANDONED LOCATABLE MINERALS MINE REC-** 22 **LAMATION.**

23 (a) ESTABLISHMENT.—(1) There is established on
24 the books of the Treasury of the United States a separate
25 account to be known as the Abandoned Locatable Minerals

1 Mine Reclamation Fund (hereinafter in this subtitle re-
2 ferred to as the “Fund”). The Fund shall be administered
3 by the Secretary acting through the Director of the Office
4 of Surface Mining Reclamation and Enforcement.

5 (2) The Secretary shall notify the Secretary of the
6 Treasury as to what portion of the Fund is not, in the
7 Secretary’s judgment, required to meet current with-
8 draws. The Secretary of the Treasury shall invest such
9 portion of the Fund in public debt securities with matu-
10 rities suitable for the needs of such Fund and bearing in-
11 terest at rates determined by the Secretary of the Treas-
12 ury, taking into consideration current market yields on
13 outstanding marketplace obligations of the United States
14 of comparable maturities. The income on such investments
15 shall be credited to, and form a part of, the Fund.

16 (b) AMOUNTS.—The following amounts shall be cred-
17 ited to the Fund:

18 (1) All moneys collected pursuant to section
19 506 (relating to enforcement) and section 504 (relat-
20 ing to citizens suits).

21 (2) All permit fees and transfer fees received
22 under section 303.

23 (3) All donations by persons, corporations, as-
24 sociations, and foundations for the purposes of this
25 subtitle.

1 (4) All amounts deposited in the Fund under
2 section 102 (relating to royalties and penalties for
3 underreporting).

4 (5) All other receipts from fees, royalties, pen-
5 alties and other sources collected under this Act.

6 (6) All amounts received by the United States
7 pursuant to section 101 from issuance of patents.

8 **SEC. 402. USE AND OBJECTIVES OF THE FUND.**

9 (a) IN GENERAL.—The Secretary is authorized, sub-
10 ject to appropriations, to use moneys in the Fund for the
11 reclamation and restoration of land and water resources
12 adversely affected by past mineral activities on lands the
13 legal and beneficial title to which resides in the United
14 States, land within the exterior boundary of any national
15 forest system unit, or other lands described in subsection
16 (d) or section 403, including any of the following:

17 (1) Protecting public health and safety

18 (2) Preventing, abating, treating, and control-
19 ling water pollution created by abandoned mine
20 drainage.

21 (3) Reclaiming and restoring abandoned surface
22 and underground mined areas.

23 (4) Reclaiming and restoring abandoned milling
24 and processing areas.

1 (5) Backfilling, sealing, or otherwise control-
2 ling, abandoned underground mine entries.

3 (6) Revegetating land adversely affected by past
4 mineral activities in order to prevent erosion and
5 sedimentation, to enhance wildlife habitat, and for
6 any other reclamation purpose.

7 (7) Controlling of surface subsidence due to
8 abandoned underground mines.

9 (b) PRIORITIES.—Expenditures of moneys from the
10 Fund shall reflect the following priorities in the order stat-
11 ed:

12 (1) The protection of public health and safety,
13 from extreme danger from the adverse effects of
14 past mineral activities, especially as relates to sur-
15 face water and groundwater contaminants.

16 (2) The protection of public health and safety,
17 from the adverse effects of past mineral activities.

18 (3) The restoration of land, water, and fish and
19 wildlife resources previously degraded by the adverse
20 effects of past mineral activities.

21 (c) HABITAT.—Reclamation and restoration activities
22 under this subtitle, particularly those identified under sub-
23 section (a)(4), shall include appropriate mitigation meas-
24 ures to provide for the continuation of any established

1 habitat for wildlife in existence prior to the commencement
2 of such activities.

3 (d) OTHER AFFECTED LANDS.—Where mineral ex-
4 ploration, mining, beneficiation, processing, or reclamation
5 activities have been carried out with respect to any mineral
6 which would be a locatable mineral if the legal and bene-
7 ficial title to the mineral were in the United States, if such
8 activities directly affect lands managed by the Bureau of
9 Land Management as well as other lands and if the legal
10 and beneficial title to more than 50 percent of the affected
11 lands resides in the United States, the Secretary is author-
12 ized, subject to appropriations, to use moneys in the Fund
13 for reclamation and restoration under subsection (a) for
14 all directly affected lands.

15 (e) RESPONSE OR REMOVAL ACTIONS.—Reclamation
16 and restoration activities under this subtitle which con-
17 stitute a removal or remedial action under section 101 of
18 the Comprehensive Environmental Response, Compensa-
19 tion, and Liability Act of 1980 (42 U.S.C. 9601), shall
20 be conducted with the concurrence of the Administrator
21 of the Environmental Protection Agency. The Secretary
22 and the Administrator shall enter into a Memorandum of
23 Understanding to establish procedures for consultation,
24 concurrence, training, exchange of technical expertise and
25 joint activities under the appropriate circumstances, that

1 provide assurances that reclamation or restoration activi-
2 ties under this subtitle shall not be conducted in a manner
3 that increases the costs or likelihood of removal or reme-
4 dial actions under the Comprehensive Environmental Re-
5 sponse, Compensation, and Liability Act of 1980 (42
6 U.S.C. 9601 and following), and that avoid oversight by
7 multiple agencies to the maximum extent practicable.

8 **SEC. 403. ELIGIBLE LANDS AND WATERS.**

9 (a) **ELIGIBILITY.**—Reclamation expenditures under
10 this subtitle may only be made with respect to Federal
11 lands or Indian lands or water resources that traverse or
12 are contiguous to Federal lands or Indian lands where
13 such lands or water resources have been affected by past
14 mineral activities, including any of the following:

15 (1) Lands and water resources which were used
16 for, or affected by, mineral activities and abandoned
17 or left in an inadequate reclamation status before
18 the effective date of this Act.

19 (2) Lands for which the Secretary makes a de-
20 termination that there is no continuing reclamation
21 responsibility of a claim holder, operator, or other
22 person who abandoned the site prior to completion
23 of required reclamation under State or other Federal
24 laws.

1 (3) Lands for which it can be established that
2 such lands do not contain locatable minerals which
3 could economically be extracted through the reproc-
4 essing or remining of such lands, unless such consid-
5 erations are in conflict with the priorities set forth
6 under paragraphs (1) and (2) of section 302(b).

7 (b) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—
8 The provisions of section 411(d) of the Surface Mining
9 Control and Reclamation Act of 1977 (30 U.S.C.
10 1240a(d)) shall apply to expenditures made from the
11 Fund established under this subtitle.

12 (c) INVENTORY.—The Secretary shall prepare and
13 maintain a publicly available inventory of abandoned
14 locatable minerals mines on Federal lands and any aban-
15 doned mine on Indian lands that may be eligible for ex-
16 penditures under this subtitle, and shall deliver a yearly
17 report to the Congress on the progress in cleanup of such
18 sites.

19 **SEC. 404. FUND EXPENDITURES.**

20 Moneys available from the Fund may be expended for
21 the purposes specified in section 402 directly by the Direc-
22 tor of the Office of Surface Mining Reclamation and En-
23 forcement. The Director may also make such money avail-
24 able for such purposes to the Director of the Bureau of
25 Land Management, the Chief of the United States Forest

1 Service, the Director of the National Park Service, or Di-
2 rector of the United States Fish and Wildlife Service, to
3 any other agency of the United States, to an Indian tribe,
4 or to any public entity that volunteers to develop and im-
5 plement, and that has the ability to carry out, all or a
6 significant portion of a reclamation program under this
7 subtitle.

8 **SEC. 405. AUTHORIZATION OF APPROPRIATIONS.**

9 Amounts credited to the Fund are authorized to be
10 appropriated for the purpose of this subtitle without fiscal
11 year limitation.

12 **Subtitle B—Locatable Minerals**
13 **Community Impact Assistance**

14 **SEC. 421. LOCATABLE MINERALS COMMUNITY IMPACT AS-**
15 **SISTANCE.**

16 (a) ESTABLISHMENT.—(1) There is established on
17 the books of the Treasury of the United States a separate
18 account to be known as the Locatable Minerals Commu-
19 nity Impact Assistance Fund (hereinafter in this subtitle
20 referred to as the “Fund”). The Fund shall be adminis-
21 tered by the Secretary acting through the Director of the
22 Bureau of Land Management.

23 (2) Lands for which the Secretary makes a deter-
24 mination that there is no continuing reclamation responsi-
25 bility of a claim holder, operator, or other person who

1 abandoned the site prior to completion of required rec-
2 lamation under State or other Federal laws.

3 (b) AMOUNTS.—There shall be credited to the Fund
4 all amounts deposited in the Fund under section 111.

5 **SEC. 422. USE AND OBJECTIVES OF THE FUND.**

6 Amounts in the Fund shall be available to the Sec-
7 retary, subject to appropriations, to provide assistance for
8 the planning, construction, and maintenance of public fa-
9 cilities and the provision of public services to States, polit-
10 ical subdivisions and Indian tribes that are socially or eco-
11 nomically impacted by mineral activities conducted under
12 the general mining laws.

13 **SEC. 423. ALLOCATION OF FUNDS.**

14 Moneys deposited into the Fund shall be allocated by
15 the Secretary for purposes of section 422 among the
16 States within the boundaries of which occurs production
17 of locatable minerals from mining claims located under the
18 general mining laws and maintained in compliance with
19 this Act, or mineral concentrates or products derived from
20 locatable minerals from mining claims located under the
21 general mining laws and maintained in compliance with
22 this Act, as the case may be, in proportion to the amount
23 of such production in each such State.

1 **TITLE V—ADMINISTRATIVE AND**
2 **MISCELLANEOUS PROVISIONS**
3 **Subtitle A—Administrative**
4 **Provisions**

5 **SEC. 501. POLICY FUNCTIONS.**

6 (a) MINERALS POLICY.—Section 101 of the Mining
7 and Minerals Policy Act of 1970 (30 U.S.C. 21a) is
8 amended—

9 (1) in the first sentence by inserting before the
10 period at the end the following: “and to ensure that
11 mineral extraction and processing not cause undue
12 degradation of the natural and cultural resources of
13 the Federal lands”; and

14 (2) by adding at the end thereof the following:
15 “It shall also be the responsibility of the Secretary
16 of Agriculture to carry out the policy provisions of
17 paragraphs (1) and (2) of this section.”.

18 (b) MINERAL DATA.—Section 5(e)(3) of the National
19 Materials and Minerals Policy, Research and Development
20 Act of 1980 (30 U.S.C. 1604(e)(3)) is amended by insert-
21 ing before the period the following: “, except that for Na-
22 tional Forest System lands the Secretary of Agriculture
23 shall promptly initiate actions to improve the availability
24 and analysis of mineral data in Federal land use decision-
25 making”.

1 **SEC. 502. USER FEES.**

2 The Secretary and the Secretary of Agriculture are
3 each authorized to establish and collect from persons sub-
4 ject to the requirements of this Act such user fees as may
5 be necessary to reimburse the United States for the ex-
6 penses incurred in administering such requirements. Fees
7 may be assessed and collected under this section only in
8 such manner as may reasonably be expected to result in
9 an aggregate amount of the fees collected during any fiscal
10 year which does not exceed the aggregate amount of ad-
11 ministrative expenses referred to in this section.

12 **SEC. 503. INSPECTION AND MONITORING.**

13 (a) INSPECTIONS.—(1) The Secretary, or for Na-
14 tional Forest System lands the Secretary of Agriculture,
15 shall make inspections of mineral activities so as to ensure
16 compliance with the environmental protection require-
17 ments of title III.

18 (2) The Secretary concerned shall establish a fre-
19 quency of inspections for mineral activities conducted
20 under a permit issued under title III, but in no event shall
21 such inspection frequency be less than one complete in-
22 spection per calendar quarter or, two per calendar quarter
23 in the case of a permit for which the Secretary concerned
24 approves an application under section 303(g) (relating to
25 temporary cessation of operations). After revegetation has
26 been established in accordance with a reclamation plan,

1 such Secretary shall conduct annually 2 complete inspec-
2 tions. Such Secretary shall have the discretion to modify
3 the inspection frequency for mineral activities that are
4 conducted on a seasonal basis. Inspections shall continue
5 under this subsection until final release of financial assur-
6 ance.

7 (3)(A) Any person who has reason to believe he or
8 she is or may be adversely affected by mineral activities
9 due to any violation of the environmental protection re-
10 quirements may request an inspection. The Secretary, or
11 for National Forest System lands the Secretary of Agri-
12 culture, shall determine within 10 working days of receipt
13 of the request whether the request states a reason to be-
14 lieve that a violation exists. If the person alleges and pro-
15 vides reason to believe that an imminent threat to the en-
16 vironment or danger to the health or safety of the public
17 exists, the 10-day period shall be waived and the inspec-
18 tion shall be conducted immediately. When an inspection
19 is conducted under this paragraph, the Secretary con-
20 cerned shall notify the person requesting the inspection,
21 and such person shall be allowed to accompany the Sec-
22 retary concerned or the Secretary's authorized representa-
23 tive during the inspection. The Secretary shall not incur
24 any liability for allowing such person to accompany an au-
25 thorized representative. The identity of the person sup-

1 plying information to the Secretary relating to a possible
2 violation or imminent danger or harm shall remain con-
3 fidential with the Secretary if so requested by that person,
4 unless that person elects to accompany an authorized rep-
5 resentative on the inspection.

6 (B) The Secretaries shall, by joint rule, establish pro-
7 cedures for the review of (i) any decision by an authorized
8 representative not to inspect; or (ii) any refusal by such
9 representative to ensure that remedial actions are taken
10 with respect to any alleged violation. The Secretary con-
11 cerned shall furnish such persons requesting the review
12 a written statement of the reasons for the Secretary's final
13 disposition of the case.

14 (b) MONITORING.—(1) The Secretary, or for Na-
15 tional Forest System lands the Secretary of Agriculture,
16 shall require all operators to develop and maintain a moni-
17 toring and evaluation system which shall identify compli-
18 ance with all environmental protection requirements. The
19 Secretary concerned may require additional monitoring to
20 be conducted as necessary to assure compliance with the
21 reclamation and other environmental standards of this
22 Act. Such plan must be reviewed and approved by the Sec-
23 retary and shall become a part of the operations permit.

24 (2) Monitoring shall be conducted as close as tech-
25 nically feasible to the mineral activity involved, and in all

1 cases such monitoring shall be conducted within the per-
2 mit area.

3 (3) The point of compliance referred to in paragraph
4 (1) shall be as close to the mineral activity involved as
5 is technically feasible, but in any event shall be located
6 to comply with applicable State and Federal standards.
7 In no event shall the point of compliance be outside the
8 permit area.

9 (4) The operator shall file reports with the Secretary,
10 or for National Forest System lands the Secretary of Agri-
11 culture, on a frequency determined by the Secretary con-
12 cerned, on the results of the monitoring and evaluation
13 process, except that if the monitoring and evaluation show
14 a violation of the environmental protection requirements
15 under this Act, it shall be reported immediately to the Sec-
16 retary concerned. The Secretary shall evaluate the reports
17 submitted pursuant to this paragraph, and based on those
18 reports and any necessary inspection shall take enforce-
19 ment action pursuant to this section. Such reports shall
20 be maintained by the operator and by the Secretary and
21 shall be made available to the public.

22 (5) The Secretary, or for National Forest System
23 lands the Secretary of Agriculture, shall determine what
24 information shall be reported by the operator pursuant to
25 paragraph (5). A failure to report as required by the Sec-

1 retary concerned shall constitute a violation of this Act
2 and subject the operator to enforcement action pursuant
3 to section 506.

4 **SEC. 504. CITIZENS SUITS.**

5 (a) IN GENERAL.—Except as provided in subsection
6 (b), any person may commence a civil action on his or
7 her own behalf to compel compliance—

8 (1) against any person (including the Secretary
9 or the Secretary of Agriculture) alleged to have vio-
10 lated, or to be in violation of, any of the provisions
11 of this Act or any regulation promulgated pursuant
12 to title III or any term or condition of any permit
13 issued under title III; or

14 (2) against the Secretary or the Secretary of
15 Agriculture where there is alleged a failure of such
16 Secretary to perform any act or duty under this Act,
17 or to promulgate any regulation under title III,
18 which is not within the discretion of the Secretary
19 concerned.

20 The United States district courts shall have jurisdiction
21 over actions brought under this section, without regard to
22 the amount in controversy or the citizenship of the parties,
23 including actions brought to apply any civil penalty under
24 this Act. The district courts of the United States shall
25 have jurisdiction to compel agency action unreasonably de-

1 layed, except that an action to compel agency action re-
2 viewable under section 505 may only be filed in a United
3 States district court within the circuit in which such action
4 would be reviewable under section 505.

5 (b) EXCEPTIONS.—(1) No action may be commenced
6 under subsection (a) before the plaintiff has given notice
7 in writing of such alleged violation to the Secretary, or
8 for National Forest System lands the Secretary of Agri-
9 culture, except that any such action may be brought imme-
10 diately after such notification if the violation complained
11 of constitutes an imminent threat to the environment or
12 to the health or safety of the public.

13 (2) No action may be brought against any person
14 other than the Secretary or the Secretary of Agriculture
15 under subsection (a)(1) if such Secretary has commenced
16 and is diligently prosecuting a civil or criminal action in
17 a court of the United States to require compliance.

18 (3) No action may be commenced under paragraph
19 (2) of subsection (a) against either Secretary to review any
20 rule promulgated by, or to any permit issued or denied
21 by such Secretary if such rule or permit issuance or denial
22 is judicially reviewable under section 505 or under any
23 other provision of law at any time after such promulga-
24 tion, issuance, or denial is final.

1 (c) VENUE.—Venue of all actions brought under this
2 section shall be determined in accordance with section
3 1391 of title 28, United States Code.

4 (d) COSTS.—The court, in issuing any final order in
5 any action brought pursuant to this section may award
6 costs of litigation (including attorney and expert witness
7 fees) to any party whenever the court determines such
8 award is appropriate. The court may, if a temporary re-
9 straining order or preliminary injunction is sought, require
10 the filing of a bond or equivalent security in accordance
11 with the Federal Rules of Civil Procedure.

12 (e) SAVINGS CLAUSE.—Nothing in this section shall
13 restrict any right which any person (or class of persons)
14 may have under chapter 7 of title 5, United States Code,
15 under this section, or under any other statute or common
16 law to bring an action to seek any relief against the Sec-
17 retary or the Secretary of Agriculture or against any other
18 person, including any action for any violation of this Act
19 or of any regulation or permit issued under this Act or
20 for any failure to act as required by law. Nothing in this
21 section shall affect the jurisdiction of any court under any
22 provision of title 28, United States Code, including any
23 action for any violation of this Act or of any regulation
24 or permit issued under this Act or for any failure to act
25 as required by law. Nothing in this Act shall be construed

1 to be a waiver of the sovereign immunity of an Indian tribe
2 except as provided for in section 303.

3 **SEC. 505. ADMINISTRATIVE AND JUDICIAL REVIEW.**

4 (a) REVIEW BY SECRETARY.—(1)(A) Any person
5 issued a notice of violation or cessation order under sec-
6 tion 506, or any person having an interest which is or
7 may be adversely affected by such notice or order, may
8 apply to the Secretary, or for National Forest System
9 lands the Secretary of Agriculture, for review of the notice
10 or order within 30 days after receipt thereof, or as the
11 case may be, within 30 days after such notice or order
12 is modified, vacated, or terminated.

13 (B) Any person who is subject to a penalty assessed
14 under section 506 may apply to the Secretary concerned
15 for review of the assessment within 45 days of notification
16 of such penalty.

17 (C) Any person may apply to such Secretary for re-
18 view of the decision within 30 days after it is made.

19 (D) Pending a review by the Secretary or resolution
20 of an administrative appeal, final decisions (except en-
21 forcement actions under section 506) shall be stayed.

22 (2) The Secretary concerned shall provide an oppor-
23 tunity for a public hearing at the request of any party
24 to the proceeding as specified in paragraph (1). The filing
25 of an application for review under this subsection shall not

1 operate as a stay of any order or notice issued under sec-
2 tion 506.

3 (3) For any review proceeding under this subsection,
4 the Secretary concerned shall make findings of fact and
5 shall issue a written decision incorporating therein an
6 order vacating, affirming, modifying, or terminating the
7 notice, order, or decision, or with respect to an assess-
8 ment, the amount of penalty that is warranted. Where the
9 application for review concerns a cessation order issued
10 under section 506 the Secretary concerned shall issue the
11 written decision within 30 days of the receipt of the appli-
12 cation for review or within 30 days after the conclusion
13 of any hearing referred to in paragraph (2), whichever is
14 later, unless temporary relief has been granted by the Sec-
15 retary concerned under paragraph (4).

16 (4) Pending completion of any review proceedings
17 under this subsection, the applicant may file with the Sec-
18 retary, or for National Forest System lands the Secretary
19 of Agriculture, a written request that the Secretary grant
20 temporary relief from any order issued under section 506
21 together with a detailed statement giving reasons for such
22 relief. The Secretary concerned shall expeditiously issue
23 an order or decision granting or denying such relief. The
24 Secretary concerned may grant such relief under such con-
25 ditions as he may prescribe only if such relief shall not

1 adversely affect the health or safety of the public or cause
2 imminent environmental harm to land, air, or water re-
3 sources.

4 (5) The availability of review under this subsection
5 shall not be construed to limit the operation of rights
6 under section 504 (relating to citizen suits).

7 (b) JUDICIAL REVIEW.—(1) Any final action by the
8 Secretaries of the Interior and Agriculture in promul-
9 gating regulations to implement this Act, or any other
10 final actions constituting rulemaking to implement this
11 Act, shall be subject to judicial review only in the United
12 States Court of Appeals for the District of Columbia. Any
13 action subject to judicial review under this subsection shall
14 be affirmed unless the court concludes that such action
15 is arbitrary, capricious, or otherwise inconsistent with law.
16 A petition for review of any action subject to judicial re-
17 view under this subsection shall be filed within 60 days
18 from the date of such action, or after such date if the
19 petition is based solely on grounds arising after the 60th
20 day. Any such petition may be made by any person who
21 commented or otherwise participated in the rulemaking or
22 any person who may be adversely affected by the action
23 of the Secretaries.

24 (2) Final agency action under this subsection, includ-
25 ing such final action on those matters described under

1 subsection (a), shall be subject to judicial review in accord-
2 ance with paragraph (4) and pursuant to section 1391 of
3 title 28, United States Code, on or before 60 days from
4 the date of such final action. Any action subject to judicial
5 review under this subsection shall be affirmed unless the
6 court concludes that such action is arbitrary, capricious,
7 or otherwise inconsistent with law.

8 (3) The availability of judicial review established in
9 this subsection shall not be construed to limit the oper-
10 ations of rights under section 504 (relating to citizens
11 suits).

12 (4) The court shall hear any petition or complaint
13 filed under this subsection solely on the record made be-
14 fore the Secretary or Secretaries concerned. The court
15 may affirm or vacate any order or decision or may remand
16 the proceedings to the Secretary or Secretaries for such
17 further action as it may direct.

18 (5) The commencement of a proceeding under this
19 section shall not, unless specifically ordered by the court,
20 operate as a stay of the action, order, or decision of the
21 Secretary or Secretaries concerned.

22 (6)(A) Notwithstanding any other provision of law,
23 any person who filed an administrative protest or contest
24 to a patent application may seek judicial review in the ap-
25 propriate Federal district court of the Secretary's deter-

1 mination regarding the protest or contest, and any deci-
2 sion to approve or deny, in whole or in part, the patent
3 application, as well as the issuance of any patent.

4 (B) Notwithstanding the decision of the United
5 States Court of Appeals for the Tenth Circuit in High
6 Country Citizens' Alliance v. Clarke, 454 F.3d 1177 (10th
7 Cir. 2006), the appropriate Federal district court has ju-
8 risdiction to hear any judicial challenge to the Secretary's
9 actions described in subparagraph (A), including the chal-
10 lenge of the plaintiffs in that case.

11 (c) COSTS.—Whenever a proceeding occurs under
12 subsection (a) or (b), at the request of any person, a sum
13 equal to the aggregate amount of all costs and expenses
14 (including attorney fees) as determined by the Secretary
15 or Secretaries concerned or the court to have been reason-
16 ably incurred by such person for or in connection with par-
17 ticipation in such proceedings, including any judicial re-
18 view of the proceeding, may be assessed against either
19 party as the court, in the case of judicial review, or the
20 Secretary or Secretaries concerned in the case of adminis-
21 trative proceedings, deems proper if it is determined that
22 such party prevailed in whole or in part, achieving some
23 success on the merits, and that such party made a sub-
24 stantial contribution to a full and fair determination of
25 the issues.

1 **SEC. 506. ENFORCEMENT.**

2 (a) ORDERS.—(1) If the Secretary, or for National
3 Forest System lands the Secretary of Agriculture, or an
4 authorized representative of such Secretary, determines
5 that any person is in violation of any environmental pro-
6 tection requirement under title III or any regulation
7 issued by the Secretaries to implement this Act, such Sec-
8 retary or authorized representative shall issue to such per-
9 son a notice of violation describing the violation and the
10 corrective measures to be taken. The Secretary concerned,
11 or the authorized representative of such Secretary, shall
12 provide such person with a period of time not to exceed
13 30 days to abate the violation. Such period of time may
14 be extended by the Secretary concerned upon a showing
15 of good cause by such person. If, upon the expiration of
16 time provided for such abatement, the Secretary con-
17 cerned, or the authorized representative of such Secretary,
18 finds that the violation has not been abated he shall imme-
19 diately order a cessation of all mineral activities or the
20 portion thereof relevant to the violation.

21 (2) If the Secretary concerned, or the authorized rep-
22 resentative of the Secretary concerned, determines that
23 any condition or practice exists, or that any person is in
24 violation of any environmental protection requirement
25 under title III or any regulation issued by the Secretaries

1 to implement this Act, and such condition, practice or vio-
2 lation is causing, or can reasonably be expected to cause—

3 (A) an imminent danger to the health or safety
4 of the public; or

5 (B) significant, imminent environmental harm
6 to land, air, water, or fish or wildlife resources;

7 such Secretary or authorized representative shall imme-
8 diately order a cessation of mineral activities or the por-
9 tion thereof relevant to the condition, practice, or viola-
10 tion.

11 (3)(A) A cessation order pursuant to paragraphs (1)
12 or (2) shall remain in effect until such Secretary, or au-
13 thorized representative, determines that the condition,
14 practice, or violation has been abated, or until modified,
15 vacated or terminated by the Secretary or authorized rep-
16 resentative. In any such order, the Secretary or authorized
17 representative shall determine the steps necessary to abate
18 the violation in the most expeditious manner possible and
19 shall include the necessary measures in the order. The
20 Secretary concerned shall require appropriate financial as-
21 surances to ensure that the abatement obligations are met.

22 (B) Any notice or order issued pursuant to para-
23 graphs (1) or (2) may be modified, vacated, or terminated
24 by the Secretary concerned or an authorized representa-
25 tive of such Secretary. Any person to whom any such no-

1 tice or order is issued shall be entitled to a hearing on
2 the record.

3 (4) If, after 30 days of the date of the order referred
4 to in paragraph (3)(A) the required abatement has not
5 occurred, the Secretary concerned shall take such alter-
6 native enforcement action against the claim holder or op-
7 erator (or any person who controls the claim holder or op-
8 erator) as will most likely bring about abatement in the
9 most expeditious manner possible. Such alternative en-
10 forcement action may include, but is not necessarily lim-
11 ited to, seeking appropriate injunctive relief to bring about
12 abatement. Nothing in this paragraph shall preclude the
13 Secretary, or for National Forest System lands the Sec-
14 retary of Agriculture, from taking alternative enforcement
15 action prior to the expiration of 30 days.

16 (5) If a claim holder or operator (or any person who
17 controls the claim holder or operator) fails to abate a vio-
18 lation or defaults on the terms of the permit, the Sec-
19 retary, or for National Forest System lands the Secretary
20 of Agriculture, shall forfeit the financial assurance for the
21 plan as necessary to ensure abatement and reclamation
22 under this Act. The Secretary concerned may prescribe
23 conditions under which a surety may perform reclamation
24 in accordance with the approved plan in lieu of forfeiture.

1 (6) The Secretary, or for National Forest System
2 lands the Secretary of Agriculture, shall not cause for-
3 feiture of the financial assurance while administrative or
4 judicial review is pending.

5 (7) In the event of forfeiture, the claim holder, oper-
6 ator, or any affiliate thereof, as appropriate as determined
7 by the Secretary by rule, shall be jointly and severally lia-
8 ble for any remaining reclamation obligations under this
9 Act.

10 (b) COMPLIANCE.—The Secretary, or for National
11 Forest System lands the Secretary of Agriculture, may re-
12 quest the Attorney General to institute a civil action for
13 relief, including a permanent or temporary injunction or
14 restraining order, or any other appropriate enforcement
15 order, including the imposition of civil penalties, in the dis-
16 trict court of the United States for the district in which
17 the mineral activities are located whenever a person—

18 (1) violates, fails, or refuses to comply with any
19 order issued by the Secretary concerned under sub-
20 section (a); or

21 (2) interferes with, hinders, or delays the Sec-
22 retary concerned in carrying out an inspection under
23 section 503.

24 Such court shall have jurisdiction to provide such relief
25 as may be appropriate. Any relief granted by the court

1 to enforce an order under paragraph (1) shall continue
2 in effect until the completion or final termination of all
3 proceedings for review of such order unless the district
4 court granting such relief sets it aside.

5 (c) DELEGATION.—Notwithstanding any other provi-
6 sion of law, the Secretary may utilize personnel of the Of-
7 fice of Surface Mining Reclamation and Enforcement to
8 ensure compliance with the requirements of this Act.

9 (d) PENALTIES.—(1) Any person who fails to comply
10 with any environmental protection requirement under title
11 III or any regulation issued by the Secretaries to imple-
12 ment this Act shall be liable for a penalty of not more
13 than \$25,000 per violation. Each day of violation may be
14 deemed a separate violation for purposes of penalty assess-
15 ments.

16 (2) A person who fails to correct a violation for which
17 a cessation order has been issued under subsection (a)
18 within the period permitted for its correction shall be as-
19 sessed a civil penalty of not less than \$1,000 per violation
20 for each day during which such failure continues.

21 (3) Whenever a corporation is in violation of an envi-
22 ronmental protection requirement under title III or any
23 regulation issued by the Secretaries to implement this Act
24 or fails or refuses to comply with an order issued under
25 subsection (a), any director, officer, or agent of such cor-

1 poration who knowingly authorized, ordered, or carried
2 out such violation, failure, or refusal shall be subject to
3 the same penalties as may be imposed upon the person
4 referred to in paragraph (1).

5 (e) SUSPENSIONS OR REVOCATIONS.—The Secretary,
6 or for National Forest System lands the Secretary of Agri-
7 culture, shall suspend or revoke a permit issued under title
8 III, in whole or in part, if the operator or person con-
9 ducting mineral activities—

10 (1) knowingly made or knowingly makes any
11 false, inaccurate, or misleading material statement
12 in any mining claim, notice of location, application,
13 record, report, plan, or other document filed or re-
14 quired to be maintained under this Act;

15 (2) fails to abate a violation covered by a ces-
16 sation order issued under subsection (a);

17 (3) fails to comply with an order of the Sec-
18 retary concerned;

19 (4) refuses to permit an audit pursuant to this
20 Act;

21 (5) fails to maintain an adequate financial as-
22 surance under section 305;

23 (6) fails to pay claim maintenance fees or other
24 moneys due and owing under this Act; or

1 (7) with regard to plans conditionally approved
2 under section 304(c)(2), fails to abate a violation to
3 the satisfaction of the Secretary concerned, or if the
4 validity of the violation is upheld on the appeal
5 which formed the basis for the conditional approval.

6 (f) FALSE STATEMENTS; TAMPERING.—Any person
7 who knowingly—

8 (1) makes any false material statement, rep-
9 resentation, or certification in, or omits or conceals
10 material information from, or unlawfully alters, any
11 mining claim, notice of location, application, record,
12 report, plan, or other documents filed or required to
13 be maintained under this Act; or

14 (2) falsifies, tampers with, renders inaccurate,
15 or fails to install any monitoring device or method
16 required to be maintained under this Act,

17 shall upon conviction, be punished by a fine of not more
18 than \$10,000, or by imprisonment for not more than 2
19 years, or by both. If a conviction of a person is for a viola-
20 tion committed after a first conviction of such person
21 under this subsection, punishment shall be by a fine of
22 not more than \$20,000 per day of violation, or by impris-
23 onment of not more than 4 years, or both. Each day of
24 continuing violation may be deemed a separate violation
25 for purposes of penalty assessments.

1 (g) KNOWING VIOLATIONS.—Any person who know-
2 ingly—

3 (1) engages in mineral activities without a per-
4 mit required under title III, or

5 (2) violates any other environmental protection
6 requirement set forth in title III or any regulation
7 issued by the Secretaries to implement this Act, any
8 provision of a permit issued under this Act (includ-
9 ing any exploration or operations plan on which such
10 permit is based), or any condition or limitation
11 thereof,

12 shall upon conviction be punished by a fine of not less
13 than \$5,000 nor more than \$50,000 per day of violation,
14 or by imprisonment for not more than 3 years, or both.

15 If a conviction of a person is for a violation committed
16 after the first conviction of such person under this sub-
17 section, punishment shall be a fine of not less than
18 \$10,000 per day of violation, or by imprisonment of not
19 more than 6 years, or both.

20 (h) KNOWING AND WILLFUL VIOLATIONS.—Any per-
21 son who knowingly and willfully commits an act for which
22 a civil penalty is provided in paragraph (1) of subsection
23 (g) shall, upon conviction, be punished by a fine of not
24 more than \$50,000, or by imprisonment for not more than
25 2 years, or both.

1 (i) DEFINITION.—For purposes of this section, the
2 term “person” includes any officer, agent, or employee of
3 a person.

4 **SEC. 507. REGULATIONS; EFFECTIVE DATES.**

5 (a) EFFECTIVE DATE.—The provisions of this Act
6 shall take effect on the date of enactment of this Act, ex-
7 cept as otherwise provided in this Act.

8 (b) REGULATIONS.—The Secretary and the Secretary
9 of Agriculture may issue such regulations as may be nec-
10 essary under this Act. The regulations implementing title
11 II, title III, title IV, and title V that affect the United
12 States Forest Service shall be joint regulations issued by
13 both Secretaries, and shall be issued no later than 180
14 days after the date of enactment of this Act.

15 **Subtitle B—Miscellaneous**
16 **Provisions**

17 **SEC. 511. OIL SHALE CLAIMS SUBJECT TO SPECIAL RULES.**

18 (a) APPLICATION OF SECTION 511.—Section 511
19 shall apply to oil shale claims referred to in section
20 2511(e)(2) of the Energy Policy Act of 1992 (Public Law
21 102–486).

22 (b) AMENDMENT.—Section 2511(f) of the Energy
23 Policy Act of 1992 (Public Law 102–486) is amended as
24 follows:

1 (1) By striking “as prescribed by the Sec-
2 retary”.

3 (2) By inserting before the period the following:
4 “in the same manner as if such claim was subject
5 to title II and title III of the Hardrock Mining and
6 Reclamation Act of 2007”.

7 **SEC. 512. PURCHASING POWER ADJUSTMENT.**

8 The Secretary shall adjust all location fees, claim
9 maintenance rates, penalty amounts, and other dollar
10 amounts established in this Act for changes in the pur-
11 chasing power of the dollar no less frequently than every
12 5 years following the date of enactment of this Act, em-
13 ploying the Consumer Price Index for All-Urban Con-
14 sumers published by the Department of Labor as the basis
15 for adjustment, and rounding according to the adjustment
16 process of conditions of the Federal Civil Penalties Infla-
17 tion Adjustment Act of 1990 (104 Stat. 890).

18 **SEC. 513. SAVINGS CLAUSE.**

19 (a) SPECIAL APPLICATION OF MINING LAWS.—Noth-
20 ing in this Act shall be construed as repealing or modi-
21 fying any Federal law, regulation, order, or land use plan,
22 in effect prior to the date of enactment of this Act that
23 prohibits or restricts the application of the general mining
24 laws, including laws that provide for special management
25 criteria for operations under the general mining laws as

1 in effect prior to the date of enactment of this Act, to
2 the extent such laws provide for protection of natural and
3 cultural resources and the environment greater than re-
4 quired under this Act, and any such prior law shall remain
5 in force and effect with respect to claims located (or pro-
6 posed to be located) or converted under this Act. Nothing
7 in this Act shall be construed as applying to or limiting
8 mineral investigations, studies, or other mineral activities
9 conducted by any Federal or State agency acting in its
10 governmental capacity pursuant to other authority. Noth-
11 ing in this Act shall affect or limit any assessment, inves-
12 tigation, evaluation, or listing pursuant to the Comprehen-
13 sive Environmental Response, Compensation, and Liabil-
14 ity Act of 1980 (42 U.S.C. 9601 and following), or the
15 Solid Waste Disposal Act (42 U.S.C. 3251 and following).

16 (b) EFFECT ON OTHER FEDERAL LAWS.—The provi-
17 sions of this Act shall supersede the general mining laws,
18 except for those parts of the general mining laws respect-
19 ing location of mining claims that are not expressly modi-
20 fied by this Act. Except for the general mining laws, noth-
21 ing in this Act shall be construed as superseding, modi-
22 fying, amending, or repealing any provision of Federal law
23 not expressly superseded, modified, amended, or repealed
24 by this Act. Nothing in this Act shall be construed as al-
25 tering, affecting, amending, modifying, or changing, di-

1 rectly or indirectly, any law which refers to and provides
2 authorities or responsibilities for, or is administered by,
3 the Environmental Protection Agency or the Adminis-
4 trator of the Environmental Protection Agency, including
5 the Federal Water Pollution Control Act, title XIV of the
6 Public Health Service Act (the Safe Drinking Water Act),
7 the Clean Air Act, the Pollution Prevention Act of 1990,
8 the Toxic Substances Control Act, the Federal Insecticide,
9 Fungicide, and Rodenticide Act, the Federal Food, Drug,
10 and Cosmetic Act, the Motor Vehicle Information and
11 Cost Savings Act, the Federal Hazardous Substances Act,
12 the Endangered Species Act of 1973, the Atomic Energy
13 Act, the Noise Control Act of 1972, the Solid Waste Dis-
14 posal Act, the Comprehensive Environmental Response,
15 Compensation, and Liability Act of 1980, the Superfund
16 Amendments and Reauthorization Act of 1986, the Ocean
17 Dumping Act, the Environmental Research, Development,
18 and Demonstration Authorization Act, the Pollution Pros-
19 ection Act of 1990, and the Federal Facilities Compli-
20 ance Act of 1992, or any statute containing an amend-
21 ment to any of such Acts. Nothing in this Act shall be
22 construed as modifying or affecting any provision of the
23 Native American Graves Protection and Repatriation Act
24 (Public Law 101-601) or any provision of the American
25 Indian Religious Freedom Act (42 U.S.C. 1996), the Na-

1 tional Historic Preservation Act (6 U.S.C. 4701 et seq.),
2 and the Religious Freedom Restoration Act of 1993 (42
3 U.S.C. 2000bb et seq.).

4 (c) PROTECTION OF CONSERVATION AREAS.—In
5 order to protect the resources and values of National Con-
6 servation System units, the Secretary, as appropriate,
7 shall utilize authority under this Act and other applicable
8 law to the fullest extent necessary to prevent mineral ac-
9 tivities that could have an adverse impact on the resources
10 or values for which such units were established.

11 **SEC. 514. AVAILABILITY OF PUBLIC RECORDS.**

12 Copies of records, reports, inspection materials, or in-
13 formation obtained by the Secretary or the Secretary of
14 Agriculture under this Act shall be made immediately
15 available to the public, consistent with section 552 of title
16 5, United States Code, in central and sufficient locations
17 in the county, multicounty, and State area of mineral ac-
18 tivity or reclamation so that such items are conveniently
19 available to residents in the area proposed or approved for
20 mineral activities and on the Internet.

21 **SEC. 515. MISCELLANEOUS POWERS.**

22 (a) IN GENERAL.—In carrying out his or her duties
23 under this Act, the Secretary, or for National Forest Sys-
24 tem lands the Secretary of Agriculture, may conduct any
25 investigation, inspection, or other inquiry necessary and

1 appropriate and may conduct, after notice, any hearing
2 or audit, necessary and appropriate to carrying out his
3 or her duties.

4 (b) ANCILLARY POWERS.—In connection with any
5 hearing, inquiry, investigation, or audit under this Act, the
6 Secretary, or for National Forest System lands the Sec-
7 retary of Agriculture, is authorized to take any of the fol-
8 lowing actions:

9 (1) Require, by special or general order, any
10 person to submit in writing such affidavits and an-
11 swers to questions as the Secretary concerned may
12 reasonably prescribe, which submission shall be
13 made within such reasonable period and under oath
14 or otherwise, as may be necessary.

15 (2) Administer oaths.

16 (3) Require by subpoena the attendance and
17 testimony of witnesses and the production of all
18 books, papers, records, documents, matter, and ma-
19 terials, as such Secretary may request.

20 (4) Order testimony to be taken by deposition
21 before any person who is designated by such Sec-
22 retary and who has the power to administer oaths,
23 and to compel testimony and the production of evi-
24 dence in the same manner as authorized under para-
25 graph (3) of this subsection.

1 (5) Pay witnesses the same fees and mileage as
2 are paid in like circumstances in the courts of the
3 United States.

4 (c) ENFORCEMENT.—In cases of refusal to obey a
5 subpoena served upon any person under this section, the
6 district court of the United States for any district in which
7 such person is found, resides, or transacts business, upon
8 application by the Attorney General at the request of the
9 Secretary concerned and after notice to such person, shall
10 have jurisdiction to issue an order requiring such person
11 to appear and produce documents before the Secretary
12 concerned. Any failure to obey such order of the court may
13 be punished by such court as contempt thereof and subject
14 to a penalty of up to \$10,000 a day.

15 (d) ENTRY AND ACCESS.—Without advance notice
16 and upon presentation of appropriate credentials, the Sec-
17 retary, or for National Forest System lands the Secretary
18 of Agriculture, or any authorized representative thereof—

19 (1) shall have the right of entry to, upon, or
20 through the site of any claim, mineral activities, or
21 any premises in which any records required to be
22 maintained under this Act are located;

23 (2) may at reasonable times, and without delay,
24 have access to records, inspect any monitoring

1 equipment, or review any method of operation re-
2 quired under this Act;

3 (3) may engage in any work and do all things
4 necessary or expedient to implement and administer
5 the provisions of this Act;

6 (4) may, on any mining claim located under the
7 general mining laws and maintained in compliance
8 with this Act, and without advance notice, stop and
9 inspect any motorized form of transportation that
10 such Secretary has probable cause to believe is car-
11 rying locatable minerals, concentrates, or products
12 derived therefrom from a claim site for the purpose
13 of determining whether the operator of such vehicle
14 has documentation related to such locatable min-
15 erals, concentrates, or products derived therefrom as
16 required by law, if such documentation is required
17 under this Act; and

18 (5) may, if accompanied by any appropriate law
19 enforcement officer, or an appropriate law enforce-
20 ment officer alone, stop and inspect any motorized
21 form of transportation which is not on a claim site
22 if he or she has probable cause to believe such vehi-
23 cle is carrying locatable minerals, concentrates, or
24 products derived therefrom from a claim site on
25 Federal lands or allocated to such claim site. Such

1 inspection shall be for the purpose of determining
2 whether the operator of such vehicle has the docu-
3 mentation required by law, if such documentation is
4 required under this Act.

5 **SEC. 516. MULTIPLE MINERAL DEVELOPMENT AND SUR-**
6 **FACE RESOURCES.**

7 The provisions of sections 4 and 6 of the Act of Au-
8 gust 13, 1954 (30 U.S.C. 524 and 526), commonly known
9 as the Multiple Minerals Development Act, and the provi-
10 sions of section 4 of the Act of July 23, 1955 (30 U.S.C.
11 612), shall apply to all mining claims located under the
12 general mining laws and maintained in compliance with
13 such laws and this Act.

14 **SEC. 517. MINERAL MATERIALS.**

15 (a) DETERMINATIONS.—Section 3 of the Act of July
16 23, 1955 (30 U.S.C. 611), is amended as follows:

17 (1) By inserting “(a)” before the first sentence.

18 (2) By inserting “mineral materials, including
19 but not limited to” after “varieties of” in the first
20 sentence.

21 (3) By striking “or cinders” and inserting in
22 lieu thereof “cinders, and clay”.

23 (4) By adding the following new subsection at
24 the end thereof:

1 “(b)(1) Subject to valid existing rights, after the date
2 of enactment of the Hardrock Mining and Reclamation
3 Act of 2007, notwithstanding the reference to common va-
4 rieties in subsection (a) and to the exception to such term
5 relating to a deposit of materials with some property giv-
6 ing it distinct and special value, all deposits of mineral
7 materials referred to in such subsection, including the
8 block pumice referred to in such subsection, shall be sub-
9 ject to disposal only under the terms and conditions of
10 the Materials Act of 1947.

11 “(2) For purposes of paragraph (1), the term ‘valid
12 existing rights’ means that a mining claim located for any
13 such mineral material—

14 “(A) had and still has some property giving it
15 the distinct and special value referred to in sub-
16 section (a), or as the case may be, met the definition
17 of block pumice referred to in such subsection;

18 “(B) was properly located and maintained
19 under the general mining laws prior to the date of
20 enactment of the Hardrock Mining and Reclamation
21 Act of 2007;

22 “(C) was supported by a discovery of a valuable
23 mineral deposit within the meaning of the general
24 mining laws as in effect immediately prior to the

1 date of enactment of the Hardrock Mining and Rec-
2 lamation Act of 2007; and

3 “(D) that such claim continues to be valid
4 under this Act.”.

5 (b) MINERAL MATERIALS DISPOSAL CLARIFICA-
6 TION.—Section 4 of the Act of July 23, 1955 (30 U.S.C.
7 612), is amended as follows:

8 (1) In subsection (b) by inserting “and mineral
9 material” after “vegetative”.

10 (2) In subsection (c) by inserting “and mineral
11 material” after “vegetative”.

12 (c) CONFORMING AMENDMENT.—Section 1 of the
13 Act of July 31, 1947, entitled “An Act to provide for the
14 disposal of materials on the public lands of the United
15 States” (30 U.S.C. 601 and following) is amended by
16 striking “common varieties of” in the first sentence.

17 (d) SHORT TITLES.—

18 (1) SURFACE RESOURCES.—The Act of July
19 23, 1955, is amended by inserting after section 7
20 the following new section:

21 “SEC. 8. This Act may be cited as the ‘Surface Re-
22 sources Act of 1955’.”.

23 (2) MINERAL MATERIALS.—The Act of July 31,
24 1947, entitled “An Act to provide for the disposal of
25 materials on the public lands of the United States”

1 (30 U.S.C. 601 and following) is amended by insert-
2 ing after section 4 the following new section:

3 “SEC. 5. This Act may be cited as the ‘Materials Act
4 of 1947’.”.

5 (e) REPEALS.—(1) Subject to valid existing rights,
6 the Act of August 4, 1892 (27 Stat. 348, 30 U.S.C. 161),
7 commonly known as the Building Stone Act, is hereby re-
8 pealed.

9 (2) Subject to valid existing rights, the Act of Janu-
10 ary 31, 1901 (30 U.S.C. 162), commonly known as the
11 Saline Placer Act, is hereby repealed.