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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Hardrock Mining and Reclamation Act of 2007”.

(b) Table of Contents.—The table of contents for 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.
1 SEC. 2. DEFINITIONS AND REFERENCES.

(a) IN GENERAL.—As used in this Act:

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

(A) Any person who controls, is controlled by, or is under common control with such person.

(B) Any partner of such person.

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

(2) The term “applicant” means any person applying for a permit under this Act or a modification to or a renewal of a permit under this Act.

(3) The term “beneficiation” means the crushing and grinding of locatable mineral ore and such processes as are employed to free the mineral from other constituents, including but not necessarily limited to, physical and chemical separation techniques.

(4) The term “claim holder” means a person holding a mining claim, millsite claim, or tunnel site claim located under the general mining laws and maintained in compliance with such laws and this Act. Such term may include an agent of a claim holder.
(5) The term “control” means having the ability, directly or indirectly, to determine (without regard to whether exercised through one or more corporate structures) the manner in which an entity conducts mineral activities, through any means, including without limitation, ownership interest, authority to commit the entity’s real or financial assets, position as a director, officer, or partner of the entity, or contractual arrangement.

(6) The term “environmental protection requirements” means the requirements and standards of title III, and such other standards as are established by the Secretary governing mineral activities pursuant to this Act.

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

(8) The term “Indian lands” means lands held in trust for the benefit of an Indian tribe or individual or held by an Indian tribe or individual subject to a restriction by the United States against alienation.
(9) The term “Indian tribe” means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 and following), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

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


(B) The term “locatable mineral” does not include any mineral held in trust by the United States for any Indian or Indian tribe, as defined in section
2 of the Indian Mineral Development Act of 1982 (25 U.S.C. 2101), or any mineral owned by any Indian or Indian tribe, as defined in that section, that is subject to a restriction against alienation imposed by the United States.

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

(A) does not exceed 5 acres for each 20 acres of mining claim for a vein or lode or placer claim deposit with which it is associated;

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

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

(12) The term “mineral activities” means any activity on a mining claim, millsite claim, or tunnel site claim for, related to, or incidental to, mineral exploration, mining, beneficiation, processing, or reclamation activities for any locatable mineral.

(13) The term “National Conservation System unit” means any unit of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, or National Trails System, or
a National Conservation Area, a National Recreation Area, a National Monument, or any unit of the National Wilderness Preservation System.

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

(15) The term “person” means an individual, Indian tribe, partnership, association, society, joint venture, joint stock company, firm, company, corporation, cooperative, or other organization and any instrumentality of State or local government including any publicly owned utility or publicly owned corporation of State or local government.

(16) The term “processing” means processes downstream of beneficiation employed to prepare locatable mineral ore into the final marketable product, including but not limited to smelting and electrolytic refining.

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

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

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

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

(B)(i) was properly located and maintained under the general mining laws prior to the applicable date;

(ii) was supported by a discovery of a valuable mineral deposit within the meaning of the general mining laws on the applicable date, or satisfied the limitations under existing law for millsite claims; and

(iii) continues to be valid under this Act.

(2) **APPLICABLE DATE.**—As used in paragraph (1), the term “applicable date” means one of the following:

(A) For lands described in paragraph (1) of section 201(b), the date of the recommendation referred to in paragraph (1) of that section if such recommendation is made on or after the date of the enactment of this Act.
(B) For lands described in paragraph (1) of section 201(b), if the recommendation referred to in paragraph (1) of that section is made before the date of the enactment of this Act, the earlier of—

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

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

(C) For lands described in paragraph (3)(B) of section 201(b), the date of the enactment of this Act.

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

(E) For lands described in paragraph (3)(B) of section 201(b), the date of the determination of eligibility of such lands for inclusion in the Wild and Scenic River System.

(F) For lands described in paragraph (4) of section 201(b), the date of the withdrawal under other law.
(c) References to Other Laws.—(1) Any reference in this Act to the term general mining laws is a reference to those Acts that generally comprise chapters 2, 12A, and 16, and sections 161 and 162, of title 30, United States Code.

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

SEC. 3. APPLICATION RULES.

(a) In General.—This Act applies to any mining claim, millsite claim, or tunnel site claim located under the general mining laws, prior to, on, or after the date of enactment of this Act, except as provided in subsection (b).

(b) Preexisting Claims.—(1) Any unpatented mining claim or millsite located under the general mining laws before the date of enactment of this Act for which a plan of operation has not been approved or a notice filed prior to the date of enactment shall, upon the effective date of this Act, be subject to the requirements of this Act, except as provided in paragraphs (2) and (3).
(2)(A) If a plan of operations had been approved for mineral activities on any claim or site referred to in paragraph (1) prior to the date of enactment of this Act, for a period of 5 years after the effective date of this Act mineral activities at such claim or site shall be subject to such plan of operations (or a modification or amendment thereof prepared in accordance with the provisions of law applicable prior to the enactment of this Act). During such 5-year period, modifications of, or amendments to, any such plan may be made in accordance with the provisions of law applicable prior to the enactment of this Act if such modifications or amendments are deemed minor by the Secretary concerned. After such 5-year period the requirements of title III shall apply, subject to the limitations of section 308. In order to meet the requirements of title III, the person conducting mineral activities under such plan of operations (or modified or amended plan) shall apply for a modification under section 303(f) no later than 3 years after the date of enactment of this Act. For purposes of this paragraph, any modification or amendment that extends the area covered by the plan (except for incidental boundary revisions) or that increases the risk of undue degradation of the environment shall not be subject to this paragraph and shall be subject to other provisions of this Act.
(B) During the 5-year period referred to in subparagraph (A), the provisions of section 305 (relating to financial assurance), section 503 (relating to inspection and monitoring), and section 506 (relating to enforcement) shall apply on the basis of the surface management requirements applicable to such plans of operations prior to the effective date of this Act.

(C) Where an application for modification or amendment of a plan of operations referred to in subparagraph (A) has been timely submitted and an approved plan expires prior to Secretarial action on the application, mineral activities and reclamation may continue in accordance with the terms of the expired plan until the Secretary makes an administrative decision on the application.

(c) APPLICATION OF ACT TO BENEFICIATION AND PROCESSING OF NON-FEDERAL MINERALS ON FEDERAL LANDS.—The provisions of this Act (including the environmental protection requirements of title III) shall apply in the same manner and to the same extent to mining claims, millsite claims, and tunnel site claims used for beneficiation or processing activities for any mineral without regard to whether or not the legal and beneficial title to the mineral is held by the United States. This subsection applies only to minerals that are locatable minerals or minerals that would be locatable minerals if the legal
and beneficial title to such minerals were held by the United States.

TITLE I—MINERAL EXPLORATION AND DEVELOPMENT

SEC. 101. LIMITATION ON PATENTS.

(a) MINING CLAIMS.—

(1) Determinations required.—After the date of enactment of this Act, no patent shall be issued by the United States for any mining claim located under the general mining laws unless the Secretary determines that, for the claim concerned—

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

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

(2) Right to patent.—If the Secretary makes the determinations referred to in subparagraphs (A) and (B) of paragraph (1) for any mining claim, the
holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this Act, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

(b) Millsite Claims.—

(1) Determinations Required.—After the date of enactment of this Act, no patent shall be issued by the United States for any millsite claim located under the general mining laws unless the Secretary determines that for the millsite concerned—

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

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

(2) Right to Patent.—If the Secretary makes the determinations referred to in subparagraphs (A) and (B) of paragraph (1) for any millsite claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this Act, unless and until such
determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

SEC. 102. ROYALTY.

(a) RESERVATION OF ROYALTY.—

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

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

(A) ⅔ shall be deposited into the account established under section 401; and

(B) ⅓ shall be deposited into the account established under section 421.

(b) DUTIES OF CLAIM HOLDERS, OPERATORS, AND TRANSPORTERS.—(1) A person—
(A) who is required to make any royalty payment under this section shall make such payments to the United States at such times and in such manner as the Secretary may by rule prescribe; and

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

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

(3) A person conducting mineral activities shall—

(A) develop and comply with the site security provisions in operations permit designed to protect from theft the locatable minerals, concentrates or
products derived therefrom which are produced or stored on a mining claim, and such provisions shall conform with such minimum standards as the Secretary may prescribe by rule, taking into account the variety of circumstances on mining claims; and

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

(4) The Secretary may by rule require any person engaged in transporting a locatable mineral, concentrate, or product derived therefrom to carry on his or her person, in his or her vehicle, or in his or her immediate control, documentation showing, at a minimum, the amount, origin, and intended destination of the locatable mineral, concentrate, or product derived therefrom in such circumstances as the Secretary determines is appropriate.

(e) RECORDKEEPING AND REPORTING REQUIREMENTS.—(1) A claim holder, operator, or other person directly involved in developing, producing, processing, transporting, purchasing, or selling locatable minerals, concentrates, or products derived therefrom, subject to this Act, through the point of royalty computation shall estab-
lish and maintain any records, make any reports, and provide any information that the Secretary may reasonably require for the purposes of implementing this section or determining compliance with rules or orders under this section. Such records shall include, but not be limited to, periodic reports, records, documents, and other data. Such reports may also include, but not be limited to, pertinent technical and financial data relating to the quantity, quality, composition volume, weight, and assay of all minerals extracted from the mining claim. Upon the request of any officer or employee duly designated by the Secretary or any State conducting an audit or investigation pursuant to this section, the appropriate records, reports, or information that may be required by this section shall be made available for inspection and duplication by such officer or employee or State. Failure by a claim holder, operator, or other person referred to in the first sentence to cooperate with such an audit, provide data required by the Secretary, or grant access to information may, at the discretion of the Secretary, result in involuntary forfeiture of the claim.

(2) Records required by the Secretary under this section shall be maintained for 10 years after release of financial assurance under section 305 unless the Secretary notifies the operator that the Secretary has initiated an
audit or investigation involving such records and that such
records must be maintained for a longer period. In any
case when an audit or investigation is underway, records
shall be maintained until the Secretary releases the oper-
ator of the obligation to maintain such records.

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

(e) Cooperative Agreements.—(1) The Secretary
is authorized to enter into cooperative agreements with the
Secretary of Agriculture to share information concerning
the royalty management of locatable minerals, con-
centrates, or products derived therefrom, to carry out in-
spection, auditing, investigation, or enforcement (not in-
cluding the collection of royalties, civil or criminal pen-
alties, or other payments) activities under this section in
cooperation with the Secretary, and to carry out any other activity described in this section.

(2) Except as provided in paragraph (3)(A) of this subsection (relating to trade secrets), and pursuant to a cooperative agreement, the Secretary of Agriculture shall, upon request, have access to all royalty accounting information in the possession of the Secretary respecting the production, removal, or sale of locatable minerals, concentrates, or products derived therefrom from claims on lands open to location under this Act.

(3) Trade secrets, proprietary, and other confidential information protected from disclosure under section 552 of title 5, United States Code, popularly known as the Freedom of Information Act, shall be made available by the Secretary to other Federal agencies as necessary to assure compliance with this Act and other Federal laws. The Secretary, the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and other Federal officials shall ensure that such information is provided protection in accordance with the requirements of that section.

(f) INTEREST AND SUBSTANTIAL UNDERREPORTING ASSESSMENTS.—(1) In the case of mining claims where royalty payments are not received by the Secretary on the date that such payments are due, the Secretary shall
charge interest on such underpayments at the same interest rate as the rate applicable under section 6621(a)(2) of the Internal Revenue Code of 1986. In the case of an underpayment, interest shall be computed and charged only on the amount of the deficiency and not on the total amount.

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

(3) For the purposes of this subsection, the term “underreporting” means the difference between the royalty on the value of the production that should have been reported and the royalty on the value of the production which was reported, if the value that should have been reported is greater than the value that was reported. An underreporting constitutes a “substantial underreporting” if such difference exceeds 10 percent of the royalty on the value of production that should have been reported.

(4) The Secretary may waive or reduce the assessment provided in paragraph (2) of this subsection if the person liable for royalty payments under this section corrects the underreporting before the date such person receives notice from the Secretary that an underreporting
may have occurred, or before 90 days after the date of
the enactment of this section, whichever is later.

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

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

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

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

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

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

(g) DELEGATION.—For the purposes of this section,
the term “Secretary” means the Secretary of the Interior
acting through the Director of the Minerals Management Service.

(h) **Expanded Royalty Obligations.**—Each person liable for royalty payments under this section shall be jointly and severally liable for royalty on all locatable minerals, concentrates, or products derived therefrom lost or wasted from a mining claim located under the general mining laws and maintained in compliance with this Act when such loss or waste is due to negligence on the part of any person or due to the failure to comply with any rule, regulation, or order issued under this section.

(i) **Net Smelter Return Defined.**—For the purposes of this section, for any locatable mineral, the term “net smelter return” has the same meaning as the term “gross income” in section 613(c)(1) of the Internal Revenue Code of 1986.

(j) **Effective Date.**—The royalty under this section shall take effect with respect to the production of locatable minerals after the enactment of this Act, but any royalty payments attributable to production during the first 12 calendar months after the enactment of this Act shall be payable at the expiration of such 12-month period.

(k) **Failure to Comply With Royalty Requirements.**—Any person who fails to comply with the requirements of this section or any regulation or order issued to
implement this section shall be liable for a civil penalty under section 109 of the Federal Oil and Gas Royalty Management Act (30 U.S.C. 1719) to the same extent as if the claim located under the general mining laws and maintained in compliance with this Act were a lease under that Act.

**TITLE II—PROTECTION OF SPECIAL PLACES**

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

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

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

(2) such lands and interests as are opened to the location of mining claims on or after the date of enactment of this Act by reason of any administrative action or statute.

(b) **LANDS NOT OPEN TO LOCATION.**—Notwithstanding any other provision of law and subject to valid existing rights, each of the following shall not be open to the location of mining claims under the general mining laws on or after the date of enactment of this Act:
(1) Lands recommended for wilderness designation by the agency managing the surface, pending a final determination by the Congress of the status of such recommended lands, or otherwise being managed as roadless areas under an applicable land use plan.

(2) Lands being managed by the Secretary, acting through Bureau of Land Management, as wilderness study areas or National Monuments on the date of enactment of this Act except where the location of mining claims is specifically allowed to continue by the statute designating the study area, pending a final determination by the Congress of the status of such lands.

(3) Lands that are—

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

(B) determined by a Federal agency under section 5(d) of such Act (16 U.S.C. 1276(d)) to be eligible for inclusion in such system, pending
a final determination by the Congress of the status of such lands; or

(C) designated Wild and Scenic Rivers that have been withdrawn from mineral entry by action of the Secretary of the Interior.

(4) Lands withdrawn or segregated from mineral entry under authority of other law.

(5) Lands designated as Areas of Critical Environmental Concern.

(6) Lands identified as “sacred sites” in accordance with Executive Order 13007.


**TITLE III—ENVIRONMENTAL CONSIDERATIONS OF MINERAL EXPLORATION AND DEVELOPMENT**

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

Notwithstanding section 302(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732(b)), the first section of the Act of June 4, 1897 (chapter 2; 30 Stat. 36 16 U.S.C. 478), and the National Forest Management Act of 1976 (16 U.S.C. 1600 et seq.), and in accordance with this title and applicable law, the Secretary—
(1) shall require that mineral activities on mining claims, millsite claims, or tunnel site claims conducted by any person shall protect the environment, public health, and public safety from undue degradation; and

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

SEC. 302. PERMITS.

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

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

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

(b) NEGLIGIBLE DISTURBANCE.—Notwithstanding subsection (a)(2), a permit under this title shall not be required for mineral activities that are a casual use of the
public lands, including the collection of geochemical, rock, soil, or mineral specimens using hand tools; and hand panning. Casual use does not include—

(1) the use of mechanized earth moving equipment, suction dredging, or explosives;

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

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

SEC. 303. OPERATIONS PERMIT.

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

(b) PERMIT APPLICATION REQUIREMENTS.—An application for an operations permit under this section shall be submitted in a manner satisfactory to the Secretary concerned and shall contain site characterization data, an
operations plan, a reclamation plan, monitoring plans, long-term maintenance plans, to the extent necessary, and such documentation as necessary to ensure compliance with applicable Federal and State environmental laws and regulations. If the proposed mineral activities will be carried out in conjunction with mineral activities on adjacent non-Federal lands, information on the location and nature of such operations may be required by the Secretary. At a minimum, each of the following shall be required for all applications:

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

(2) The name, mailing address, and social security number or tax identification number, as applicable, of each of the following:

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

(B) The operator (if different than the applicant) of the claim concerned.

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

(D) Each affiliate and each officer or director of the applicant and of the operator.

(3) A statement of whether the applicant or operator, or any subsidiary, affiliate, or person con-
trolled by or under common control with the appli-
cant or operator, is currently in violation of, or was,
during the 5-year period preceding the date of appli-
cation, found to be in violation of any of the fol-
lowing and if so, a brief explanation of the facts in-
volved, including identification of the site and the
nature of the violation:

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

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

(C) The Surface Mining Control and Recl-
amation Act of 1977 (30 U.S.C. 1201 and fol-
lowing) or the Mineral Leasing Act (30 U.S.C.
181 and following) or any regulation under
those Acts at any site where mining operations
have occurred or are occurring.

(4) A statement of whether the applicant or op-
erator, and any subsidiary, affiliate, or person con-
trolled by or under common control with the appli-
cant or operator, has ever held a Federal or State
mining permit that has been suspended or revoked or has had a mining bond or similar security deposited in lieu of bond forfeited and, if so, a brief explanation of the facts involved.

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

(6) A description of the type and method of mineral activities proposed, the engineering techniques proposed to be used, and the equipment proposed to be used.

(7) The anticipated starting and termination dates of each phase of the mineral activities proposed, including any planned temporary cessation of operations.

(8) Accurate maps, to an appropriate scale, clearly showing the lands, watersheds, and surface waters, to be affected by the proposed mineral activities; surface and mineral ownership; facilities, including roads and other man-made structures; proposed disturbances; soils and vegetation; topography; and water supply intakes and surface water bodies.
(9) A description of the biological resources in or associated with the area subject to or potentially impacted by planned mineral activities, including vegetation, fish and wildlife, and riparian and wetland habitats.

(10) A description of measures planned to exclude fish and wildlife resources from the area subject to mineral activities by covering, containment, or fencing of open waters, beneficiation, and processing materials; or maintenance of all facilities in a condition that is not harmful to fish and wildlife.

(11) A description of the quantity and quality of surface and ground water resources in or associated with the area subject to mineral activities, based on predisturbance monitoring sufficient to establish seasonal variations.

(12) An analysis of the potential hydrologic consequences of the mineral activities, both on and off the area subject to mineral activities, with respect to the hydrologic regime, quantity and quality of water in surface and ground water systems including the dissolved and suspended solids under seasonal flow conditions, and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the Secretary
regarding the possible cumulative impacts of the anticipated mineral activities in the area upon the hydrology of the area and particularly upon water availability and quality. To the extent that this analysis relies on hydrologic or other modeling, the models used shall be approved by the Secretary for application at the site. Such a model may not be approved if it is considered proprietary and therefore unavailable for public review. In describing the potential impacts of mineral activities, the applicant shall include information on the range of predicted impacts, the key factors in any sensitivity analyses undertaken, and the probabilities of various outcomes, to the extent such information is available.

(13) A description of the monitoring and reporting systems to be used to detect and determine whether compliance has and is occurring consistent with the environmental protection requirements and with predicted outcomes, including the type and location of monitoring devices, sampling parameters and frequency, detection limits, analytical methods, reporting procedures, and procedures to respond to reporting results, that will monitor the effects of mineral activities on the site and surrounding environment, including but not limited to, ground water,
surface water, wetlands, air, soils, and fish and wild-
life resources.

(14) Accident contingency plans that include, but are not limited to, immediate response strategies and corrective measures to protect public safety and prevent adverse environmental impacts, and appropriate insurance to cover accident contingencies.

(15) Any measures to comply with any conditions on minerals activities that are required in the applicable land use plan.

(16) Information determined necessary by the Secretary to assess the cumulative impacts of mineral activities, as required to comply with the National Environmental Policy Act of 1969, if impacts of the proposed mineral activities are additions to the impacts associated with other mineral activities.

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

(18) Evidence of appropriate financial assurance as specified in section 305.

(19) A description of the site security provisions designed to protect from theft the locatable min-
erals, concentrates, or products derived therefrom that will be produced or stored on a mining claim.

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

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

(c) Operation and Reclamation Plans Application Requirements.—The operation and reclamation plans referred to in subsection (b) shall include such reclamation measures as prescribed by the Secretary, or for National Forest System lands the Secretary of Agriculture, and each of the following:

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

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

(3) A description of operation and reclamation measures proposed pursuant to the requirements of section 306.
(4) The engineering techniques to be used in operation and reclamation and the equipment proposed to be used.

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

(6) A description of the proposed condition of the land, including the fish and wildlife resources and habitat contained thereon, following the completion of reclamation.

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

(d) PERMIT ISSUANCE OR DENIAL.—(1) After providing notice and opportunity for public comment and hearing pursuant to subsection (k), the Secretary, or for National Forest System lands the Secretary of Agriculture, shall issue an operations permit if such Secretary makes each of the following determinations in writing, and shall deny a permit if such Secretary finds that the appli-
cation and applicant do not fully meet the following re-
quirements:

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

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

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

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

(E) The applicant has obtained the necessary
Federal, State, and local permits to demonstrate
that the mineral activities will be in compliance with
this Act and all other applicable Federal require-
ments, and any applicable State requirements agreed
to by the appropriate Secretary pursuant to coopera-
tive agreements under section 307 and local land use
and zoning requirements.

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

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

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

   (I) Neither the applicant nor operator, nor any
subsidiary, affiliate, or person controlled by or under
common control with the applicant or operator, is in-
eligible to receive a permit under section 304.
(J) The reclamation plan demonstrates that 10 years following mine closure, no treatment of surface or ground water for carcinogens or toxins will be required to meet water quality standards at the point of discharge.

(2) Issuance of an operations permit under this section shall be based on information supplied by the applicant or other interested parties and the applicant shall have the burden of establishing that the application meets the environmental standard established in section 301.

(3) With respect to any activities specified in the reclamation plan referred to in subsection (b) that constitutes a removal or remedial action under section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 and following), the Secretary shall consult with the Administrator of the Environmental Protection Agency prior to the issuance of an operations permit. The Administrator shall ensure that the reclamation plan does not require activities which would increase the costs or likelihood of removal or remedial actions under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601 and following) or corrective actions under the Solid Waste Disposal Act (42 U.S.C. 6901 and following).

(e) TERM OF PERMIT; RENEWAL.—
(1) An operations permit shall be for a stated term. The term shall be no longer than that necessary to accomplish the proposed mineral activities subject to the permit, and in no case for more than 10 years.

(2) Failure by the operator to commence mineral activities within two years of the date scheduled in an operations permit shall require a modification of the permit if the Secretary concerned determines that modifications are necessary to comply with section 201.

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

   (A) The terms and conditions of the existing permit are not being met.

   (B) The operator has not demonstrated that the financial assurance would continue to apply in full force and effect for the renewal term.
(C) Any additional revised or updated information required by the Secretary concerned has not been provided.

(D) The applicant has not demonstrated that the mineral activities will be in compliance with the requirements of this Act, all other applicable Federal requirements, and any State requirements agreed to by the Secretary concerned pursuant to cooperative agreements under section 307.

(4) A renewal of an operations permit shall be for a term of 10 years or for such shorter term as the Secretary concerned deems appropriate. Application for renewal shall be made at least 18 months prior to the expiration of the existing permit. If a renewal application has been timely submitted and a permit expires prior to Secretarial action on the renewal application, reclamation shall and other mineral activities may continue in accordance with the terms of the expired permit until the Secretary concerned makes a decision on the renewal application but in no case longer than 2 years.

(f) Permit Modification.—

(1) During the term of an operations permit the operator may submit an application to modify
the permit (including the operations plan or reclamation plan, or both). To approve a proposed modification, the Secretary, or for National Forest System lands the Secretary of Agriculture, shall make the same determinations as are required in the case of an original operations permit, except that the Secretaries may establish joint rules regarding the extent to which requirements for original permits under this section shall apply to applications to modify a permit based on whether such modifications are deemed significant or minor.

(2) The Secretary, or for National Forest System lands the Secretary of Agriculture, may, at any time, require reasonable modification to any operations plan or reclamation plan upon a determination that the requirements of this Act cannot be met if the plan is followed as approved. Such determination shall be based on a written finding and subject to public notice and hearing requirements established by the Secretary concerned.

(3) A permit modification is required before changes are made to the approved plan of operations, or if unanticipated events or conditions exist on the mine site, including in the case of—

(A) development of acid or toxic drainage;
(B) loss of springs or water supplies;

(C) water quantity, water quality, or other resulting water impacts that are significantly different than those predicted in the application;

(D) the need for long-term water treatment;

(E) significant reclamation difficulties or reclamation failure;

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

(G) the discovery of hazards to public safety.

(g) TEMPORARY CESSATION OF OPERATIONS.—(1) An operator conducting mineral activities under an operations permit in effect under this title may not temporarily cease mineral activities for a period greater than 180 days unless the Secretary concerned has approved such temporary cessation or unless the temporary cessation is permitted under the original permit. Any operator temporarily ceasing mineral activities for a period greater than 90 days under an operations permit issued before the date of the enactment of this Act shall submit, before the expiration of such 90-day period, a complete application for
temporary cessation of operations to the Secretary concerned for approval unless the temporary cessation is permitted under the original permit.

(2) An application for approval of temporary cessation of operations shall include such information required under subsection (b) and any other provisions prescribed by the Secretary concerned to minimize impacts on the environment. After receipt of a complete application for temporary cessation of operations such Secretary shall conduct an inspection of the area for which temporary cessation of operations has been requested.

(3) To approve an application for temporary cessation of operations, the Secretary concerned shall make each of the following determinations:

(A) A determination that the methods for securing surface facilities and restricting access to the permit area, or relevant portions thereof, will effectively ensure against hazards to the health and safety of the public and fish and wildlife.

(B) A determination that reclamation is in compliance with the approved reclamation plan, except in those areas specifically designated in the application for temporary cessation of operations for which a delay in meeting such standards is necessary to facilitate the resumption of operations.
(C) A determination that the amount of financial assurance filed with the permit application is sufficient to assure completion of the reclamation activities identified in the approved reclamation plan in the event of forfeiture.

(D) A determination that any outstanding notices of violation and cessation orders incurred in connection with the plan for which temporary cessation is being requested are either stayed pursuant to an administrative or judicial appeal proceeding or are in the process of being abated to the satisfaction of the Secretary concerned.

(h) PERMIT REVIEWS.—The Secretary, or for National Forest System lands the Secretary of Agriculture, shall review each permit issued under this section every 3 years during the term of such permit, shall provide public notice of the permit review, and, based upon a written finding, such Secretary shall require the operator to take such actions as the Secretary deems necessary to assure that mineral activities conform to the permit, including adjustment of financial assurance requirements.

(i) FEES.—Each application for a permit pursuant to this section shall be accompanied by a fee payable to the Secretary or for the National Forest System, the Secretary of Agriculture, in such amount as may be estab-
lished by such Secretary, or for National Forest System
lands by the Secretary of Agriculture. Such amount shall
be equal to the actual or anticipated cost to the Secretary,
or for National Forest System lands the Secretary of Agri-
culture, of reviewing, administering, and enforcing such
permit, as determined by such Secretary. All moneys re-
ceived under this subsection shall be deposited in the
Abandoned Locatable Minerals Mine Reclamation Fund
established under title IV.

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

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

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

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

(B) has submitted evidence of financial assur-
ance satisfactory under section 305; and
(C) meets any other requirements specified by such Secretary.

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

(4) Each application for approval of a permit transfer, assignment, or sale pursuant to this subsection shall be accompanied by a fee payable to the Secretary of the Interior, or for National Forest System lands, the Secretary of Agriculture, in such amount as may be established by such Secretary, or for National Forest System lands, by the Secretary of Agriculture. Such amount shall be equal to the actual or anticipated cost to the Secretary or, for National Forest System lands, to the Secretary of Agriculture, of reviewing and approving or disapproving such transfer, assignment, or sale, as determined by such Secretary. All moneys received under this subsection shall be deposited in the Abandoned Locatable Minerals Mine Reclamation Fund established under title IV.

(k) PUBLIC PARTICIPATION.—(1) Concurrent with submittal of an application for a permit under this section or a renewal or significant modification thereof, the appli-
cant shall publish a notice in a newspaper of local circulation at least once a week for 4 consecutive weeks. In addition, the Secretary shall place a notice of the receipt of the application in the Federal Register. Such notices by the applicant and the Secretary shall include the name of the applicant, the location of the proposed mineral activities, the type and expected duration of the proposed mineral activities, the proposed use of the land after the completion of mineral activities, and identification of a location where such plans are publicly available. The notice by the Secretary shall provide contact names and information for members of the public wishing to obtain further information, and shall specifically allow for commenters to request a public hearing. The applicant shall also notify in writing other Federal, State, and local government agencies and Indian tribes that regulate mineral activities or land planning decisions in the area subject to mineral activities or that manage lands adjacent to the area subject to mineral activities. The applicant shall provide proof of such notification to the Secretary, or for National Forest System lands, the Secretary of Agriculture.

(2) The applicant for a permit under this section shall make paper and digital copies of the complete permit application, permit modifications, or permit renewals available for public review at the office of the responsible
Federal agency located nearest to the location of the proposed mineral activities, on the appropriate Internet Websites of the appropriate Federal agencies and at such other readily accessible public locations deemed appropriate by the State or local government for the county in which the proposed mineral activities will occur prior to final decision by the Secretary, or for National Forest System lands, the Secretary of Agriculture. Any person, and the authorized representative of a Federal, State, or local governmental agency or Indian tribe, shall have the right to file written comments relating to the approval or disapproval of the permit application for a period of at least 45 days after the last day of newspaper publication. Such comment period may be extended by the Secretary for an additional 90-day period and shall be extended for a period no less than 30 days following a public hearing carried out in accordance with subsection (3). The Secretary concerned shall also create a public docket of all materials related to the application and all comments received.

(3) Any person may file written comments during the comment period specified in paragraph (2) and any person who is, or may be, adversely affected by the proposed mineral activities may request a nonadjudicatory public hearing to be held in the county in which the mineral activities are proposed. The Secretary concerned shall consider all
written comments filed during such comment period. If a hearing is requested by any person who is, or may be, adversely affected by the proposed mineral activities, the Secretary concerned shall consider such request and may conduct such hearing. The Secretary shall grant such request and whenever the Secretary determines that there is significant public interest. When a hearing is to be held, the Secretary shall notify all those who have provided comments regarding the permit and notice of such hearing shall be published in a newspaper of local circulation at least once a week for 2 weeks prior to the hearing date.

(4) The public participation requirements in this section shall apply to permit modifications that are considered more than minor under subsection (f).

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

(a) **CURRENT VIOLATIONS.**—Unless corrective action has been taken in accordance with subsection (c), no permit under this title shall be issued or transferred to an applicant if the applicant or any agent of the applicant, the operator (if different than the applicant) of the claim concerned, any claim holder (if different than the applicant) of the claim concerned, or any affiliate or officer or director of the applicant is currently in violation of any of the following:
(1) A provision of this Act or any regulation under this Act.

(2) An applicable State or Federal toxic substance, solid waste, air, water quality, or fish and wildlife conservation law or regulation at any site where mining, beneficiation, or processing activities are occurring or have occurred.

(3) The Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 and following) or any regulation implementing that Act at any site where surface coal mining operations have occurred or are occurring.

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

(c) CORRECTION.—(1) The Secretary, or for National Forest System lands the Secretary of Agriculture, may issue or reinstate a permit under this title if the applicant submits proof that the violation referred to in subsection (a) or (b) has been corrected or is in the process of being corrected to the satisfaction of such Secretary and the regulatory authority involved or if the applicant submits proof
that the violator has filed and is presently pursuing, a di-
rect administrative or judicial appeal to contest the exist-
ence of the violation. For purposes of this section, an ap-
peal of any applicant’s relationship to an affiliate shall not
constitute a direct administrative or judicial appeal to con-
test the existence of the violation.

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

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

SEC. 305. FINANCIAL ASSURANCE.

(a) FINANCIAL ASSURANCE REQUIRED.—(1) Before
any permit is issued under this title, the operator shall
file with the Secretary, or for National Forest System
lands the Secretary of Agriculture, evidence of financial
assurance payable to the United States on a form pre-
scribed and furnished by such Secretary and conditional
upon faithful performance of such permit and all other
requirements of this Act. The financial assurance shall be
provided in the form of a surety bond, trust fund, letters
of credits, government securities, certificates of deposit,
cash or equivalent.

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

(b) AMOUNT.—The amount of the financial assur-
ance required under this section shall be sufficient to as-
sure the completion of reclamation and restoration satis-
fying the requirements of this Act if the work were to be
performed by the Secretary concerned in the event of for-
feiture, including the construction and maintenance costs
for any treatment facilities necessary to meet Federal and
State environmental requirements. The calculation of such
amount shall take into account the maximum level of fi-
nancial exposure which shall arise during the mineral ac-
tivity and administrative costs associated with a govern-
ment agency reclaiming the site.
(c) **DURATION.**—The financial assurance required under this section shall be held for the duration of the mineral activities and for an additional period to cover the operator’s responsibility for reclamation, restoration, and long-term maintenance as specified under section 306(b)(6)(B), and effluent treatment as specified in subsection (g).

(d) **ADJUSTMENTS.**—The amount of the financial assurance and the terms of the acceptance of the assurance may be adjusted by the Secretary concerned from time to time as the area requiring coverage is increased or decreased, or where the costs of reclamation or treatment change, or pursuant to section 303(h) (relating to operations permits), but the financial assurance shall otherwise be in compliance with this section. The Secretary concerned shall review the financial guarantee as part of the permit review under section 303(h).

(e) **RELEASE.**—Upon request, and after notice and opportunity for public comment, and after inspection by the Secretary, or for National Forest System lands, the Secretary of Agriculture, such Secretary may, after consultation with the Administrator of the Environmental Protection Agency, release in whole or in part the financial assurance required under this section if the Secretary makes both of the following determinations:
(1) A determination that reclamation or restoration covered by the financial assurance has been accomplished as required by this Act.

(2) A determination that the terms and conditions of any other applicable Federal requirements, and State requirements applicable pursuant to cooperative agreements under section 307, have been fulfilled.

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

(1) After the operator has completed any required backfilling, regrading, and drainage control of an area subject to mineral activities and covered by the financial assurance, and has commenced revegetation on the regraded areas subject to mineral activities in accordance with the approved plan, that portion of the total financial assurance secured for the area subject to mineral activities attributable to the completed activities may be released except that sufficient assurance must be retained to address other required reclamation and restoration needs and to assure the long-term success of the revegetation.

(2) After the operator has completed successfully all remaining mineral activities and reclamation
activities and all requirements of the operations plan and the reclamation plan (including the provisions of section 306(b)(6)(B) relating to revegetation, restoration, and effluent treatment required by subsection (g)), and all other requirements of this Act have been fully met, the remaining portion of the financial assurance may be released.

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

(g) Effluent.—Notwithstanding section 306(b)(4), where any discharge or other water-related condition resulting from the mineral activities requires treatment in order to meet the applicable effluent limitations and water quality standards, the financial assurance shall include the estimated cost of maintaining such treatment for the projected period that will be needed after the cessation of mineral activities. The portion of the financial assurance attributable to such estimated cost of treatment shall not be released until the discharge has ceased for a period of 5 years, as determined by ongoing monitoring and testing, or, if the discharge continues, until the operator has met
all applicable effluent limitations and water quality standards for 5 full years without treatment.

(h) ENVIRONMENTAL HAZARDS.—If the Secretary, or for National Forest System lands, the Secretary of Agriculture, determines, after final release of financial assurance, that an environmental hazard resulting from the mineral activities exists, or the terms and conditions of the operations permit of this Act were not fulfilled in fact at the time of release, such Secretary shall issue an order under section 506 requiring the claim holder or operator (or any person who controls the claim holder or operator) to correct the condition such that applicable laws and regulations and any conditions from the plan of operations are met.

SEC. 306. OPERATION AND RECLAMATION.

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

(A) the uses which such lands were capable of supporting prior to surface disturbance by the operator, or

(B) other beneficial uses which conform to applicable land use plans as determined by the Sec-
retary, or for National Forest System lands, the Secretary of Agriculture.

(2) Reclamation shall proceed as contemporaneously as practicable with the conduct of mineral activities. In the case of a cessation of mineral activities beyond that provided for as a temporary cessation under this Act, reclamation activities shall begin immediately.

(b) Operation and Reclamation Standards.—

Mineral activities shall be conducted in accordance with the following standards, and any additional standards the Secretaries may jointly promulgate under section 301 and subsection (a) of this section to address specific environmental impacts of selected methods of mining and to assure that the direct and indirect impacts of mining are consistent with applicable land use plans:

(1) Soils.—(A) Soils, including top soils and subsoils removed from lands subject to mineral activities, shall be segregated from waste material and protected to minimize erosion and sustain revegetation when reclamation begins. If such soil is not replaced on a backfill area within a time-frame short enough to avoid deterioration of the topsoil, vegetative cover or other means shall be used so that the soil is preserved from wind and water erosion, remains free of contamination by acid or other toxic
material, and is in a usable condition for sustaining vegetation when restored during reclamation.

(B) In the event the topsoil from lands subject to mineral activities is of insufficient quantity or of inferior quality for sustaining vegetation, and other suitable growth media removed from the lands subject to the mineral activities are available that shall support vegetation, the best available growth medium shall be removed, segregated and preserved in a like manner as under subparagraph (A) for sustaining vegetation when restored during reclamation.

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

(D) Mineral activities shall be conducted to prevent contamination of soils to the extent possible using the best technology currently available. If contamination occurs, the operator shall decontaminate
or dispose of any contaminated soils which have re-
sulted from the mineral activities.

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

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

(4) HYDROLOGIC BALANCE.—(A) Mineral ac-
tivities shall be conducted to minimize disturbances
to the prevailing hydrologic balance of the permit
area and surrounding hydrologic basins affected by
mining activities existing prior to the mineral activi-
ties in the permit area and in the surrounding wa-
tershed, as established by the baseline information provided pursuant to section 303(b)(10) (relating to operations permits). Hydrologic balance includes the quality and quantity of ground water and surface water and their interrelationships, including recharge and discharge rates. In all cases, the operator shall comply with Federal and State laws related to the quality and quantity of such waters, and mineral activities shall not cause or contribute to violations of water quality standards in affected waters.

(B) Mineral activities shall be conducted to prevent to the fullest extent possible the formation of acidic, toxic, or other contaminated water. Where the formation of acidic, toxic, or other contaminated water occurs, mineral activities shall be conducted so as to minimize the formation of acidic, toxic, or other contaminated water and to control the spread of any such contamination.

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

(D) Reclamation shall restore approximate hydrologic balance existing prior to the mineral activi-
ties before the applicable water quality permit issued under State or Federal law expires or is subject to renewal.

(E) Where the quality or quantity of surface water or ground water used for domestic, municipal, agricultural, or industrial purposes is adversely impacted by mineral activities, such water shall be treated, or replaced with the same quantity and approximate quality of water, comparable to premining conditions as established in paragraph (11) of section 303(b) (relating to operations permits).

(5) SURFACE RESTORATION.—(A) The surface area disturbed by mineral activities shall be shaped, graded, and contoured to its natural topography. Backfilling of an open pit mine shall be required if it is determined by the Secretary to be the most appropriate means of controlling long-term adverse impacts on public health or the environment.

(B) In instances where complete backfilling of an open pit is not required, the pit shall be graded to blend with the surrounding topography as much as practicable to minimize disturbance to the hydrologic balance, and revegetated in accordance with paragraph (6), and the water quality in the pit and other water impoundments and wells adjacent or
hydrologically connected by groundwater shall comply with applicable Federal, State, and, where appropriate, local government water quality standards.

(6) VEGETATION.—(A) The area subject to mineral activities shall be vegetated in order to establish a diverse, effective, and permanent vegetative cover of the same seasonal variety native to the area subject to mineral activities, capable of self-regeneration and plant succession and at least equal in extent of cover to the natural revegetation of the surrounding area, except that introduced species may be used at the discretion of the Secretary, or for National Forest System lands the Secretary of Agriculture, in consultation with the Director of the United States Fish and Wildlife Service, if such introduction of such species is necessary as an interim step in, and is part of a program to restore a native plant community. In such instances where the complete backfill of an open mine pit is not required under paragraph (5), such Secretary shall prescribe such vegetation requirements as conform to the applicable land use plan.

(B) In order to ensure compliance with subparagraph (A), the period for determining successful revegetation shall be 5 full years after the last year
of augmented seeding, fertilizing, irrigation, or other work, except that such period shall be 10 full years where the annual average precipitation is 26 inches or less. The period may be a longer time at the discretion of the Secretary concerned where rainfall or other factors indicate that successful revegetation may be difficult to achieve or maintain.

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

(B) Excess waste material piles shall be graded and contoured to blend with the surrounding topography as much as practicable and revegetated in accordance with paragraph (6).

(8) SEALING.—All drill holes, and openings on the surface associated with underground mineral activities, shall be backfilled, sealed, or otherwise con-
trolled when no longer needed for the conduct of
mineral activities to ensure protection of the public
and the environment, protection of groundwater, and
management of fish and wildlife and livestock. Such
sealing must be designed and carried out using ma-
terials and methods that will provide long-term pro-
tection. Information regarding the location and na-
ture of sealed drill holes or openings or other areas
that should remain undisturbed or will require long-
term maintenance must be placed in the relevant
land records and provided to the Secretary and the
appropriate State and local agencies.

(9) **Removal of Structures, Etc.**—All
buildings, structures, roads, and equipment con-
structed, used, or improved during mineral activities
shall be removed, unless the Secretary concerned, in
consultation with the affected land managing agen-
cy, determines that use of the buildings, structures,
or equipment would be consistent with subsection (a)
or for environmental monitoring and the Secretary
concerned takes ownership of such structures.

(10) **Cultural, Paleontological, and Cave
Resources.**—The operator shall make reasonable
efforts to identify and shall not knowingly disturb,
alter, injure, or destroy any scientifically important
paleontologic remains or any historic, archaeologic, or cave-related sites, structure, building, resource, or object without including in the plan of operations a proposed action to preserve the resource that is approved by the Secretary prior to the disturbance taking place.

(11) DESIGN, CONSTRUCTION, AND MAINTENANCE OF STRUCTURES, ETC.—All buildings, structures, roads, and equipment constructed, used, or improved during mineral activities shall be designed, constructed, and maintained to minimize erosion, siltation, and air pollution and then removed after mining, unless the Secretary concerned in consultation with the affected land managing agency, determines that use of the buildings, structures, roads, or equipment would be consistent with subsection (a) or for environmental monitoring, and the Secretary concerned takes ownership of such structures, buildings, or equipment, or roads.

(12) DRILL HOLES.—(A) Drilling fluids shall not be allowed to flow off the site or otherwise adversely impact water or other natural resources.

(B) All drill holes shall be drilled, operated, and plugged to prevent mixing of water from aquifers,
impacts to beneficial uses, and downward or upward water loss.

(13) **Leaching Operations and Impoundments.**—Leach pads, tailing impoundments, waste rock and overburden, ponds, and solution holding facilities shall be designed, constructed, and operated according to standard engineering practices to achieve and maintain the stability of the site and facilitate reclamation. These facilities shall be constructed with a low-permeability liner or containment system that will detect leaks, and prevent the release of solutions to the environment. All leaching facilities and impoundments shall be designed and operated to withstand a local 24-hour, 100-year storm event in addition to the solution expected for the facility, unless the Secretary determines that additional protections are necessary due to proximity to people or endangered species, or threatened species or the presence of drinking water supplies.

(14) **Fire Prevention and Control.**—All applicable Federal and State fire laws and regulations shall be complied with, including taking all reasonable measures to prevent and suppress fire in the project area.
(15) Temporary Cessation.—During temporary cessation of operations, the operator shall maintain the site, and take measures to stabilize the excavation and workings, control toxic or deleterious materials, and monitor site conditions. After a 5 year cessation, the operator shall commence reclamation as described in section 306.

(c) Special Rule.—Reclamation activities for a mining claim that has been forfeited, relinquished, or lapsed, or a plan that has expired or been revoked or suspended, shall continue subject to review and approval by the Secretary, or for National Forest System lands the Secretary of Agriculture.

(d) Definitions.—As used in this section:

(1) The term “waste material” means the material resulting from mineral activities involving extraction, beneficiation, and processing, including but not limited to tailings, and such material resulting from mineral activities involving processing, to the extent such material is not subject to subtitle C of the Solid Waste Disposal Act (42 U.S.C. 3251 and following) or the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 and following).
(2) The term “ore piles” means ore stockpiled for beneficiation prior to the completion of mineral activities.

(3) The term “subgrade ore” means ore that is too low in grade to be processed at the time of extraction but which could reasonably be processed in the foreseeable future.

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

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

(a) State Law.—(1) Any reclamation, land use, environmental, or public health protection standard or requirement in State or local law or regulation that meets or exceeds the requirements of section 306 shall not be construed to be inconsistent with any such standard.

(2) Any bonding standard or requirement in State or local law or regulation that meets or exceeds the requirements of section 305 shall not be construed to be inconsistent with such requirements.

(3) Any inspection standard or requirement in State or local law or regulation that meets or exceeds the re-
requirements of section 503 shall not be construed to be inconsistent with such requirements.

(b) Applicability of Other State Requirements.—(1) Nothing in this Act shall be construed as affecting any toxic substance, solid waste, or air or water quality, standard or requirement of any State, county, local, or tribal law or regulation, which may be applicable to mineral activities on lands subject to this Act.

(2) Nothing in this Act shall be construed as affecting in any way the right of any person to enforce or protect, under applicable law, such person’s interest in water resources affected by mineral activities on lands subject to this Act.

(c) Cooperative Agreements.—(1) Any State may enter into a cooperative agreement with the Secretary, or for National Forest System lands the Secretary of Agriculture, for the purposes of such Secretary applying such standards and requirements referred to in subsection (a) and subsection (b) to mineral activities or reclamation on lands subject to this Act.

(2) In such instances where the proposed mineral activities would affect lands not subject to this Act in addition to lands subject to this Act, in order to approve a plan of operations the Secretary concerned shall enter into a cooperative agreement with the State that sets forth a
common regulatory framework consistent with the environ-
mental protection requirements of this Act for the pur-
poses of such plan of operations.

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

(d) Prior Agreements.—Any cooperative agreement or such other understanding between the Secretary concerned and any State, or political subdivision thereof, relating to the management of mineral activities on lands subject to this Act that was in existence on the date of enactment of this Act may only continue in force until one year after the date of enactment of this Act. During such one-year period, the State and the Secretary shall review the terms of the agreement and make changes that are necessary to be consistent with this Act.

TITLE IV—MINING MITIGATION Subtitle A—Abandoned Locatable Minerals Mine Reclamation Fund

SEC. 401. ABANDONED LOCATABLE MINERALS MINE RECLAMATION.

(a) Establishment.—(1) There is established on the books of the Treasury of the United States a separate account to be known as the Abandoned Locatable Minerals
Mine Reclamation Fund (hereinafter in this subtitle referred to as the “Fund”). The Fund shall be administered by the Secretary acting through the Director of the Office of Surface Mining Reclamation and Enforcement.

(2) The Secretary shall notify the Secretary of the Treasury as to what portion of the Fund is not, in the Secretary’s judgment, required to meet current withdrawals. The Secretary of the Treasury shall invest such portion of the Fund in public debt securities with maturities suitable for the needs of such Fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketplace obligations of the United States of comparable maturities. The income on such investments shall be credited to, and form a part of, the Fund.

(b) Amounts.—The following amounts shall be credited to the Fund:

(1) All moneys collected pursuant to section 506 (relating to enforcement) and section 504 (relating to citizens suits).

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

(3) All donations by persons, corporations, associations, and foundations for the purposes of this subtitle.
(4) All amounts deposited in the Fund under section 102 (relating to royalties and penalties for underreporting).

(5) All other receipts from fees, royalties, penalties and other sources collected under this Act.

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

SEC. 402. USE AND OBJECTIVES OF THE FUND.

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

(1) Protecting public health and safety

(2) Preventing, abating, treating, and controlling water pollution created by abandoned mine drainage.

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

(4) Reclaiming and restoring abandoned milling and processing areas.
(5) Backfilling, sealing, or otherwise controlling, abandoned underground mine entries.

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

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

(b) PRIORITIES.—Expenditures of moneys from the Fund shall reflect the following priorities in the order stated:

(1) The protection of public health and safety, from extreme danger from the adverse effects of past mineral activities, especially as relates to surface water and groundwater contaminants.

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

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

(c) HABITAT.—Reclamation and restoration activities under this subtitle, particularly those identified under subsection (a)(4), shall include appropriate mitigation measures to provide for the continuation of any established
habitat for wildlife in existence prior to the commencement of such activities.

(d) Other Affected Lands.—Where mineral exploration, mining, beneficiation, processing, or reclamation activities have been carried out with respect to any mineral which would be a locatable mineral if the legal and beneficial title to the mineral were in the United States, if such activities directly affect lands managed by the Bureau of Land Management as well as other lands and if the legal and beneficial title to more than 50 percent of the affected lands resides in the United States, the Secretary is authorized, subject to appropriations, to use moneys in the Fund for reclamation and restoration under subsection (a) for all directly affected lands.

(e) Response or Removal Actions.—Reclamation and restoration activities under this subtitle which constitute a removal or remedial action under section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601), shall be conducted with the concurrence of the Administrator of the Environmental Protection Agency. The Secretary and the Administrator shall enter into a Memorandum of Understanding to establish procedures for consultation, concurrence, training, exchange of technical expertise and joint activities under the appropriate circumstances, that
provide assurances that reclamation or restoration activities under this subtitle shall not be conducted in a manner that increases the costs or likelihood of removal or remedial actions under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 and following), and that avoid oversight by multiple agencies to the maximum extent practicable.

SEC. 403. ELIGIBLE LANDS AND WATERS.

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

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

(2) Lands for which the Secretary makes a determination that there is no continuing reclamation responsibility of a claim holder, operator, or other person who abandoned the site prior to completion of required reclamation under State or other Federal laws.
(3) Lands for which it can be established that such lands do not contain locatable minerals which could economically be extracted through the reprocessing or remining of such lands, unless such considerations are in conflict with the priorities set forth under paragraphs (1) and (2) of section 302(b).

(b) Specific Sites and Areas Not Eligible.—The provisions of section 411(d) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1240a(d)) shall apply to expenditures made from the Fund established under this subtitle.

(c) Inventory.—The Secretary shall prepare and maintain a publicly available inventory of abandoned locatable minerals mines on Federal lands and any abandoned mine on Indian lands that may be eligible for expenditures under this subtitle, and shall deliver a yearly report to the Congress on the progress in cleanup of such sites.

Sec. 404. Fund Expenditures.

Moneys available from the Fund may be expended for the purposes specified in section 402 directly by the Director of the Office of Surface Mining Reclamation and Enforcement. The Director may also make such money available for such purposes to the Director of the Bureau of Land Management, the Chief of the United States Forest
Service, the Director of the National Park Service, or Director of the United States Fish and Wildlife Service, to any other agency of the United States, to an Indian tribe, or to any public entity that volunteers to develop and implement, and that has the ability to carry out, all or a significant portion of a reclamation program under this subtitle.

SEC. 405. AUTHORIZATION OF APPROPRIATIONS.

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

Subtitle B—Locatable Minerals Community Impact Assistance

SEC. 421. LOCATABLE MINERALS COMMUNITY IMPACT ASSISTANCE.

(a) Establishment.—(1) There is established on the books of the Treasury of the United States a separate account to be known as the Locatable Minerals Community Impact Assistance Fund (hereinafter in this subtitle referred to as the “Fund”). The Fund shall be administered by the Secretary acting through the Director of the Bureau of Land Management.

(2) Lands for which the Secretary makes a determination that there is no continuing reclamation responsibility of a claim holder, operator, or other person who
abandoned the site prior to completion of required reclamation under State or other Federal laws.

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

SEC. 422. USE AND OBJECTIVES OF THE FUND.

Amounts in the Fund shall be available to the Secretary, subject to appropriations, to provide assistance for the planning, construction, and maintenance of public facilities and the provision of public services to States, political subdivisions and Indian tribes that are socially or economically impacted by mineral activities conducted under the general mining laws.

SEC. 423. ALLOCATION OF FUNDS.

Moneys deposited into the Fund shall be allocated by the Secretary for purposes of section 422 among the States within the boundaries of which occurs production of locatable minerals from mining claims located under the general mining laws and maintained in compliance with this Act, or mineral concentrates or products derived from locatable minerals from mining claims located under the general mining laws and maintained in compliance with this Act, as the case may be, in proportion to the amount of such production in each such State.
TITLE V—ADMINISTRATIVE AND
MISCELLANEOUS PROVISIONS
Subtitle A—Administrative
Provisions

SEC. 501. POLICY FUNCTIONS.

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

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

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

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

May 9, 2007 (4:30 p.m.)
SEC. 502. USER FEES.

The Secretary and the Secretary of Agriculture are each authorized to establish and collect from persons subject to the requirements of this Act such user fees as may be necessary to reimburse the United States for the expenses incurred in administering such requirements. Fees may be assessed and collected under this section only in such manner as may reasonably be expected to result in an aggregate amount of the fees collected during any fiscal year which does not exceed the aggregate amount of administrative expenses referred to in this section.

SEC. 503. INSPECTION AND MONITORING.

(a) INSPECTIONS.—(1) The Secretary, or for National Forest System lands the Secretary of Agriculture, shall make inspections of mineral activities so as to ensure compliance with the environmental protection requirements of title III.

(2) The Secretary concerned shall establish a frequency of inspections for mineral activities conducted under a permit issued under title III, but in no event shall such inspection frequency be less than one complete inspection per calendar quarter or, two per calendar quarter in the case of a permit for which the Secretary concerned approves an application under section 303(g) (relating to temporary cessation of operations). After revegetation has been established in accordance with a reclamation plan,
such Secretary shall conduct annually 2 complete inspections. Such Secretary shall have the discretion to modify the inspection frequency for mineral activities that are conducted on a seasonal basis. Inspections shall continue under this subsection until final release of financial assurance.

(3)(A) Any person who has reason to believe he or she is or may be adversely affected by mineral activities due to any violation of the environmental protection requirements may request an inspection. The Secretary, or for National Forest System lands the Secretary of Agriculture, shall determine within 10 working days of receipt of the request whether the request states a reason to believe that a violation exists. If the person alleges and provides reason to believe that an imminent threat to the environment or danger to the health or safety of the public exists, the 10-day period shall be waived and the inspection shall be conducted immediately. When an inspection is conducted under this paragraph, the Secretary concerned shall notify the person requesting the inspection, and such person shall be allowed to accompany the Secretary concerned or the Secretary’s authorized representative during the inspection. The Secretary shall not incur any liability for allowing such person to accompany an authorized representative. The identity of the person sup-
plying information to the Secretary relating to a possible violation or imminent danger or harm shall remain confidential with the Secretary if so requested by that person, unless that person elects to accompany an authorized representative on the inspection.

(B) The Secretaries shall, by joint rule, establish procedures for the review of (i) any decision by an authorized representative not to inspect; or (ii) any refusal by such representative to ensure that remedial actions are taken with respect to any alleged violation. The Secretary concerned shall furnish such persons requesting the review a written statement of the reasons for the Secretary’s final disposition of the case.

(b) MONITORING.—(1) The Secretary, or for National Forest System lands the Secretary of Agriculture, shall require all operators to develop and maintain a monitoring and evaluation system which shall identify compliance with all environmental protection requirements. The Secretary concerned may require additional monitoring to be conducted as necessary to assure compliance with the reclamation and other environmental standards of this Act. Such plan must be reviewed and approved by the Secretary and shall become a part of the operations permit.

(2) Monitoring shall be conducted as close as technically feasible to the mineral activity involved, and in all
cases such monitoring shall be conducted within the permit area.

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

(4) The operator shall file reports with the Secretary, or for National Forest System lands the Secretary of Agriculture, on a frequency determined by the Secretary concerned, on the results of the monitoring and evaluation process, except that if the monitoring and evaluation show a violation of the environmental protection requirements under this Act, it shall be reported immediately to the Secretary concerned. The Secretary shall evaluate the reports submitted pursuant to this paragraph, and based on those reports and any necessary inspection shall take enforcement action pursuant to this section. Such reports shall be maintained by the operator and by the Secretary and shall be made available to the public.

(5) The Secretary, or for National Forest System lands the Secretary of Agriculture, shall determine what information shall be reported by the operator pursuant to paragraph (5). A failure to report as required by the Sec-
retary concerned shall constitute a violation of this Act and subject the operator to enforcement action pursuant to section 506.

SEC. 504. CITIZENS SUITS.

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

(1) against any person (including the Secretary or the Secretary of Agriculture) alleged to have violated, or to be in violation of, any of the provisions of this Act or any regulation promulgated pursuant to title III or any term or condition of any permit issued under title III; or

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

The United States district courts shall have jurisdiction over actions brought under this section, without regard to the amount in controversy or the citizenship of the parties, including actions brought to apply any civil penalty under this Act. The district courts of the United States shall have jurisdiction to compel agency action unreasonably de-
layed, except that an action to compel agency action reviewable under section 505 may only be filed in a United States district court within the circuit in which such action would be reviewable under section 505.

(b) EXCEPTIONS.—(1) No action may be commenced under subsection (a) before the plaintiff has given notice in writing of such alleged violation to the Secretary, or for National Forest System lands the Secretary of Agriculture, except that any such action may be brought immediately after such notification if the violation complained of constitutes an imminent threat to the environment or to the health or safety of the public.

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

(3) No action may be commenced under paragraph (2) of subsection (a) against either Secretary to review any rule promulgated by, or to any permit issued or denied by such Secretary if such rule or permit issuance or denial is judicially reviewable under section 505 or under any other provision of law at any time after such promulgation, issuance, or denial is final.
(c) **VENUE.**—Venue of all actions brought under this section shall be determined in accordance with section 1391 of title 28, United States Code.

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

(e) **SAVINGS CLAUSE.**—Nothing in this section shall restrict any right which any person (or class of persons) may have under chapter 7 of title 5, United States Code, under this section, or under any other statute or common law to bring an action to seek any relief against the Secretary or the Secretary of Agriculture or against any other person, including any action for any violation of this Act or of any regulation or permit issued under this Act or for any failure to act as required by law. Nothing in this section shall affect the jurisdiction of any court under any provision of title 28, United States Code, including any action for any violation of this Act or of any regulation or permit issued under this Act or for any failure to act as required by law. Nothing in this Act shall be construed
to be a waiver of the sovereign immunity of an Indian tribe except as provided for in section 303.

SEC. 505. ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) Review by Secretary.—(1)(A) Any person issued a notice of violation or cessation order under section 506, or any person having an interest which is or may be adversely affected by such notice or order, may apply to the Secretary, or for National Forest System lands the Secretary of Agriculture, for review of the notice or order within 30 days after receipt thereof, or as the case may be, within 30 days after such notice or order is modified, vacated, or terminated.

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

(C) Any person may apply to such Secretary for review of the decision within 30 days after it is made.

(D) Pending a review by the Secretary or resolution of an administrative appeal, final decisions (except enforcement actions under section 506) shall be stayed.

(2) The Secretary concerned shall provide an opportunity for a public hearing at the request of any party to the proceeding as specified in paragraph (1). The filing of an application for review under this subsection shall not
operate as a stay of any order or notice issued under section 506.

(3) For any review proceeding under this subsection, the Secretary concerned shall make findings of fact and shall issue a written decision incorporating therein an order vacating, affirming, modifying, or terminating the notice, order, or decision, or with respect to an assessment, the amount of penalty that is warranted. Where the application for review concerns a cessation order issued under section 506 the Secretary concerned shall issue the written decision within 30 days of the receipt of the application for review or within 30 days after the conclusion of any hearing referred to in paragraph (2), whichever is later, unless temporary relief has been granted by the Secretary concerned under paragraph (4).

(4) Pending completion of any review proceedings under this subsection, the applicant may file with the Secretary, or for National Forest System lands the Secretary of Agriculture, a written request that the Secretary grant temporary relief from any order issued under section 506 together with a detailed statement giving reasons for such relief. The Secretary concerned shall expeditiously issue an order or decision granting or denying such relief. The Secretary concerned may grant such relief under such conditions as he may prescribe only if such relief shall not
adversely affect the health or safety of the public or cause imminent environmental harm to land, air, or water resources.

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

(b) Judicial Review.—(1) Any final action by the Secretaries of the Interior and Agriculture in promulgating regulations to implement this Act, or any other final actions constituting rulemaking to implement this Act, shall be subject to judicial review only in the United States Court of Appeals for the District of Columbia. Any action subject to judicial review under this subsection shall be affirmed unless the court concludes that such action is arbitrary, capricious, or otherwise inconsistent with law. A petition for review of any action subject to judicial review under this subsection shall be filed within 60 days from the date of such action, or after such date if the petition is based solely on grounds arising after the 60th day. Any such petition may be made by any person who commented or otherwise participated in the rulemaking or any person who may be adversely affected by the action of the Secretaries.

(2) Final agency action under this subsection, including such final action on those matters described under
subsection (a), shall be subject to judicial review in accordance with paragraph (4) and pursuant to section 1391 of title 28, United States Code, on or before 60 days from the date of such final action. Any action subject to judicial review under this subsection shall be affirmed unless the court concludes that such action is arbitrary, capricious, or otherwise inconsistent with law.

(3) The availability of judicial review established in this subsection shall not be construed to limit the operations of rights under section 504 (relating to citizens suits).

(4) The court shall hear any petition or complaint filed under this subsection solely on the record made before the Secretary or Secretaries concerned. The court may affirm or vacate any order or decision or may remand the proceedings to the Secretary or Secretaries for such further action as it may direct.

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

(6)(A) Notwithstanding any other provision of law, any person who filed an administrative protest or contest to a patent application may seek judicial review in the appropriate Federal district court of the Secretary’s deter-
mination regarding the protest or contest, and any decision to approve or deny, in whole or in part, the patent application, as well as the issuance of any patent.

(B) Notwithstanding the decision of the United States Court of Appeals for the Tenth Circuit in High Country Citizens’ Alliance v. Clarke, 454 F.3d 1177 (10th Cir. 2006), the appropriate Federal district court has jurisdiction to hear any judicial challenge to the Secretary’s actions described in subparagraph (A), including the challenge of the plaintiffs in that case.

(c) Costs.—Whenever a proceeding occurs under subsection (a) or (b), at the request of any person, a sum equal to the aggregate amount of all costs and expenses (including attorney fees) as determined by the Secretary or Secretaries concerned or the court to have been reasonably incurred by such person for or in connection with participation in such proceedings, including any judicial review of the proceeding, may be assessed against either party as the court, in the case of judicial review, or the Secretary or Secretaries concerned in the case of administrative proceedings, deems proper if it is determined that such party prevailed in whole or in part, achieving some success on the merits, and that such party made a substantial contribution to a full and fair determination of the issues.
1 **SEC. 506. ENFORCEMENT.**
2
3 (a) **ORDERS.—** If the Secretary, or for National
4 Forest System lands the Secretary of Agriculture, or an
5 authorized representative of such Secretary, determines
6 that any person is in violation of any environmental pro-
7 tection requirement under title III or any regulation
8 issued by the Secretaries to implement this Act, such Sec-
9 retary or authorized representative shall issue to such per-
10 son a notice of violation describing the violation and the
11 corrective measures to be taken. The Secretary concerned,
12 or the authorized representative of such Secretary, shall
13 provide such person with a period of time not to exceed
14 30 days to abate the violation. Such period of time may
15 be extended by the Secretary concerned upon a showing
16 of good cause by such person. If, upon the expiration of
17 time provided for such abatement, the Secretary con-
18 cerned, or the authorized representative of such Secretary,
19 finds that the violation has not been abated he shall imme-
20 diately order a cessation of all mineral activities or the
21 portion thereof relevant to the violation.
22
23 (2) If the Secretary concerned, or the authorized rep-
24 resentative of the Secretary concerned, determines that
25 any condition or practice exists, or that any person is in
26 violation of any environmental protection requirement
27 under title III or any regulation issued by the Secretaries
to implement this Act, and such condition, practice or violation is causing, or can reasonably be expected to cause—

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

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

such Secretary or authorized representative shall immediately order a cessation of mineral activities or the portion thereof relevant to the condition, practice, or violation.

(3)(A) A cessation order pursuant to paragraphs (1) or (2) shall remain in effect until such Secretary, or authorized representative, determines that the condition, practice, or violation has been abated, or until modified, vacated or terminated by the Secretary or authorized representative. In any such order, the Secretary or authorized representative shall determine the steps necessary to abate the violation in the most expeditious manner possible and shall include the necessary measures in the order. The Secretary concerned shall require appropriate financial assurances to ensure that the abatement obligations are met.

(B) Any notice or order issued pursuant to paragraphs (1) or (2) may be modified, vacated, or terminated by the Secretary concerned or an authorized representative of such Secretary. Any person to whom any such no-
trice or order is issued shall be entitled to a hearing on
the record.

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

(5) If a claim holder or operator (or any person who
controls the claim holder or operator) fails to abate a vi-o-
lation or defaults on the terms of the permit, the Sec-
retary, or for National Forest System lands the Secretary
of Agriculture, shall forfeit the financial assurance for the
plan as necessary to ensure abatement and reclamation
under this Act. The Secretary concerned may prescribe
conditions under which a surety may perform reclamation
in accordance with the approved plan in lieu of forfeiture.
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(6) The Secretary, or for National Forest System lands the Secretary of Agriculture, shall not cause forfeiture of the financial assurance while administrative or judicial review is pending.

(7) In the event of forfeiture, the claim holder, operator, or any affiliate thereof, as appropriate as determined by the Secretary by rule, shall be jointly and severally liable for any remaining reclamation obligations under this Act.

(b) COMPLIANCE.—The Secretary, or for National Forest System lands the Secretary of Agriculture, may request the Attorney General to institute a civil action for relief, including a permanent or temporary injunction or restraining order, or any other appropriate enforcement order, including the imposition of civil penalties, in the district court of the United States for the district in which the mineral activities are located whenever a person—

(1) violates, fails, or refuses to comply with any order issued by the Secretary concerned under subsection (a); or

(2) interferes with, hinders, or delays the Secretary concerned in carrying out an inspection under section 503.

Such court shall have jurisdiction to provide such relief as may be appropriate. Any relief granted by the court
to enforce an order under paragraph (1) shall continue in effect until the completion or final termination of all proceedings for review of such order unless the district court granting such relief sets it aside.

(c) DELEGATION.—Notwithstanding any other provision of law, the Secretary may utilize personnel of the Office of Surface Mining Reclamation and Enforcement to ensure compliance with the requirements of this Act.

(d) PENALTIES.—(1) Any person who fails to comply with any environmental protection requirement under title III or any regulation issued by the Secretaries to implement this Act shall be liable for a penalty of not more than $25,000 per violation. Each day of violation may be deemed a separate violation for purposes of penalty assessments.

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

(3) Whenever a corporation is in violation of an environmental protection requirement under title III or any regulation issued by the Secretaries to implement this Act or fails or refuses to comply with an order issued under subsection (a), any director, officer, or agent of such cor-
poration who knowingly authorized, ordered, or carried out such violation, failure, or refusal shall be subject to the same penalties as may be imposed upon the person referred to in paragraph (1).

(e) SUSPENSIONS OR REVOCATIONS.—The Secretary, or for National Forest System lands the Secretary of Agriculture, shall suspend or revoke a permit issued under title III, in whole or in part, if the operator or person conducting mineral activities—

(1) knowingly made or knowingly makes any false, inaccurate, or misleading material statement in any mining claim, notice of location, application, record, report, plan, or other document filed or required to be maintained under this Act;

(2) fails to abate a violation covered by a cessation order issued under subsection (a);

(3) fails to comply with an order of the Secretary concerned;

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

(5) fails to maintain an adequate financial assurance under section 305;

(6) fails to pay claim maintenance fees or other moneys due and owing under this Act; or
(7) with regard to plans conditionally approved under section 304(e)(2), fails to abate a violation to the satisfaction of the Secretary concerned, or if the validity of the violation is upheld on the appeal which formed the basis for the conditional approval.

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

(1) makes any false material statement, representation, or certification in, or omits or conceals material information from, or unlawfully alters, any mining claim, notice of location, application, record, report, plan, or other documents filed or required to be maintained under this Act; or

(2) falsifies, tampers with, renders inaccurate, or fails to install any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this subsection, punishment shall be by a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or both. Each day of continuing violation may be deemed a separate violation for purposes of penalty assessments.
(g) KNOWING VIOLATIONS.—Any person who knowingly—

(1) engages in mineral activities without a permit required under title III, or

(2) violates any other environmental protection requirement set forth in title III or any regulation issued by the Secretaries to implement this Act, any provision of a permit issued under this Act (including any exploration or operations plan on which such permit is based), or any condition or limitation thereof,

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

If a conviction of a person is for a violation committed after the first conviction of such person under this subsection, punishment shall be a fine of not less than $10,000 per day of violation, or by imprisonment of not more than 6 years, or both.

(h) KNOWING AND WILLFUL VIOLATIONS.—Any person who knowingly and willfully commits an act for which a civil penalty is provided in paragraph (1) of subsection (g) shall, upon conviction, be punished by a fine of not more than $50,000, or by imprisonment for not more than 2 years, or both.
(i) DEFINITION.—For purposes of this section, the term “person” includes any officer, agent, or employee of a person.

SEC. 507. REGULATIONS; EFFECTIVE DATES.

(a) EFFECTIVE DATE.—The provisions of this Act shall take effect on the date of enactment of this Act, except as otherwise provided in this Act.

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

Subtitle B—Miscellaneous Provisions

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

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

(b) AMENDMENT.—Section 2511(f) of the Energy Policy Act of 1992 (Public Law 102–486) is amended as follows:
(1) By striking “as prescribed by the Secretary”.

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

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

The Secretary shall adjust all location fees, claim maintenance rates, penalty amounts, and other dollar amounts established in this Act for changes in the purchasing power of the dollar no less frequently than every 5 years following the date of enactment of this Act, employing the Consumer Price Index for All-Urban Consumers published by the Department of Labor as the basis for adjustment, and rounding according to the adjustment process of conditions of the Federal Civil Penalties Inflation Adjustment Act of 1990 (104 Stat. 890).

**SEC. 513. SAVINGS CLAUSE.**

(a) **SPECIAL APPLICATION OF MINING LAWS.**—Nothing in this Act shall be construed as repealing or modifying any Federal law, regulation, order, or land use plan, in effect prior to the date of enactment of this Act that prohibits or restricts the application of the general mining laws, including laws that provide for special management criteria for operations under the general mining laws as
in effect prior to the date of enactment of this Act, to
the extent such laws provide for protection of natural and
cultural resources and the environment greater than re-
quired under this Act, and any such prior law shall remain
in force and effect with respect to claims located (or pro-
posed to be located) or converted under this Act. Nothing
in this Act shall be construed as applying to or limiting
mineral investigations, studies, or other mineral activities
conducted by any Federal or State agency acting in its
governmental capacity pursuant to other authority. Noth-
ing in this Act shall affect or limit any assessment, inves-
tigation, evaluation, or listing pursuant to the Comprehen-
sive Environmental Response, Compensation, and Liabil-
ity Act of 1980 (42 U.S.C. 9601 and following), or the
Solid Waste Disposal Act (42 U.S.C. 3251 and following).

(b) EFFECT ON OTHER FEDERAL LAWS.—The provi-
sions of this Act shall supersede the general mining laws,
except for those parts of the general mining laws respect-
ing location of mining claims that are not expressly modi-
fied by this Act. Except for the general mining laws, noth-
ing in this Act shall be construed as superseding, modi-
fying, amending, or repealing any provision of Federal law
not expressly superseded, modified, amended, or repealed
by this Act. Nothing in this Act shall be construed as al-
tering, affecting, amending, modifying, or changing, di-
rectly or indirectly, any law which refers to and provides
authorities or responsibilities for, or is administered by,
the Environmental Protection Agency or the Adminis-
trator of the Environmental Protection Agency, including
the Federal Water Pollution Control Act, title XIV of the
Public Health Service Act (the Safe Drinking Water Act),
the Clean Air Act, the Pollution Prevention Act of 1990,
the Toxic Substances Control Act, the Federal Insecticide,
Fungicide, and Rodenticide Act, the Federal Food, Drug,
and Cosmetic Act, the Motor Vehicle Information and
Cost Savings Act, the Federal Hazardous Substances Act,
the Endangered Species Act of 1973, the Atomic Energy
Act, the Noise Control Act of 1972, the Solid Waste Dis-
posal Act, the Comprehensive Environmental Response,
Compensation, and Liability Act of 1980, the Superfund
Amendments and Reauthorization Act of 1986, the Ocean
Dumping Act, the Environmental Research, Development,
and Demonstration Authorization Act, the Pollution Pros-
ceution Act of 1990, and the Federal Facilities Compli-
ance Act of 1992, or any statute containing an amend-
ment to any of such Acts. Nothing in this Act shall be
construed as modifying or affecting any provision of the
Native American Graves Protection and Repatriation Act
(Public Law 101–601) or any provision of the American
Indian Religious Freedom Act (42 U.S.C. 1996), the Na-
1 national 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
appropriate and may conduct, after notice, any hearing
or audit, necessary and appropriate to carrying out his
or her duties.

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

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

(2) Administer oaths.

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

(4) Order testimony to be taken by deposition
before any person who is designated by such Sec-
retary and who has the power to administer oaths,
and to compel testimony and the production of evi-
dence in the same manner as authorized under para-
graph (3) of this subsection.
(5) Pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

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

(d) Entry and Access.—Without advance notice and upon presentation of appropriate credentials, the Secretary, or for National Forest System lands the Secretary of Agriculture, or any authorized representative thereof—

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

(2) may at reasonable times, and without delay, have access to records, inspect any monitoring
equipment, or review any method of operation required under this Act;

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

(4) may, on any mining claim located under the general mining laws and maintained in compliance with this Act, and without advance notice, stop and inspect any motorized form of transportation that such Secretary has probable cause to believe is carrying locatable minerals, concentrates, or products derived therefrom from a claim site for the purpose of determining whether the operator of such vehicle has documentation related to such locatable minerals, concentrates, or products derived therefrom as required by law, if such documentation is required under this Act; and

(5) may, if accompanied by any appropriate law enforcement officer, or an appropriate law enforcement officer alone, stop and inspect any motorized form of transportation which is not on a claim site if he or she has probable cause to believe such vehicle is carrying locatable minerals, concentrates, or products derived therefrom from a claim site on Federal lands or allocated to such claim site. Such
inspection shall be for the purpose of determining whether the operator of such vehicle has the docu-
mentation required by law, if such documentation is required under this Act.

SEC. 516. MULTIPLE MINERAL DEVELOPMENT AND SURFACE RESOURCES.

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

SEC. 517. MINERAL MATERIALS.

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

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

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

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

(4) By adding the following new subsection at the end thereof:
“(b)(1) Subject to valid existing rights, after the date of enactment of the Hardrock Mining and Reclamation Act of 2007, notwithstanding the reference to common varieties in subsection (a) and to the exception to such term relating to a deposit of materials with some property giving it distinct and special value, all deposits of mineral materials referred to in such subsection, including the block pumice referred to in such subsection, shall be subject to disposal only under the terms and conditions of the Materials Act of 1947.

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

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

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

“(C) was supported by a discovery of a valuable mineral deposit within the meaning of the general mining laws as in effect immediately prior to the
date of enactment of the Hardrock Mining and Reclamation Act of 2007; and
“(D) that such claim continues to be valid under this Act.”.

(b) Mineral Materials Disposal Clarification.—Section 4 of the Act of July 23, 1955 (30 U.S.C. 612), is amended as follows:

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

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

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

(d) Short Titles.—

(1) Surface Resources.—The Act of July 23, 1955, is amended by inserting after section 7 the following new section:

“SEC. 8. This Act may be cited as the ‘Surface Resources Act of 1955’.”.

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

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

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

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