

103D CONGRESS
1ST SESSION

S. 257

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 SENATE OF THE UNITED STATES

JANUARY 28 (legislative day, JANUARY 5), 1993

Mr. BUMPERS (for himself, Mr. PRYOR, Mr. WELLSTONE, Mr. LEVIN, Mr. LEAHY, Mr. HARKIN, Ms. MIKULSKI, Mr. RIEGLE, Mr. LAUTENBERG, Mr. FEINGOLD, Mr. KOHL, Mr. PELL, and Mr. JEFFORDS) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

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

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

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

4 (a) SHORT TITLE.—This Act may be referred to as
5 the “Mineral Exploration and Development Act of 1993”.

6 (b) TABLE OF CONTENTS.—

TITLE I—MINERAL EXPLORATION AND DEVELOPMENT

Sec. 201. Surface management.
Sec. 202. Inspection and enforcement.
Sec. 203. State law and regulation.
Sec. 204. Unsuitability review.
Sec. 205. Lands not open to location.

Sec. 301. Abandoned Minerals Mine Reclamation Fund.
Sec. 302. Use and objectives of the fund.
Sec. 303. Eligible areas.
Sec. 304. Fund allocation and expenditures.
Sec. 305. State reclamation programs.
Sec. 306. Authorization of appropriations.

- Sec. 401. Policy functions.
- Sec. 402. User fees.
- Sec. 403. Regulations; effective dates.
- Sec. 404. Transitional rules; mining claims and mill sites.
- Sec. 405. Transitional rules; surface management requirements.
- Sec. 406. Basis for contest.
- Sec. 407. Savings clause claims.
- Sec. 408. Severability.
- Sec. 409. Purchasing power adjustment.
- Sec. 410. Royalty.
- Sec. 411. Savings clause.
- Sec. 412. Public records.

3 SEC. 101. DEFINITIONS, REFERENCES, AND COVERAGE.

(1) The term “applicant” means any person applying for a plan of operations under this Act or a

1 modification to or a renewal of a plan of operations
2 under this Act.

3 (2) The term “claim holder” means the holder
4 of a mining claim located or converted under this
5 Act. Such term may include an agent of a claim
6 holder.

7 (3) The term “land use plans” means those
8 plans required under section 202 of the Federal
9 Land Policy and Management Act of 1976 (43
10 U.S.C. 1712) or the land management plans for Na-
11 tional Forest System units required under section 6
12 of the Forest and Rangeland Renewable Resources
13 Planning Act of 1974 (16 U.S.C. 1604), whichever
14 is applicable.

15 (4) The term “legal subdivisions” means an ali-
16 quot quarter section of land as established by the of-
17 ficial records of the public land survey system, or a
18 single lot as established by the official records of the
19 public land survey system if the pertinent section is
20 irregular and contains fractional lots, as the case
21 may be.

22 (5) The term “locatable mineral” means any
23 mineral not subject to disposition under any of the
24 following:

1 (A) the Mineral Leasing Act (30 U.S.C.
2 181 and following);

3 (B) the Geothermal Steam Act of 1970
4 (30 U.S.C. 100 and following);

5 (C) the Act of July 31, 1947, commonly
6 known as the Materials Act of 1947 (30 U.S.C.
7 601 and following); or

8 (D) the Mineral Leasing for Acquired
9 Lands Act (30 U.S.C. 351 and following).

10 (6) The term “mineral activities” means any
11 activity for, related to or incidental to mineral explo-
12 ration, mining, beneficiation and processing activi-
13 ties for any locatable mineral, including access.
14 When used with respect to this term—

15 (A) the term “exploration” means those
16 techniques employed to locate the presence of a
17 locatable mineral deposit and to establish its
18 nature, position, size, shape, grade, and value;

19 (B) the term “mining” means the proc-
20 esses employed for the extraction of a locatable
21 mineral from the earth;

22 (C) the term “beneficiation” means the
23 crushing and grinding of locatable mineral ore
24 and such processes which are employed to free
25 the mineral from other constituents, including

1 but not necessarily limited to, physical and
2 chemical separation techniques; and

3 (D) the term “processing” means proc-
4 esses downstream of beneficiation employed to
5 prepare locatable mineral ore into the final
6 marketable product, including but not limited
7 to, smelting and electrolytic refining.

8 (7) The term “mining claim” means a claim for
9 the purposes of mineral activities.

10 (8) The term “National Conservation System
11 unit” means any unit of the National Park System,
12 National Wildlife Refuge System, National Wild and
13 Scenic Rivers System, National Trails System, or a
14 national conservation area, national recreation area,
15 or a national forest monument.

16 (9) The term “operator” means any person,
17 partnership, or corporation with a plan of operations
18 approved under this Act.

19 (10) The term “Secretary” means, unless oth-
20 erwise provided in this Act—

21 (A) the Secretary of the Interior for the
22 purposes of title I and title III;

23 (B) the Secretary of the Interior with re-
24 spect to land under the jurisdiction of such Sec-
25 retary and all other lands subject to this Act

1 (except for lands under the jurisdiction of the
2 Secretary of Agriculture) for the purposes of
3 title II; and

4 (C) the Secretary of Agriculture with re-
5 spect to lands under the jurisdiction of the Sec-
6 retary of Agriculture for the purposes of title
7 II.

8 (11) The term “substantial legal and financial
9 commitments” means significant investments that
10 have been made to develop mining claims under the
11 general mining laws such as: long-term contracts for
12 minerals produced; processing, beneficiation, or ex-
13 traction facilities and transportation infrastructure;
14 or other capital-intensive activities. Costs of acquir-
15 ing the mining claim or claims, or the right to mine
16 alone without other significant investments as de-
17 tailed above, are not sufficient to constitute substan-
18 tial legal and financial commitments.

19 (12) The term “surface management require-
20 ments” means the requirements and standards of
21 section 201, section 203, and section 204 of this
22 Act, and such other standards as are established by
23 the Secretary governing mineral activities and rec-
24 lamation.

1 (b) REFERENCES.—(1) Any reference in this Act to
2 the term “general mining laws” is a reference to those
3 Acts which generally comprise chapters 2, 12A, and 16,
4 and sections 161 and 162 of title 30, United States Code.

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

11 (c) COVERAGE.—This Act shall apply only to mineral
12 activities and reclamation on lands and interests in land
13 which are open to location as provided in this Act.

14 **SEC. 102. LANDS OPEN TO LOCATION; RIGHTS UNDER THIS**
15 **ACT.**

16 (a) OPEN LANDS.—Mining claims may be located
17 under this Act on lands and interests in lands owned by
18 the United States to the extent that—

19 (1) such lands and interests were open to the
20 location of mining claims under the general mining
21 laws on the date of enactment of this Act;

22 (2) such lands and interests are opened to the
23 location of mining claims by reason of section 204(f)
24 or section 205 of this Act; and

1 (3) such lands and interests are opened to the
2 location of mining claims after the date of enact-
3 ment of this Act by reason of any administrative ac-
4 tion or statute.

5 (b) RIGHTS—The holder of a mining claim located
6 or converted under this Act and maintained in compliance
7 with this Act shall have the exclusive right of possession
8 and use of the claimed land for mineral activities, includ-
9 ing the right of ingress and egress to such claimed lands
10 for such activities, subject to the rights of the United
11 States under section 108 and title II.

12 **SEC. 103. LOCATION OF MINING CLAIMS.**

13 (a) GENERAL RULE.—A person may locate a mining
14 claim covering lands open to the location of mining claims
15 by posting a notice of location, containing the person's
16 name and address, the time of location (which shall be
17 the date and hour of location and posting), and a legal
18 description of the claim. The notice of location shall be
19 posted on a conspicuous, durable monument erected as
20 near as practicable to the northeast corner of the mining
21 claim. No person who is not a citizen, or a corporation
22 organized under the laws of the United States or of any
23 State or the District of Columbia, may locate or hold a
24 claim under this Act.

1 (b) USE OF PUBLIC LAND SURVEY.—Except as pro-
2 vided in subsection (c), each mining claim located under
3 this Act shall—

4 (1) be located in accordance with the public
5 land survey system, and

6 (2) conform to the legal subdivisions thereof.

7 Except as provided in subsection (c), the legal de-
8 scription of the mining claim shall be based on the
9 public land survey system and its legal subdivisions.

10 (c) EXCEPTIONS.—(1) If only a protracted survey ex-
11 ists for the public lands concerned, each of the following
12 shall apply in lieu of subsection (b):

13 (A) The legal description of the mining claim
14 shall be based on the protracted survey and the min-
15 ing claim shall be located as near as practicable in
16 conformance with a protracted legal subdivision.

17 (B) The mining claim shall be monumented on
18 the ground by the erection of a conspicuous durable
19 monument at each corner of the claim.

20 (C) The legal description of the mining claim
21 shall include a reference to any existing survey
22 monument, or where no such monument can be
23 found within a reasonable distance, to a permanent
24 natural object.

1 (2) If no survey exists for the public lands concerned,
2 each of the following shall apply in lieu of subsection (b):

3 (A) The mining claim shall be a regular square,
4 with each side laid out in cardinal directions, 40
5 acres in size.

6 (B) The claim shall be monumented on the
7 ground by the erection of a conspicuous durable
8 monument at each corner of the claim.

9 (C) The legal description of the mining claim
10 shall be expressed in metes and bounds and shall in-
11 clude a reference to any existing survey monument,
12 or where no such monument can be found within a
13 reasonable distance, to a permanent natural object.
14 Such description shall be of sufficient accuracy and
15 completeness to permit recording of the claim upon
16 the public land records and to permit the Secretary
17 and other parties to find the claim upon the ground.

18 (3) In the case of a conflict between the boundaries
19 of a mining claim as monumented on the ground and the
20 description of such claim in the notice of location referred
21 to in subsection (a), the notice of location shall be deter-
22 minative.

23 (d) FILING WITH SECRETARY.—(1) Within 30 days
24 after the location of a mining claim pursuant to this sec-
25 tion, a copy of the notice of location referred to in sub-

1 section (a) shall be filed with the Secretary in an office
2 designated by the Secretary.

3 (2) Whenever the Secretary receives a copy of a no-
4 tice of location of a mining claim under this Act, the Sec-
5 retary shall assign a serial number to the mining claim,
6 and immediately return a copy of the notice of location
7 to the locator of the claim, together with a certificate set-
8 ting forth the serial number, a description of the claim,
9 and the claim maintenance requirements of section 104.
10 The Secretary shall enter the claim on the public land
11 records.

12 (e) LANDS COVERED BY CLAIM.—A mining claim lo-
13 cated under this Act shall include all lands and interests
14 in lands open to location within the boundaries of the
15 claim, subject to any prior mining claim referenced under
16 subsections (c) and (d) of section 404.

17 (f) DATE OF LOCATION.—A mining claim located
18 under this Act shall be effective based upon the time of
19 location.

20 (g) CONFLICTING LOCATIONS.—Any conflicts be-
21 tween the holders of mining claims located or converted
22 under this Act relating to relative superiority under the
23 provisions of this Act may be resolved in adjudication pro-
24 ceedings before the Secretary. Such adjudication shall be
25 determined on the record after opportunity for hearing.

1 It shall be incumbent upon the holder of a mining claim
2 asserting superior rights in such proceedings to dem-
3 onstrate to the Secretary that such person was the senior
4 locator, or if such person is the junior locator, that prior
5 to the location of the claim by such locator—

6 (1) the senior locator failed to file a copy of the
7 notice of location within the time provided under
8 subsection (d); or

9 (2) the amount of rental paid by the senior lo-
10 cator was less than the amount required to be paid
11 by such locator pursuant to section 104.

12 (h) EXTENT OF MINERAL DEPOSIT.—The bound-
13 aries of a mining claim located under this Act shall extend
14 vertically downward.

15 **SEC. 104. CLAIM MAINTENANCE REQUIREMENTS.**

16 (a) IN GENERAL.—(1) In order to maintain a mining
17 claim under this Act a claim holder shall pay to the Sec-
18 retary an annual rental fee. The rental fee shall be paid
19 on the basis of all land within the boundaries of a mining
20 claim at a rate established by the Secretary of not less
21 than—

22 (A) \$5 per acre in each of the first through
23 fifth years following location of the claim;

24 (B) \$10 per acre in each of the sixth through
25 tenth years following location of the claim;

1 (C) \$15 per acre in each of the eleventh
2 through fifteenth years following location of the
3 claim;

4 (D) \$20 per acre in each of the sixteenth
5 through twentieth years following location of the
6 claim; and

7 (E) \$25 per acre in the twenty-first diligence
8 year following location of the claim, and each year
9 thereafter.

10 (2) The rental fee shall be due and payable at a time
11 and in a manner as prescribed by the Secretary.

12 (b) FAILURE TO COMPLY.—(1) If a claim holder fails
13 to pay the rental fee as required by this section, the Sec-
14 retary shall immediately provide notice thereof to the
15 claim holder and after 30 days from the date of such no-
16 tice the claim shall be deemed forfeited and such claim
17 shall be null and void by operation of the law, except as
18 provided under paragraphs (2) and (3). Such notice shall
19 be sent to the claim holder by registered or certified mail
20 to the address provided by such claim holder in the notice
21 of location referred to in section 103(a) or in the most
22 recent instrument filed by the claim holder pursuant to
23 this section. In the event such notice is returned as unde-
24 livered, the Secretary shall be deemed to have fulfilled the
25 notice requirements of this paragraph.

1 (2) No claim may be deemed forfeited and null and
2 void due to a failure to comply with the requirements of
3 this section if the claim holder corrects such failure to the
4 satisfaction of the Secretary within 10 days after the date
5 such claim holder was required to pay the rental fee.

6 (3) No claim may be deemed forfeited and null and
7 void due to a failure to comply with the requirements of
8 this section if, within 10 days after date of the notice re-
9 ferred to in paragraph (1), the claim holder corrects such
10 failure to the satisfaction of the Secretary, and if the Sec-
11 retary determines that such failure was justifiable.

12 (c) PROHIBITION.—The claim holder shall be prohib-
13 ited from locating a new claim on the lands included in
14 a forfeited claim for one year from the date such claim
15 is deemed forfeited and null and void, except as provided
16 in subsection (d).

17 (d) RELINQUISHMENT.—A claim holder deciding not
18 to pursue mineral activity on a claim may relinquish such
19 claim by notifying the Secretary. A claim holder relin-
20 quishing a claim is responsible for reclamation as required
21 by section 201 of this Act and all other applicable require-
22 ments. A claim holder who relinquishes a claim shall not
23 be subject to the prohibition of subsection (c) of this sec-
24 tion; however, if the Secretary determines that a claim is
25 being relinquished and relocated for the purpose of avoid-

1 ing compliance with any provision of this Act, including
2 payment of the applicable annual rental fee, the claim
3 holder shall be subject to the prohibition in subsection (c)
4 of this section.

5 (e) **SUSPENSION.**—Payment of the annual rental fee
6 required by this section shall be suspended upon the pay-
7 ment of the royalty required by section 410 of this Act
8 in an amount equal to or greater than the applicable an-
9 nual rental fee. During any subsequent period of non-pro-
10 duction, or period when the royalty required by section
11 410 of this Act is an amount less than the applicable an-
12 nual rental fee, the claimant shall pay to the Secretary
13 a total amount equal to the applicable annual rental fee.

14 (f) **FEE DISPOSITION.**—The Secretary shall deposit
15 all moneys received from rental fees collected under this
16 subsection into the Fund referred to in title III.

17 **SEC. 105. PENALTIES.**

18 (a) **VIOLATION.**—Any claim holder who knowingly or
19 willfully posts on a mining claim or files a notice of loca-
20 tion with the Secretary under section 103 that contains
21 false, inaccurate or misleading statements shall be liable
22 for a penalty of not more than \$5,000 per violation. Each
23 day of continuing violation may be deemed a separate vio-
24 lation for purposes of penalty assessments.

1 (b) REVIEW.—No civil penalty under this section
2 shall be assessed until the claim holder charged with the
3 violation has been given the opportunity for a hearing on
4 the record under section 202(f).

5 **SEC. 106. PREEMPTION.**

6 The requirements of this title shall preempt any con-
7 flicting requirements of any State, or political subdivision
8 thereof relating to the location and maintenance of mining
9 claims as provided for by this Act. The filing requirements
10 of section 314 of the Federal Land Policy and Manage-
11 ment Act (43 U.S.C. 1744) shall not apply with respect
12 to any mining claim located or converted under this Act.

13 **SEC. 107. LIMITATION ON PATENT ISSUANCE.**

14 (a) MINING CLAIMS.—After January 28, 1993, no
15 patent shall be issued by the United States for any mining
16 claim located under the general mining laws unless the
17 Secretary of the Interior determines that, for the claim
18 concerned—

19 (1) a patent application was filed with the Sec-
20 retary on or before January 5, 1993; and

21 (2) all requirements established under sections
22 2325 and 2326 of the Revised Statutes (30 U.S.C.
23 29 and 30) for vein or lode claims and sections
24 2329, 2330, 2331, and 2333 of the Revised Statutes
25 (30 U.S.C. 35, 36, and 37) for placer claims were

1 fully complied with by that date. If the Secretary
2 makes the determinations referred to in paragraphs
3 (1) and (2) for any mining claim, the holder of the
4 claim shall be entitled to the issuance of a patent in
5 the same manner and degree to which such claim
6 holder would have been entitled to prior to the en-
7 actment of this Act, unless and until such deter-
8 minations are withdrawn or invalidated by the Sec-
9 retary or by a court of the United States.

10 (b) MILL SITES.—After January 28, 1993, no patent
11 shall be issued by the United States for any mill site claim
12 located under the general mining laws unless the Secretary
13 of the Interior determines that for the mill site con-
14 cerned—

15 (1) a patent application for such land was filed
16 with the Secretary on or before January 28, 1993;
17 and

18 (2) all requirements applicable to such patent
19 application were fully complied with by that date. If
20 the Secretary makes the determinations referred to
21 in paragraphs (1) and (2) for any mill site claim,
22 the holder of the claim shall be entitled to the iss-
23 uance of a patent in the same manner and degree to
24 which such claim holder would have been entitled to
25 prior to the enactment of this Act, unless and until

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

3 **SEC. 108. MULTIPLE MINERAL DEVELOPMENT AND SUR-**
4 **FACE RESOURCES.**

5 (a) IN GENERAL.—The provisions of sections 4 and
6 6 of the Act of August 13, 1954 (30 U.S.C. 524 and 526),
7 commonly known as the Multiple Minerals Development
8 Act, and the provisions of section 4 of the Act of July
9 23, 1955 (30 U.S.C. 612), shall apply to all mining claims
10 located or converted under this Act.

11 (b) ENFORCEMENT.—The Secretary of the Interior,
12 or the Secretary of Agriculture, as the case may be, shall
13 take such actions as may be necessary to ensure the com-
14 pliance by claim holders with section 4 of the Act of July
15 23, 1955 (30 U.S.C. 612).

16 **SEC. 109. MINERAL MATERIALS.**

17 (a) DETERMINATIONS.—Section 3 of the Act of July
18 23, 1955 (30 U.S.C. 611), is amended as follows:

19 (1) Insert “(a)” before the first sentence.

20 (2) Strike “or cinders” and insert in lieu there-
21 of “cinders, or clay”.

22 (3) Add the following new subsection at the end
23 thereof:

24 “(b)(1) Subject to valid existing rights, after the date
25 of enactment of the Mineral Exploration and Development

1 Act of 1993, all deposits of mineral materials referred to
2 in subsection (a), including the block pumice referred to
3 in such subsection, shall only be subject to disposal under
4 the terms and conditions of the Materials Act of 1947.

5 “(2) For purposes of paragraph (1), the term ‘valid
6 existing rights’ means that a mining claim located for any
7 such mineral material had some property giving it the dis-
8 tinct and special value referred to in subsection (a), or
9 as the case may be, met the definition of block pumice
10 referred to in such subsection, was properly located and
11 maintained under the general mining laws prior to the
12 date of enactment of the Mineral Exploration and Devel-
13 opment Act of 1993, and was supported by a discovery
14 of a valuable mineral deposit within the meaning of the
15 general mining laws on the date of enactment of the Min-
16 eral Exploration and Development Act of 1993 and that
17 such claim continues to be valid.”.

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

21 (1) In subsection (b) insert “and mineral mate-
22 rial” after “vegetative”.

23 (2) In subsection (c) insert “and mineral mate-
24 rial” after “vegetative”.

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

6 (d) SHORT TITLES.—(1) SURFACE RESOURCES.—
7 The Act of July 23, 1955, is amended by inserting after
8 section 7 the following new section.

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

11 (2) MINERAL MATERIALS.—The Act of July 31,
12 1947, entitled “An Act to provide for the disposal of
13 materials on the public lands of the United States”
14 (30 U.S.C. 601 and following) is amended by insert-
15 ing after section 4 the following new section:

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

18 (e) REPEAL.—(1) The Act of August 4, 1892 (27
19 Stat. 348) commonly known as the Building Stone Act
20 is hereby repealed.

21 (2) The Act of January 31, 1901 (30 U.S.C. 162)
22 commonly known as the Saline Placer Act is hereby re-
23 pealed.

1 TITLE II—ENVIRONMENTAL CONSIDERATIONS
2 OF MINERAL EXPLORATION AND DEVELOP-
3 MENT

4 **SEC. 201. SURFACE MANAGEMENT.**

5 (a) IN GENERAL.—Notwithstanding the last sentence
6 of section 302(b) of the Federal Land Policy and Manage-
7 ment Act of 1976, and in accordance with this title and
8 other applicable law, the Secretary shall require that min-
9 eral activities and reclamation be conducted so as to mini-
10 mize adverse impacts to the environment.

11 (b) PLANS OF OPERATION.—(1) Except as provided
12 under paragraph (2), no person may engage in mineral
13 activities that may cause a disturbance of surface re-
14 sources unless such person has filed a plan of operations
15 with, and received approval of such plan of operations,
16 from the Secretary.

17 (2)(A) A plan of operations may not be required for
18 mineral activities related to exploration that cause a neg-
19 ligible disturbance of surface resources not involving the
20 use of mechanized earth moving equipment, suction dredg-
21 ing, explosives, the use of motor vehicles in areas closed
22 to off-road vehicles, the construction of roads, drill pads,
23 or the use of toxic or hazardous materials.

24 (B) A plan of operations may not be required for min-
25 eral activities related to exploration that, after notice to

1 the Secretary, involve only a minimal and readily reclaim-
2 able disturbance of surface resources related to and in-
3 cluding initial test drilling not involving the construction
4 of access roads, except activities under notice shall not
5 commence until an adequate financial guarantee is estab-
6 lished for such activities pursuant to subsection (1).

7 (c) CONTENTS OF PLANS.—Each proposed plan of
8 operations shall include a mining permit application and
9 a reclamation plan together with such documentation as
10 necessary to ensure compliance with applicable Federal
11 and State environmental laws and regulations.

12 (d) MINING PERMIT APPLICATION REQUIRE-
13 MENTS.—The mining permit referred to in subsection (c)
14 shall include such terms and conditions as prescribed by
15 the Secretary, and each of the following:

- 16 (1) The name and mailing address of—
17 (A) the applicant for the mining permit;
18 (B) the operator if different than the ap-
19 plicant;
20 (C) each claim holder of the lands subject
21 to the plan of operations if different than the
22 applicant;
23 (D) any subsidiary, affiliate or person con-
24 trolled by or under common control with the ap-

1 plicant, or the operator or each claim holder, if
2 different than the applicant; and

3 (E) the owner or owners of any land, or in-
4 terests in any such land, not subject to this Act,
5 within or adjacent to the proposed mineral ac-
6 tivities.

7 (2) A statement of any plans of operation held
8 by the applicant, operator or each claim holder if
9 different than the applicant, or any subsidiary, affili-
10 ate, or person controlled by or under common con-
11 trol with the applicant, operator or each claim holder
12 if different than the applicant.

13 (3) A statement of whether the applicant, oper-
14 ator or each claim holder if different than the appli-
15 cant, and any subsidiary, affiliate, or person con-
16 trolled by or under common control with the appli-
17 cant, operator or each claim holder if different than
18 the applicant has an outstanding violation of this
19 Act, any surface management requirements, or ap-
20 plicable air and water quality laws and regulations
21 and if so, a brief explanation of the facts involved,
22 including identification of the site and the nature of
23 the violation.

24 (4) A description of the type and method of
25 mineral activities proposed, the engineering tech-

1 niques proposed to be used and the equipment pro-
2 posed to be used.

3 (5) The anticipated starting and termination
4 dates of each phase of the mineral activities pro-
5 posed.

6 (6) A map, to an appropriate scale, clearly
7 showing the land to be affected by the proposed min-
8 eral activities.

9 (7) A description of the quantity and quality of
10 surface and ground water resources within and
11 along the boundaries of, and adjacent to, the area
12 subject to mineral activities based on 12 months of
13 pre-disturbance monitoring.

14 (8) A description of the biological resources
15 found in or adjacent to the area subject to mineral
16 activities, including vegetation, fish and wildlife, ri-
17 parian and wetland habitats.

18 (9) A description of the monitoring systems to
19 be used to detect and determine whether compliance
20 has and is occurring consistent with the surface
21 management requirements and to regulate the ef-
22 fects of mineral activities and reclamation on the
23 site and surrounding environment, including but not
24 limited to, groundwater, surface water, air and soils.

1 (10) Accident contingency plans that include,
2 but are not limited to, immediate response strate-
3 gies, corrective measures to mitigate impacts to fish
4 and wildlife, ground and surface waters, notification
5 procedures and waste handling and toxic material
6 neutralization.

7 (11) Any measures to comply with any condi-
8 tions on minerals activities and reclamation that
9 may be required in the applicable land use plan, in-
10 cluding any condition stipulated pursuant to section
11 204(d)(1)(B).

12 (12) A description of measures planned to ex-
13 clude fish and wildlife resources from the area sub-
14 ject to mineral activities by covering, containment,
15 or fencing of open waters, beneficiation, and process-
16 ing materials; or maintenance of all facilities in a
17 condition that is not harmful to fish and wildlife.

18 (13) Such environmental baseline data as the
19 Secretary, by rule, shall require sufficient to validate
20 the determinations required for plan approval under
21 this Act.

22 (e) RECLAMATION PLAN APPLICATION REQUIRE-
23 MENTS.—The reclamation plan referred to in subsection
24 (c) shall include such terms and conditions as prescribed
25 by the Secretary, and each of the following:

1 (1) A description of the condition of the land
2 subject to the mining permit prior to the commence-
3 ment of any mineral activities.

4 (2) A description of reclamation measures pro-
5 posed pursuant to the requirements of subsections
6 (m) and (n).

7 (3) The engineering techniques to be used in
8 reclamation and the equipment proposed to be used.

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

11 (5) A description of the proposed condition of
12 the land following the completion of reclamation.

13 (6) A description of the maintenance measures
14 that will be necessary to meet the surface manage-
15 ment requirements of this Act, such as, but not lim-
16 ited to, drainage water treatment facilities, or liner
17 maintenance and control.

18 (7) The consideration which has been given to
19 making the condition of the land after the comple-
20 tion of mineral activities and final reclamation con-
21 sistent with the applicable land use plan.

22 (f) PUBLIC PARTICIPATION.—(1) Concurrent with
23 submittal of a plan of operations, or a renewal application
24 for a plan of operations, the applicant shall publish a no-
25 tice in a newspaper of local circulation for 4 consecutive

1 weeks that shall include: the name of the applicant, the
2 location of the proposed mineral activities, the type and
3 expected duration of the proposed mineral activities, and
4 the intended use of the land after the completion of min-
5 eral activities and reclamation. The Secretary shall also
6 notify in writing other Federal, State and local govern-
7 ment agencies that regulate mineral activities or land
8 planning decisions in the area subject to mineral activities.

9 (2) Copies of the complete proposed plan of oper-
10 ations shall be made available for public review for 30 days
11 at the office of the responsible Federal surface manage-
12 ment agency located nearest to the location of the pro-
13 posed mineral activities, and at the county courthouse of
14 the county in which the mineral activities are proposed
15 to be located, prior to final decision by the Secretary. Dur-
16 ing this period, any person and the authorized representa-
17 tive of a Federal, State or local governmental agency shall
18 have the right to file written comments relating to the ap-
19 proval or disapproval of the plan of operations. The Sec-
20 retary shall immediately make such comments available to
21 the applicant.

22 (3) Any person that is or may be adversely affected
23 by the proposed mineral activities may request, after filing
24 written comments pursuant to paragraph (2), a public
25 hearing to be held in the county in which the mineral ac-

1 tivities are proposed. If a hearing is requested, the Sec-
2 retary shall conduct a hearing. When a hearing is to be
3 held, notice of such hearing shall be published in a news-
4 paper of local circulation for 2 weeks prior to the hearing
5 date.

6 (g) PLAN APPROVAL.—(1) After providing notice and
7 opportunity for public comment and hearing, the Sec-
8 retary may approve, require modifications to, or deny a
9 proposed plan of operations, except as provided in section
10 405. To approve a plan of operations, the Secretary shall
11 make each of the following determinations:

12 (A) The mining permit application and reclama-
13 tion plan are complete and accurate.

14 (B) The applicant has demonstrated that rec-
15 lamation as required by this Act can be accom-
16 plished under the reclamation plan and would have
17 a high probability of success based on an analysis of
18 such reclamation measures in areas of similar geo-
19 chemistry, topography and hydrology.

20 (C) The proposed mineral activities, reclama-
21 tion and condition of the land after the completion
22 of mineral activities and final reclamation would be
23 consistent with the land use plan applicable to the
24 area subject to mineral activities.

1 (D) The area subject to the proposed plan of
2 operations is not included within an area designated
3 unsuitable under section 204 for the types of min-
4 eral activities proposed.

5 (E) The applicant has demonstrated that the
6 plan of operations will be in compliance with the re-
7 quirements of all other applicable Federal require-
8 ments, and any State requirements agreed to by the
9 Secretary pursuant to subsection 203(c).

10 (2) Final approval of a plan of operations under this
11 subsection shall be conditioned upon compliance with sub-
12 section (1) and, based on information supplied by the ap-
13 plicant, a determination of the probable hydrologic con-
14 sequences of the proposed mineral activities and reclama-
15 tion.

16 (3)(A) A plan of operations under this section shall
17 not be approved if the applicant, operator, or any claim
18 holder if different than the applicant, or any subsidiary,
19 affiliate, or person controlled by or under common control
20 with the applicant, operator or each claim holder if dif-
21 ferent than the applicant, is currently in violation of this
22 Act, any surface management requirement or of any appli-
23 cable air and water quality laws and regulations at any
24 site where mineral activities have occurred or are occur-
25 ring.

1 (B) The Secretary shall suspend an approved plan
2 of operations if the Secretary determines that any of the
3 entities described in section 201(d)(1) were in violation of
4 the surface management requirements at the time the plan
5 of operations was approved.

6 (C) A plan of operations referred to in this subsection
7 shall not be approved or reinstated, as the case may be,
8 until the applicant submits proof that the violation has
9 been corrected or is in the process of being corrected to
10 the satisfaction of the Secretary; except that no proposed
11 plan of operations, after opportunity for a hearing, shall
12 be approved for any applicant, operator or each claim
13 holder if different than the applicant with a demonstrated
14 pattern of willful violations of the surface management re-
15 quirements of such nature and duration and with such re-
16 sulting irreparable damage to the environment as to clear-
17 ly indicate an intent not to comply with the surface man-
18 agement requirements.

19 (h) TERM OF PERMIT; RENEWAL.—(1) The approval
20 of a plan of operations shall be for a stated term. The
21 term shall be no greater than that necessary to accomplish
22 the proposed operations, and in no case for more than 10
23 years, unless the applicant demonstrates that a specified
24 longer term is reasonably needed to obtain financing for
25 equipment and the opening of the operation.

1 (2) Failure by the operator to commence mineral ac-
2 tivities within one year of the date scheduled in an ap-
3 proved plan of operations shall be deemed to require a
4 modification of the plan.

5 (3) A plan of operations shall carry with it the right
6 of successive renewal upon expiration only with respect to
7 operations on areas within the boundaries of the existing
8 plan of operations, as approved. An application for re-
9 newal of such plan of operations shall be approved unless
10 the Secretary determines, in writing, any of the following:

11 (A) The terms and conditions of the existing
12 plan of operations are not being met.

13 (B) Mineral activities and reclamation activities
14 as approved under the plan of operations are not in
15 compliance with the surface management require-
16 ments of this Act.

17 (C) The operator has not demonstrated that the
18 financial guarantee would continue to apply in full
19 force and effect for the renewal term.

20 (D) Any additional revised or updated informa-
21 tion required by the Secretary has not been pro-
22 vided.

23 (E) The applicant has not demonstrated that
24 the plan of operations will be in compliance with the
25 requirements of all other applicable Federal require-

1 ments, and any State requirements agreed to by the
2 Secretary pursuant to subsection 203(c).

3 (4) A renewal of a plan of operations shall be for a
4 term not to exceed the period of the original plan as pro-
5 vided in paragraph (1). Application for plan renewal shall
6 be made at least 120 days prior to the expiration of an
7 approved plan.

8 (5) Any person that is, or may be, adversely affected
9 by the proposed mineral activities may request a public
10 hearing to be held in the county in which the mineral ac-
11 tivities are proposed. If a hearing is requested, the Sec-
12 retary shall conduct a hearing. When a hearing is held,
13 notice of such hearing shall be published in a newspaper
14 of local circulation for 2 weeks prior to the hearing date.

15 (i) PLAN MODIFICATION.—(1) Except as provided
16 under section 405, during the term of a plan of operations
17 the operator may submit an application to modify the
18 plan. To approve a proposed modification to a plan of op-
19 erations the Secretary shall make the determinations set
20 forth under subsection (g)(1). The Secretary shall estab-
21 lish guidelines regarding the extent to which requirements
22 for plans of operations under this section shall apply to
23 applications to modify a plan of operations based on
24 whether such modifications are deemed significant or
25 minor; except that:

1 (A) any significant modifications shall at a min-
2 imum be subject to subsection (f), and

3 (B) any modification proposing to extend the
4 area covered by the plan of operations (except for in-
5 cidental boundary revisions) must be made by appli-
6 cation for a new plan of operations.

7 (2) The Secretary may, upon a review of a plan of
8 operations or a renewal application, require reasonable
9 modification to such plan upon a determination that the
10 requirements of this Act cannot be met if the plan is fol-
11 lowed as approved. Such determination shall be based on
12 a written finding and subject to notice and hearing re-
13 quirements established by the Secretary.

14 (j) TEMPORARY CESSATION OF OPERATIONS.—(1)
15 Before temporarily ceasing mineral activities or reclama-
16 tion for a period of 180 days or more under an approved
17 plan of operations or portions thereof, an operator shall
18 first submit a complete application for temporary ces-
19 sation of operations to the Secretary for approval.

20 (2) The application for approval of temporary ces-
21 sation of operations shall include such terms and condi-
22 tions as prescribed by the Secretary, including but not lim-
23 ited to the steps that shall be taken during the cessation
24 of operations period to minimize impacts on the environ-
25 ment. After receipt of a complete application for tem-

1 porary cessation of operations the Secretary shall conduct
2 an inspection of the area for which temporary cessation
3 of operations has been requested.

4 (3) To approve an application for temporary ces-
5 sation of operations, the Secretary shall make each of the
6 following determinations:

7 (A) The methods for securing surface facilities
8 and restricting access to the permit area, or relevant
9 portions thereof, shall effectively ensure against haz-
10 ards to the health and safety of the public and fish
11 and wildlife.

12 (B) Reclamation is contemporaneous with min-
13 eral activities as required under the approved rec-
14 lamation plan, except in those areas specifically des-
15 ignated in the application for temporary cessation of
16 operations for which a delay in meeting such stand-
17 ards is necessary to facilitate the resumption of op-
18 erations.

19 (C) The amount of financial assurance filed
20 with the plan of operations is sufficient to assure
21 completion of the reclamation plan in the event of
22 forfeiture.

23 (D) Any outstanding notices of violation and
24 cessation orders incurred in connection with the plan
25 of operations for which temporary cessation is being

1 requested are either stayed pursuant to an adminis-
2 trative or judicial appeal proceeding or are in the
3 process of being abated to the satisfaction of the
4 Secretary.

5 (k) REVIEW.—Any decision made by the Secretary
6 under subsections (g), (h), (i), (j) or (l) shall be subject
7 to review under section 202(f).

8 (l) BONDS.—(1) Before any plan of operations is ap-
9 proved pursuant to this Act, or any mineral activities are
10 conducted pursuant to subsection (b)(2), the operator
11 shall file with the Secretary financial assurance payable
12 to the United States and conditional upon faithful per-
13 formance of all requirements of this Act. The financial as-
14 surance shall be provided in the form of a surety bond,
15 trust fund, cash or equivalent. The amount of the financial
16 assurance shall be sufficient to assure the completion of
17 reclamation satisfying the requirements of this Act if the
18 work had to be performed by the Secretary in the event
19 of forfeiture, and the calculation shall take into account
20 the maximum level of financial exposure which shall arise
21 during the mineral activity including, but not limited to,
22 provision for accident contingencies.

23 (2) The financial assurance shall be held for the du-
24 ration of the mineral activities and for an additional period

1 to cover the operator's responsibility for revegetation
2 under subsection (n)(6)(B).

3 (3) The amount of the financial assurance and the
4 terms of the acceptance of the assurance shall be adjusted
5 by the Secretary from time to time as the area requiring
6 coverage is increased or decreased, or where the costs of
7 reclamation or treatment change, but the financial assur-
8 ance must otherwise be in compliance with this section.
9 The Secretary shall specify periodic times, or set a sched-
10 ule, for reevaluating or adjusting the amount of financial
11 assurance.

12 (4) Upon request, and after notice and opportunity
13 for public comment, the Secretary may release in whole
14 or in part the financial assurance if the Secretary deter-
15 mines each of the following:

16 (A) Reclamation covered by the financial assur-
17 ance has been accomplished as required by this Act.

18 (B) The operator has declared that the terms
19 and conditions of any other applicable Federal re-
20 quirements, and State requirements pursuant to
21 subsection 203(b), have been fulfilled.

22 (5) The release referred to in paragraph (4) shall be
23 according to the following schedule:

24 (A) After the operator has completed the back-
25 filling, regrading and drainage control of an area

1 subject to mineral activities and covered by the fi-
2 nancial assurance, and has commenced revegetation
3 on the regraded areas subject to mineral activities in
4 accordance with the approved plan of operations, 50
5 percent of the total financial assurance secured for
6 the area subject to mineral activities may be re-
7 leased.

8 (B) After the operator has completed success-
9 fully all mineral activities and reclamation activities
10 and all requirements of the plan of operations and
11 the reclamation plan and all the requirements of this
12 Act have in fact been fully met, the remaining por-
13 tion of the financial assurance may be released.

14 (6) During the period following release of the finan-
15 cial assurance as specified in paragraph (5)(A), until the
16 remaining portion of the financial assurance is released
17 as provided in paragraph (5)(B), the operator shall be re-
18 quired to meet all applicable standards of this Act and
19 the plan of operations and the reclamation plan.

20 (7) Where any discharge from the area subject to
21 mineral activities requires treatment in order to meet the
22 applicable effluent limitations, the treatment shall be mon-
23 itored during the conduct of mineral activities and rec-
24 lamation and shall be fully covered by financial assurance
25 and no financial assurance or portion thereof for the plan

1 of operations shall be released until the operator has met
2 all applicable effluent limitations and water quality stand-
3 ards for one full year without treatment.

4 (8) Jurisdiction under this Act shall terminate upon
5 release of the final bond. If the Secretary determines, after
6 final bond release, that an environmental hazard resulting
7 from the mineral activities exists, or the terms and condi-
8 tions of the plan of operations or the surface management
9 requirements of this Act were not fulfilled in fact at the
10 time of release, the Secretary shall reassert jurisdiction
11 and all applicable surface management and enforcement
12 provisions shall apply for correction of the condition.

13 (m) RECLAMATION.—(1) Except as provided under
14 paragraphs (5) and (7) of subsection (n), lands subject
15 to mineral activities shall be restored to a condition capa-
16 ble of supporting the uses to which such lands were capa-
17 ble of supporting prior to surface disturbance, or other
18 beneficial uses, provided such other uses are not inconsis-
19 ent with applicable land use plans.

20 (2) All required reclamation shall proceed as contem-
21 poraneously as practicable with the conduct of mineral ac-
22 tivities and shall use the best technology currently avail-
23 able.

24 (n) RECLAMATION STANDARDS.—The Secretary shall
25 establish reclamation standards which shall include, but

1 not necessarily be limited to, provisions to require each
2 of the following:

3 (1) SOILS.—(A) Topsoil removed from lands
4 subject to mineral activities shall be segregated from
5 other spoil material and protected for later use in
6 reclamation. If such topsoil is not replaced on a
7 backfill area within a time-frame short enough to
8 avoid deterioration of the topsoil, vegetative cover or
9 other means shall be used so that the topsoil is pre-
10 served from wind and water erosion, remains free of
11 any contamination by acid or other toxic material,
12 and is in a useable condition for sustaining vegeta-
13 tion when restored during reclamation.

14 (B) In the event the topsoil from lands subject
15 to mineral activities is of insufficient quantity or of
16 inferior quality for sustaining vegetation, and other
17 suitable growth media removed from the lands sub-
18 ject to the mineral activities are available that shall
19 support vegetation, the best available growth me-
20 dium shall be removed, segregated and preserved in
21 alike manner as under subparagraph (A) for sus-
22 taining vegetation when restored during reclamation.

23 (C) Mineral activities shall be conducted to pre-
24 vent any contamination or toxification of soils. If
25 any contamination or toxification occurs in violation

1 of this subparagraph, the operator shall neutralize
2 the toxic material, decontaminate the soil, and dis-
3 pose of any toxic or acid materials in a manner
4 which complies with this section and any other appli-
5 cable Federal or State law.

6 (2) STABILIZATION.—All surface areas subject
7 to mineral activities, including spoil material piles,
8 waste material piles, ore piles, subgrade ore piles,
9 and open or partially backfilled mine pits which
10 meet the requirements of paragraph (5) shall be sta-
11 bilized and protected during mineral activities and
12 reclamation so as to effectively control erosion and
13 minimize attendant air and water pollution.

14 (3) EROSION.—Facilities such as but not lim-
15 ited to basins, ditches, streambank stabilization, di-
16 versions or other measures, shall be designed, con-
17 structed and maintained where necessary to control
18 erosion and drainage of the area subject to mineral
19 activities, including spoil material piles and waste
20 material piles prior to the use of such material to
21 comply with the requirements of paragraph (5) and
22 for the purposes of paragraph (7), and including ore
23 piles and subgrade ore piles.

24 (4) HYDROLOGIC BALANCE.—(A) Mineral ac-
25 tivities shall be conducted to minimize disturbances

1 to the prevailing hydrologic balance of the area sub-
2 ject to mineral activities and adjacent areas and to
3 the quality and quantity of water in surface and
4 ground water systems, including stream flow, in the
5 area subject to mineral activities and adjacent areas,
6 and in all cases the operator shall comply with appli-
7 cable Federal or State effluent limitations and water
8 quality standards.

9 (B) Mineral activities shall prevent the genera-
10 tion of acid or toxic drainage during the mineral ac-
11 tivities and reclamation, to the extent possible using
12 the best available demonstrated control technology;
13 and the operator shall prevent any contamination of
14 surface and ground water with acid or other toxic
15 mine drainage and shall prevent or remove water
16 from contact with acid or toxic producing deposits.

17 (C) Reclamation shall, to the extent possible,
18 also include restoration of the recharge capacity of
19 the area subject to mineral activities to approximate
20 premining condition.

21 (D) Where surface or underground water
22 sources used for domestic or agricultural use have
23 been diminished, contaminated or interrupted as a
24 proximate result of mineral activities, such water re-
25 source shall be restored or replaced.

1 (5) GRADING.—(A) Except as provided under
2 this paragraph (7), the surface area disturbed by
3 mineral activities shall be backfilled, graded and
4 contoured to its natural topography.

5 (B) The requirement of subparagraph (A) shall
6 not apply with respect to an open mine pit if the
7 Secretary finds that such open pit or partially
8 backfilled pit would not pose a threat to the public
9 health or safety or have an adverse effect on the en-
10 vironment in terms of surface or groundwater pollu-
11 tion.

12 (C) In instances where complete backfilling of
13 an open pit is not required, the pit shall be graded
14 to blend with the surrounding topography as much
15 as practicable and revegetated in accordance with
16 paragraph (6).

17 (6) REVEGETATION.—(A) Except in such in-
18 stances where the complete backfill of an open mine
19 pit is not required under paragraph (5), the area
20 subject to mineral activities, including any excess
21 spoil material pile and excess waste pile, shall be
22 revegetated in order to establish a diverse, effective
23 and permanent vegetative cover of the same seasonal
24 variety native to the area subject to mineral activi-
25 ties, capable of self-regeneration and plant succes-

1 sion and at least equal in extent of cover to the nat-
2 ural revegetation of the surrounding area.

3 (B) In order to insure compliance with subpara-
4 graph (A), the period for determining successful
5 revegetation shall be for a period of 5 full years
6 after the last year of augmented seeding, fertilizing,
7 irrigation or other work, except that such period
8 shall be 10 full years where the annual average pre-
9 cipitation is 26 inches or less.

10 (7) EXCESS SPOIL AND WASTE.—(A) Spoil ma-
11 terial and waste material in excess of that required
12 to comply with paragraph (5) shall be transported
13 and placed in approved areas, in a controlled man-
14 ner in such a way so as to assure long-term mass
15 stability and to prevent mass movement. In addition
16 to the measures described under paragraph (3), in-
17 ternal drainage systems shall be employed, as may
18 be required, to control erosion and drainage. The de-
19 sign of such excess spoil material piles and excess
20 waste material piles shall be certified by a qualified
21 professional engineer.

22 (B) Excess spoil material piles and excess waste
23 material piles shall be graded and contoured to
24 blend with the surrounding topography as much as

1 practicable and revegetated in accordance with para-
2 graph (6).

3 (8) SEALING.—All drill holes, and openings on
4 the surface associated with underground mineral ac-
5 tivities, shall be sealed when no longer needed for
6 the conduct of mineral activities to ensure protection
7 of the public, fish and wildlife, and the environment.

8 (9) STRUCTURES.—All buildings, structures or
9 equipment constructed, used or improved during
10 mineral activities shall be removed, unless the Sec-
11 retary determines that the buildings, structures or
12 equipment shall be of beneficial use in accomplishing
13 the postmining uses or for environmental monitor-
14 ing.

15 (10) FISH AND WILDLIFE.—All fish and wildlife
16 habitat in areas subject to mineral activities shall be
17 restored in a manner commensurate with or superior
18 to habitat conditions which existed prior to the min-
19 eral activities, including such conditions as may be
20 prescribed by the Director, Fish and Wildlife Serv-
21 ice.

22 (o) ADDITIONAL STANDARDS.—The Secretary may,
23 by regulation, establish additional standards to address
24 the specific environmental impacts of selected methods of

1 mineral activities, such as, but not limited to, cyanide
2 leach mining.

3 (p) DEFINITIONS.—As used in subsections (m) and
4 (n):

5 (1) The term “best technology currently avail-
6 able” means equipment, devices, systems, methods,
7 or techniques which are currently available anywhere
8 even if not in routine use in mineral activities. The
9 term includes, but is not limited to, construction
10 practices, siting requirements, vegetative selection
11 and planting requirements, scheduling of activities
12 and design of sedimentation ponds. Within the con-
13 straints of the surface management requirements of
14 this Act, the Secretary shall have the discretion to
15 determine the best technology currently available on
16 a case-by-case basis.

17 (2) The term “best available demonstrated con-
18 trol technology” means equipment, devices, systems,
19 methods, or techniques which have demonstrated en-
20 gineering and economic feasibility and practicality in
21 preventing disturbances to hydrologic balance during
22 mineral activities and reclamation. Such techniques
23 will have shown to be effective and practical methods
24 of acid and other mine water pollution elimination or
25 control, and other pollution affecting water quality.

1 The “best available demonstrated control tech-
2 nology” will not generally be in routine use in min-
3 eral activities. Within the constraints of the surface
4 management requirements of this Act, the Secretary
5 shall have the discretion to determine the best avail-
6 able demonstrated control technology on a case-by-
7 case basis.

8 (3) The term “spoil material” means the over-
9 burden, or nonmineralized material of any nature,
10 consolidated or unconsolidated, that overlies a de-
11 posit of any locatable mineral that is removed in
12 gaining access to, and extracting, any locatable min-
13 eral, or any such material disturbed during the con-
14 duct of mineral activities.

15 (4) The term “waste material” means the mate-
16 rial resulting from mineral activities involving
17 beneficiation, including but not limited to tailings,
18 and such material resulting from mineral activities
19 involving processing, to the extent such material is
20 not subject to subtitle C of the Resource Conserva-
21 tion and Recovery Act of 1976 or the Uranium Mill
22 Tailings Radiation Control Act.

23 (5) The term “ore piles” means ore stockpiled
24 for beneficiation prior to the completion of mineral
25 activities and reclamation.

1 (6) The term “subgrade ore” means ore that is
2 too low in grade to be of economic value at the time
3 of extraction but which could reasonably be economi-
4 cal in the foreseeable future.

5 (7) The term “excess spoil” means spoil mate-
6 rial that may be excess of the amount necessary to
7 comply with the requirements of subsection (m)(3).

8 (8) The term “excess waste” means waste ma-
9 terial that may be excess of the amount necessary to
10 comply with the requirements of subsection (m)(3).

11 **SEC. 202. INSPECTION AND ENFORCEMENT.**

12 (a) INSPECTIONS AND MONITORING.—(1) The Sec-
13 retary shall make such inspections of mineral activities so
14 as to ensure compliance with the surface management re-
15 quirements. The Secretary shall establish a frequency of
16 inspections for mineral activities conducted under an ap-
17 proved plan of operations, but in no event shall such in-
18 spection frequency be less than one complete inspection
19 per calendar quarter or two complete inspections annually
20 for a plan of operations for which the Secretary approves
21 an application under section 201(j).

22 (2)(A) Any person who has reason to believe they are
23 or may be adversely affected by mineral activities due to
24 any violation of the surface management requirements
25 may request an inspection. The Secretary shall determine

1 within 10 days of receipt of the request whether the re-
2 quest states a reason to believe that a violation exists, ex-
3 cept in the event the person alleges and provides reason
4 to believe that an imminent danger as provided by sub-
5 section (b)(2) exists, the 10-day period shall be waived and
6 the inspection conducted immediately. When an inspection
7 is conducted under this paragraph, the Secretary shall no-
8 tify the person filing the complaint and such person shall
9 be allowed to accompany the inspector during the inspec-
10 tion. The identity of the person supplying information to
11 the Secretary relating to a possible violation or imminent
12 danger or harm shall remain confidential with the Sec-
13 retary if so requested by that person, unless that person
14 elects to accompany an inspector on the inspection.

15 (B) The Secretary shall, by regulation, establish pro-
16 cedures for the review of any decision by his authorized
17 representative not to inspect or by a refusal by such rep-
18 resentative to ensure remedial actions are taken with re-
19 spect to any alleged violation. The Secretary shall furnish
20 such persons requesting the review a written statement of
21 the reasons for the Secretary's final disposition of the
22 case.

23 (3)(A) The Secretary shall require all operators to de-
24 velop and maintain a monitoring and evaluation system

1 which shall be capable of identifying compliance with all
2 surface management requirements.

3 (B) Monitoring shall be conducted as close as tech-
4 nically feasible to the mineral activity or reclamation in-
5 volved, and in all cases the monitoring shall be conducted
6 within the area affected by mineral activities and reclama-
7 tion.

8 (C) The point of compliance shall be as close to the
9 mineral activity involved as is technically feasible, but in
10 any event shall be located to comply with applicable State
11 and Federal standards. In no event shall the point of com-
12 pliance be outside the area affected by mineral activities
13 and reclamation.

14 (D) The operator shall file reports with the Secretary
15 on a quarterly basis on the results of the monitoring and
16 evaluation process except that if the monitoring and eval-
17 uation show a violation of the surface management re-
18 quirements, it shall be reported immediately to the Sec-
19 retary.

20 (E) The Secretary shall determine what information
21 must be reported by the operator pursuant to subpara-
22 graph (B). A failure to report as required by the Secretary
23 shall constitute a violation of this Act and subject the op-
24 erator to enforcement action pursuant to this section.

1 (F) The Secretary shall evaluate the reports submit-
2 ted pursuant to this paragraph, and based on those re-
3 ports and any necessary inspection shall take enforcement
4 action pursuant to this section.

5 (b) ENFORCEMENT.—(1) If the Secretary or author-
6 ized representative determines, on the basis of an inspec-
7 tion that an operator, or any person conducting mineral
8 activities under section 201(b)(2), is in violation of any
9 surface management requirement, the Secretary or au-
10 thorized representative shall issue a notice of violation to
11 the operator or person describing the violation and the cor-
12 rective measures to be taken. The Secretary or authorized
13 representative shall provide such operator or person with
14 a reasonable period of time to abate the violation. If, upon
15 the expiration of time provided for such abatement, the
16 Secretary or authorized representative finds that the viola-
17 tion has not been abated he shall immediately order a ces-
18 sation of all mineral activities or the portion thereof rel-
19 evant to the violation.

20 (2) If the Secretary or authorized representative de-
21 termines, on the basis of an inspection, that any condition
22 or practice exists, or that an operator, or any person con-
23 ducting mineral activities under section 201(b)(2), is in
24 violation of the surface management requirements, and

1 such condition, practice or violation is causing, or can rea-
2 sonably be expected to cause—

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

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

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

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

22 (B) Any notice or order issued pursuant to para-
23 graphs (1) or (2) may be modified, vacated or terminated
24 by the Secretary or authorized representative. An opera-
25 tor, or person conducting mineral activities under section

1 201(b)(2), issued any such notice or order shall be entitled
2 to a hearing on the record pursuant to subsection (f).

3 (4) If, after 30 days of the date of the order referred
4 to in paragraph (3)(A), the required abatement has not
5 occurred the Secretary shall take such alternative enforce-
6 ment action against the responsible parties as will most
7 likely bring about abatement in the most expeditious man-
8 ner possible. Such alternative enforcement action shall in-
9 clude, but is not necessarily limited to, seeking appropriate
10 injunctive relief to bring about abatement.

11 (5) In the event an operator, or person conducting
12 mineral activities under section 201(b)(2), is unable to
13 abate a violation or defaults on the terms of the plan of
14 operation the Secretary shall forfeit the financial assur-
15 ance for the plan of operations if necessary to ensure
16 abatement and reclamation under this Act.

17 (6) The Secretary shall not forfeit the financial assur-
18 ance while a review is pending pursuant to subsections (f)
19 and (g).

20 (c) COMPLIANCE.—(1) The Secretary may request
21 the Attorney General to institute a civil action for relief,
22 including a permanent or temporary injunction or re-
23 straining order, in the district court of the United States
24 for the district in which the mineral activities are located

1 whenever an operator, or person conducting mineral activi-
2 ties under section 201(b)(2):

3 (A) violates, fails or refuses to comply with any
4 order issued by the Secretary under subsection (b);
5 or

6 (B) interferes with, hinders or delays the Sec-
7 retary in carrying out an inspection under sub-
8 section (a). Such court shall have jurisdiction to pro-
9 vide such relief as may be appropriate. Any relief
10 granted by the court to enforce an order under
11 clause (A) shall continue in effect until the comple-
12 tion or final termination of all proceedings for review
13 of such order under subsections (f) and (g), unless
14 the district court granting such relief sets it aside or
15 modifies it.

16 (2) Notwithstanding any other provision of law, the
17 Secretary shall utilize enforcement personnel from the Of-
18 fice of Surface Mining Reclamation and Enforcement to
19 augment personnel of the Bureau of Land Management
20 and the Forest Service to ensure compliance with the sur-
21 face management requirements, and inspection require-
22 ments of subsection (a). The Bureau of Land Management
23 and the Forest Service shall each enter into a memoran-
24 dum of understanding with the Office of Surface Mining
25 Reclamation and Enforcement for this purpose.

1 (d) PENALTIES.—(1) Any operator, or person con-
2 ducting mineral activities under section 201(b)(2), who
3 fails to comply with the surface management requirements
4 shall be liable for a penalty of not more than \$5,000 per
5 violation. Each day of continuing violation may be deemed
6 a separate violation for purposes of penalty assessments.
7 No civil penalty under this subsection shall be assessed
8 until the operator charged with the violation has been
9 given the opportunity for a hearing under subsection (f).

10 (2) An operator, or person conducting mineral activi-
11 ties under section 201(b)(2), who fails to correct a viola-
12 tion for which a cessation order has been issued under
13 subsection (b) within the period permitted for its correc-
14 tion shall be assessed a civil penalty of not less than
15 \$1,000 per violation for each day during which such fail-
16 ure continues, but in no event shall such assessment ex-
17 ceed a 30-day period.

18 (3) Whenever a corporation is in violation of the sur-
19 face management requirements or fails or refuses to com-
20 ply with an order issued under subsection (b), any direc-
21 tor, officer or agent of such corporation who knowingly
22 authorized, ordered, or carried out such violation, failure
23 or refusal shall be subject to the same penalties that may
24 be imposed upon an operator under paragraph (1).

1 (e) CITIZEN SUITS.—(1) Except as provided under
2 paragraph (2), any person having an interest which is or
3 may be adversely affected may commence a civil action
4 on his or her own behalf to compel compliance—

5 (A) against the Secretary where there is alleged
6 a violation of any of the provisions of this Act or any
7 regulation promulgated pursuant to this Act or
8 terms and conditions of any plan of operations ap-
9 proved pursuant to this Act;

10 (B) against any other person alleged to be in
11 violation of any of the provisions of this Act or any
12 regulation promulgated pursuant to this Act or
13 terms and conditions of any plan of operations ap-
14 proved pursuant to this Act;

15 (C) against the Secretary where there is alleged
16 a failure of the Secretary to perform any act or duty
17 under this Act or any regulation promulgated pursu-
18 ant to this Act which is not within the discretion of
19 the Secretary; or

20 (D) against the Secretary where it is alleged
21 that the Secretary acts arbitrarily or capriciously or
22 in a manner inconsistent with this Act or any regu-
23 lation promulgated pursuant to this Act. The United
24 States district courts shall have jurisdiction, without

1 regard to the amount in controversy or the citizen-
2 ship of the parties.

3 (2) No action may be commenced except as follows:

4 (A) Under paragraph (1)(A) prior to 60 days
5 after the plaintiff has given notice in writing of such
6 alleged violation to the Secretary, or to the person
7 alleged to be in violation; except no action may be
8 commenced against any person alleged to be in viola-
9 tion if the Secretary has commenced and is dili-
10 gently prosecuting a civil action in a court of the
11 United States to require compliance with the provi-
12 sions of this title (but in any such action in a court
13 of the United States the person making the allega-
14 tion may intervene as a matter of right.)

15 (B) Under paragraph (1)(B) prior to 60 days
16 after the plaintiff has given notice in writing of such
17 action to the Secretary, in such manner as the Sec-
18 retary shall by regulation prescribe, except that such
19 action may be brought immediately after such notifi-
20 cation in the case where the violation or order com-
21 plained of constitutes an imminent threat to the en-
22 vironment or to the health or safety of the public or
23 would immediately affect a legal interest of the
24 plaintiff.

1 (3) Venue of all actions brought under this subsection
2 shall be determined in accordance with title 28 U.S.C.
3 1391(a).

4 (4) The court, in issuing any final order in any action
5 brought pursuant to paragraph (1) may award costs of
6 litigation (including attorney and expert witness fees) to
7 any party whenever the court determines such award is
8 appropriate. The court may, if a temporary restraining
9 order or preliminary injunction is sought, require the filing
10 of a bond or equivalent security in accordance with the
11 Federal Rules of Civil Procedure.

12 (5) Nothing in this subsection shall restrict any right
13 which any person (or class of persons) may have under
14 any statute or common law to seek enforcement of any
15 of the provisions of this Act and the regulations there-
16 under, or to seek any other relief, including relief against
17 the Secretary.

18 (f) REVIEW BY SECRETARY.—(1)(A) Any operator,
19 or person conducting mineral activities under section
20 201(b)(2), issued a notice of violation or cessation order
21 under subsection (b), or any person having an interest
22 which is or may be adversely affected by such decisions,
23 notice or order, may apply to the Secretary for review of
24 the notice or order within 30 days of receipt thereof, or

1 as the case may be, within 30 days of such notice or order
2 being modified, vacated or terminated.

3 (B) Any operator, or person conducting mineral ac-
4 tivities under section 201(b)(2), who is subject to a pen-
5 alty under subsection (d) or section 105 may apply to the
6 Secretary for review of the assessment within 30 days of
7 notification of such penalty.

8 (C) Any person having an interest which is or may
9 be adversely affected by a decision made by the Secretary
10 under subsections (g), (h), (i), (j), and (l) of section 201,
11 or subsection 202(a)(2), or subsection 204(g), may apply
12 to the Secretary for review of the decision within 30 days
13 after it is made.

14 (2) The Secretary shall provide an opportunity for
15 a public hearing at the request of any party. Any hearing
16 conducted pursuant to this subsection shall be on record
17 and shall be subject to section 554 of title 5 of the United
18 States Code. The filing of an application for review under
19 this subsection shall not operate as a stay of any order
20 or notice issued under subsection (b).

21 (3) Following the hearing referred to in paragraph
22 (2), if requested, but in any event the Secretary shall make
23 findings of fact and shall issue a written decision incor-
24 porating therein an order vacating, affirming, modifying
25 or terminating the notice, order or decision, or with re-

1 spect to an assessment, the amount of penalty that is war-
2 ranted. Where the application for review concerns a ces-
3 sation order issued under subsection (b), the Secretary
4 shall issue the written decision within 30 days of the re-
5 ceipt of the application for review, unless temporary relief
6 has been granted by the Secretary under paragraph (4).

7 (4) Pending completion of any proceedings under this
8 subsection, the applicant may file with the Secretary a
9 written request that the Secretary grant temporary relief
10 from any order issued under subsection (b) together with
11 a detailed statement giving reasons for such relief. The
12 Secretary shall expeditiously issue an order or decision
13 granting or denying such relief. The Secretary may grant
14 such relief under such conditions as he may prescribe only
15 if such relief shall not adversely affect the health or safety
16 of the public or cause significant, imminent environmental
17 harm to land, air or water resources.

18 (5) The availability of review under this subsection
19 shall not be construed to limit the operation of rights es-
20 tablished under subsection (e).

21 (g) JUDICIAL REVIEW.—(1) Any action by the Sec-
22 retary in promulgating regulations to implement this Act,
23 or any other actions constituting rulemaking by the Sec-
24 retary to implement this Act, shall be subject to judicial
25 review in the United States District Court for the District

1 of Columbia. Any action subject to judicial review under
2 this subsection shall be affirmed unless the court con-
3 cludes that such action is arbitrary, capricious, or other-
4 wise inconsistent with law. A petition for review of any
5 action subject to judicial review under this subsection shall
6 be filed in the United States District Court for the District
7 of Columbia within 60 days from the date of such action,
8 or after such date if the petition is based solely on grounds
9 arising after the sixtieth day. Any such petition may be
10 made by any person who commented or otherwise partici-
11 pated in the rulemaking or who may be adversely affected
12 by the action of the Secretary.

13 (2) Final agency action under this Act, including
14 such final action on those matters described under sub-
15 section (f), shall be subject to judicial review in accordance
16 with paragraph (4) and pursuant to 28 U.S.C. 1391(a)
17 of the United States Code on or before 60 days from the
18 date of such final action.

19 (3) The availability of judicial review established in
20 this subsection shall not be construed to limit the oper-
21 ations of rights established under subsection (e).

22 (4) The court shall hear any petition or complaint
23 filed under this subsection solely on the record made be-
24 fore the Secretary. The court may affirm, vacate, or mod-

1 ify any order or decision or may remand the proceedings
2 to the Secretary for such further action as it may direct.

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

7 (h) PROCEEDINGS.—Whenever a proceeding occurs
8 under subsection (a), (f), or (g), or under section 201, or
9 under section 204(g), at the request of any person, a sum
10 equal to the aggregate amount of all costs and expenses
11 (including attorney fees) as determined by the Secretary
12 or the court to have been reasonably incurred by such per-
13 son for or in connection with participation in such pro-
14 ceedings, including any judicial review of the proceeding,
15 may be assessed against either party as the court, result-
16 ing from judicial review or the Secretary, resulting from
17 administrative proceedings, deems proper.

18 **SEC. 203. STATE LAW AND REGULATION.**

19 (a) STATE LAW.—(1) Any reclamation standard or
20 requirement in State law or regulation that meets or ex-
21 ceeds the requirements of subsections (m) and (n) of sec-
22 tion 201 shall not be construed to be inconsistent with
23 any such standard.

24 (2) Any bonding standard or requirement in State
25 law or regulation that meets or exceeds the requirements

1 of section 201(1) shall not be construed to be inconsistent
2 with such requirements.

3 (3) Any inspection standard or requirement in State
4 law or regulation that meets or exceeds the requirements
5 of section 202 shall not be construed to be inconsistent
6 with such requirements.

7 (b) APPLICABILITY OF OTHER STATE REQUIRE-
8 MENTS—(1) Nothing in this Act shall be construed as af-
9 fecting any air or water quality standard or requirement
10 of any State law or regulation which may be applicable
11 to mineral activities on lands subject to this Act.

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

17 (c) COOPERATIVE AGREEMENTS.—(1) Any State
18 may enter into a cooperative agreement with the Secretary
19 for the purposes of the Secretary applying such standards
20 and requirements referred to in subsection (a) and sub-
21 section (b) to mineral activities or reclamation on lands
22 subject to this Act.

23 (2) In such instances where the proposed mineral ac-
24 tivities would affect lands not subject to this Act in addi-
25 tion to lands subject to this Act, in order to approve a

1 plan of operations the Secretary shall enter into a coopera-
2 tive agreement with the State that sets forth a common
3 regulatory framework consistent with the surface manage-
4 ment requirements of this Act for the purposes of such
5 plan of operations.

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

10 (d) PRIOR AGREEMENTS.—Any cooperative agree-
11 ment or such other understanding between the Secretary
12 and any State, or political subdivision thereof, relating to
13 the surface management of mineral activities on lands
14 subject to this Act that was in existence on the date of
15 enactment of this Act may only continue in force until the
16 effective date of this Act, after which time the terms and
17 conditions of any such agreement or understanding shall
18 only be applicable to plans of operations approved by the
19 Secretary prior to the effective date of this Act except as
20 provided under section 405.

21 (e) DELEGATION.—The Secretary shall not delegate
22 to any State, or political subdivision thereof, the Sec-
23 retary's authorities, duties and obligations under this Act,
24 including with respect to any cooperative agreements en-
25 tered into under this section.

1 **SEC. 204. UNSUITABILITY REVIEW.**

2 (a) IN GENERAL.—The Secretary of the Interior in
3 preparing land use plans under the Federal Land Policy
4 and Management Act of 1976, and the Secretary of Agri-
5 culture in preparing land use plans under the Forest and
6 Rangeland Renewable Resources Planning Act of 1974, as
7 amended by the National Forest Management Act of
8 1976, shall each conduct a review of lands that are subject
9 to this Act in order to determine whether there are any
10 areas which are unsuitable for all or certain types of min-
11 eral activities pursuant to the standards set forth under
12 subsection (e). In the event such a determination is made,
13 the review shall be included in the applicable land use
14 plan.

15 (b) SPECIFIC AREAS.—Not later than 90 days after
16 the date of enactment of this Act, the Secretary of the
17 Interior and the Secretary of Agriculture, on the basis of
18 any information available, shall each publish a notice in
19 the Federal Register identifying and listing the lands sub-
20 ject to this Act which are or may be determined to be
21 unsuitable for all or certain types of mineral activities ac-
22 cording to the standards set forth in subsection (e). After
23 opportunity for public comment and proposals for modi-
24 fications to such listing, but not later than the effective
25 date of this Act, each Secretary shall begin to review the
26 lands identified pursuant to this subsection to determine

1 whether such lands are unsuitable for all or certain types
2 of mineral activities according to the standards set forth
3 in subsection (e).

4 (c) LAND USE PLANS.—(1) At such time as the Sec-
5 retary revises or amends a land use plan pursuant to the
6 provisions of law other than this Act, the Secretary shall
7 identify lands determined to be unsuitable for all or cer-
8 tain types of mineral activities according to the standards
9 set forth in subsection (e). The Secretary shall incorporate
10 such determinations in the applicable land use plans.

11 (2) If lands covered by a proposed plan of operations
12 have not been reviewed pursuant to this section at the time
13 of submission of a plan of operations, the Secretary shall,
14 prior to the consideration of the proposed plan of oper-
15 ations, review the areas that would be affected by the pro-
16 posed mineral activities to determine whether the area is
17 unsuitable for all or certain types of mineral activities ac-
18 cording to the standards set forth in subsection (e). The
19 Secretary shall use such review in the next revision or
20 amendment to the applicable land use plan to the extent
21 necessary to reflect the unsuitability of such lands for all
22 or certain types of mineral activities according to the
23 standards set forth in subsection (e).

24 (3) This section does not require land use plans to
25 be amended until such plans are adopted, revised, or

1 amended pursuant to provisions of law other than this
2 Act.

3 (d) EFFECT OF DETERMINATION.—(1) If the Sec-
4 retary determines an area to be unsuitable under this sec-
5 tion for all or certain types of mineral activities, he shall
6 do one of the following:

7 (A) In any instance where a determination is
8 made that an area is unsuitable for all types of min-
9 eral activities, the Secretary of the Interior, with the
10 consent of the Secretary of Agriculture for lands
11 under the jurisdiction of the Secretary of Agri-
12 culture, shall withdraw such area pursuant to sec-
13 tion 204 of the Federal Land Policy and Manage-
14 ment Act of 1976 (43 U.S.C. 1714).

15 (B) In any instance where a determination is
16 made that an area is unsuitable for certain types of
17 mineral activities, the Secretary shall take appro-
18 priate steps to limit or prohibit such types of min-
19 eral activities.

20 (2) Nothing in this section may be construed as af-
21 fecting lands where mineral activities under approved
22 plans of operations or under notice (as provided for in the
23 regulations of the Secretary of the Interior in effect prior
24 to the effective date of this Act relating to operations that
25 cause a cumulative disturbance of five acres or less) were

1 being conducted on the effective date of this Act, except
2 as provided under subsection (g).

3 (3) Nothing in this section may be construed as pro-
4 hibiting mineral activities not subject to paragraph (2)
5 where substantial legal and financial commitments in such
6 mineral activities were in existence on the effective date
7 of this Act, but nothing in this section may be construed
8 as limiting any existing authority of the Secretary to regu-
9 late such activities.

10 (4) Any unsuitability determination under this sec-
11 tion shall not prevent the types of mineral activities re-
12 ferred to in section 201(b)(2)(A), but nothing in this sec-
13 tion shall be construed as authorizing such activities in
14 areas withdrawn pursuant to section 204 of the Federal
15 Land Policy and Management Act of 1976 (43 U.S.C.
16 1714).

17 (e) REVIEW STANDARDS.—(1) An area containing
18 lands that are subject to this Act shall be determined to
19 be unsuitable for all or certain types of mineral activities
20 if the Secretary determines, after notice and opportunity
21 for public comment, that reclamation pursuant to the
22 standards set forth in subsections (m) and (n) of section
23 201 would not be technologically and economically feasible
24 for any such mineral activities in such area and where—

1 (A) such mineral activities would substantially
2 impair water quality or supplies within the area sub-
3 ject to the mining plan or adjacent lands, such as
4 impacts on aquifers and aquifer recharge areas;

5 (B) such mineral activities would occur on
6 areas of unstable geology that could if undertaken
7 substantially endanger life and property;

8 (C) such mineral activities would adversely af-
9 fect publicly-owned places which are listed on or are
10 eligible for listing on the National Register of His-
11 toric Places, unless the Secretary and the State ap-
12 prove all or certain mineral activities, in which case
13 the area shall not be determined to be unsuitable for
14 such approved mineral activities;

15 (D) such mineral activities would cause loss of
16 or damage to riparian areas;

17 (E) such mineral activities would impair the
18 productivity of the land subject to such mineral ac-
19 tivities;

20 (F) such mineral activities would adversely af-
21 fect candidate species for threatened and endangered
22 species status; or

23 (G) such mineral activities would adversely af-
24 fect lands designated as National Wildlife Refuges.

1 (2) An area may be determined to be unsuitable for
2 all or certain mineral activities if the Secretary, after no-
3 tice and opportunity for public comment, determines that
4 reclamation pursuant to the standards set forth in sub-
5 sections (m) and (n) of section 201 would not be techno-
6 logically and economically feasible for any such mineral
7 activities in such area and where—

8 (A) such mineral activities could result in sig-
9 nificant damage to important historic, cultural, sci-
10 entific, and aesthetic values or to natural systems;

11 (B) such mineral activities could adversely af-
12 fect lands of outstanding aesthetic qualities and sce-
13 nic Federal lands designated as Class I under sec-
14 tion 162 of the Clean Air Act (42 U.S.C. 7401 and
15 following);

16 (C) such mineral activities could adversely af-
17 fect lands which are high priority habitat for migra-
18 tory bird species or other important fish and wildlife
19 species as determined by the Secretary in consulta-
20 tion with the Director of the Fish and Wildlife Serv-
21 ice and the appropriate agency head for the State in
22 which the lands are located;

23 (D) such mineral activities could adversely af-
24 fect lands which include wetlands if mineral activi-
25 ties would result in loss of wetland values;

1 (E) such mineral activities could adversely af-
2 fect National Conservation System units; or

3 (F) such mineral activities could adversely af-
4 fect lands containing other resource values as the
5 Secretary may consider.

6 (f) WITHDRAWAL REVIEW.—In conjunction with con-
7 ducting an unsuitability review under this section, the Sec-
8 retary shall review all administrative withdrawals of land
9 from the location of mining claims to determine whether
10 the revocation or modification of such withdrawal for the
11 purpose of allowing such lands to be opened to the location
12 of mining claims under this Act would be appropriate as
13 a result of any of the following:

14 (1) The imposition of any conditions referred to
15 in subsection (d)(1)(B).

16 (2) The surface management requirements of
17 section 201.

18 (3) The limitation of section 107.

19 (g) CITIZEN PETITION.—(1) In any instance where
20 a land use plan has not been amended or completed to
21 reflect the review referred to in subsection (a), any person
22 having an interest that may be adversely affected by po-
23 tential mineral activities on lands subject to this Act cov-
24 ered by such plan shall have the right to petition the Sec-
25 retary to determine such lands to be unsuitable for all or

1 certain types of mineral activities. Such petition shall con-
2 tain allegations of fact with respect to potential mineral
3 activities and with respect to the unsuitability of such
4 lands for all or certain mineral activities according to the
5 standards set forth in subsection (e) with supporting evi-
6 dence that would tend to establish the allegations.

7 (2) Petitions received prior to the date of the submis-
8 sion of a proposed plan of operations under this Act, shall
9 stay consideration of the proposed plan of operations
10 pending review of the petition.

11 (3) Within 4 months after receipt of a petition to de-
12 termine lands to be unsuitable for all or certain types of
13 mining in areas where a land use plan has not been
14 amended or completed to reflect the review referred to in
15 subsection (a), the Secretary shall hold a public hearing
16 on the petition in the locality of the area in question. After
17 a petition has been filed and prior to the public hearing,
18 any person may support or oppose the determination
19 sought by the petition by filing written allegations of facts
20 and supporting evidence.

21 (4) Within 60 days after a public hearing held pursu-
22 ant to paragraph (3), the Secretary shall issue a written
23 decision regarding the petition which shall state the rea-
24 sons for granting or denying the requested determination.

1 (5) Reviews conducted pursuant to this subsection
2 shall be consistent with paragraphs (3) and (4) of sub-
3 section (d) and with subsection (e).

4 **SEC. 205. LANDS NOT OPEN TO LOCATION.**

5 (a) LANDS.—Subject to valid existing rights, each of
6 the following shall not be open to the location of mining
7 claims under this Act on the date of enactment of this
8 Act:

9 (1) Lands recommended for wilderness designa-
10 tion by the agency managing the surface, pending a
11 final determination by the Congress of the status of
12 such lands.

13 (2) Lands being managed by the Bureau of
14 Land Management as wilderness study areas on the
15 date of enactment of this Act except where the loca-
16 tion of mining claims is specifically allowed to con-
17 tinue by the statute designating the study area,
18 pending a final determination by the Congress of the
19 status of such lands.

20 (3) Lands within Wild and Scenic River System
21 and lands under study for inclusion in such system,
22 pending a final determination by the Congress of the
23 status of such lands.

1 (4) Lands identified by the Bureau of Land
2 Management as Areas of Critical Environmental
3 Concern.

4 (5) Lands identified by the Secretary of Agri-
5 culture as Research Natural Areas.

6 (6) Lands designated by the Fish and Wildlife
7 Service as critical habitat for threatened or endan-
8 gered species.

9 (7) Lands administered by the Fish and Wild-
10 life Service.

11 (8) Lands which the Secretary shall designate
12 for withdrawal under authority of other law, includ-
13 ing lands which the Secretary of Agriculture may
14 propose for withdrawal by the Secretary of the Inte-
15 rior under authority of other law.

16 (b) DEFINITION.—As used in this section, the term
17 “valid existing rights” means that a mining claim located
18 on lands referred to in subsection (a) was properly located
19 and maintained under the general mining laws prior to
20 the date of enactment of this Act, and was supported by
21 a discovery of a valuable mineral deposit within the mean-
22 ing of the general mining laws on the date of enactment
23 of this Act, and that such claim continues to be valid.

(2) The Secretary of the Interior shall notify the Secretary of the Treasury as to what portion of the Fund is not, in his 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.

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1 (1) All moneys received from the collection of
2 rental fees under section 104 of this Act.

3 (2) Amounts collected pursuant to sections 105
4 and 202(d) of this Act.

5 (3) All moneys received from the disposal of
6 mineral materials pursuant to section 3 of the Mate-
7 rials Act of 1947 (30 U.S.C. 603) to the extent such
8 moneys are not specifically dedicated to other pur-
9 poses under other authority of law.

10 (4) Donations by persons, corporations, associa-
11 tions, and foundations for the purposes of this title.

12 (5) Amounts referred to in section 410(e)(1) of
13 this Act.

14 **SEC. 302. USE AND OBJECTIVES OF THE FUND.**

15 (a) IN GENERAL.—The Secretary is authorized to use
16 moneys in the Fund for the reclamation and restoration
17 of land and water resources adversely affected by past
18 mineral (other than coal and fluid minerals) and mineral
19 material mining, including but not limited to, any of the
20 following:

21 (1) Reclamation and restoration of abandoned
22 surface mined areas.

23 (2) Reclamation and restoration of abandoned
24 milling and processing areas.

1 (3) Sealing, filling, and grading abandoned deep
2 mine entries.

3 (4) Planting of land adversely affected by past
4 mining to prevent erosion and sedimentation.

5 (5) Prevention, abatement, treatment and con-
6 trol of water pollution created by abandoned mine
7 drainage.

8 (6) Control of surface subsidence due to aban-
9 doned deep mines.

10 (7) Such expenses as may be necessary to ac-
11 complish the purposes of this title.

12 (b) PRIORITIES.—Expenditure of moneys from the
13 Fund shall reflect the following priorities in the order stat-
14 ed:

15 (1) The protection of public health, safety, gen-
16 eral welfare and property from extreme danger from
17 the adverse effects of past minerals and mineral ma-
18 terials mining practices.

19 (2) The protection of public health, safety, and
20 general welfare from the adverse effects of past min-
21 erals and mineral materials mining practices.

22 (3) The restoration of land and water resources
23 previously degraded by the adverse effects of past
24 minerals and mineral materials mining practices.

1 **SEC. 303. ELIGIBLE AREAS.**

2 (a) ELIGIBILITY. —Lands and waters eligible for rec-
3 lamation expenditures under this Act shall be those within
4 the boundaries of States that have lands subject to this
5 Act and the Materials Act of 1947—

6 (1) which were mined or processed for minerals
7 and mineral materials or which were affected by
8 such mining or processing, and abandoned or left in
9 an inadequate reclamation status prior to the date
10 of enactment of this title; and

11 (2) for which the Secretary makes a determina-
12 tion that there is no continuing reclamation respon-
13 sibility under State or Federal laws; and

14 (3) for which it can be established that such
15 lands do not contain minerals which could economi-
16 cally be extracted through the reprocessing or
17 remining of such lands, unless such consideration
18 are in conflict with the priorities set forth under
19 paragraphs (1) and (2) of section 302(b).

20 In determining the eligibility under this subsection of
21 Federal lands and waters under the jurisdiction of the
22 Forest Service or Bureau of Land Management in lieu of
23 the date referred to in paragraph (1), the applicable date
24 shall be August 28, 1974, and November 26, 1980, respec-
25 tively.

1 (b) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—
2 Sites and areas designated for remedial action pursuant
3 to the Uranium Mill Tailings Radiation Control Act of
4 1978 (42 U.S.C. 7901 and following) or which have been
5 listed for remedial action pursuant to the Comprehensive
6 Environmental Response Compensation and Liability Act
7 of 1980 (42 U.S.C. 9601 and following) shall not be eligi-
8 ble for expenditures from the Fund under this title.

9 **SEC. 304. FUND ALLOCATION AND EXPENDITURES.**

10 (a) ALLOCATIONS.—(1) Moneys available for expend-
11 iture from the Fund shall be allocated on an annual basis
12 by the Secretary in the form of grants to eligible States,
13 or in the form of expenditures under subsection (b), to
14 accomplish the purposes of this title.

15 (2) The Secretary shall distribute moneys from the
16 Fund based on the greatest need for such moneys pursu-
17 ant to the priorities stated in section 302(b).

18 (b) DIRECT FEDERAL EXPENDITURES.—Where a
19 State is not eligible, or in instances where the Secretary
20 determines that the purposes of this title may best be ac-
21 complished otherwise, moneys available from the Fund
22 may be expended directly by the Director, Bureau of Land
23 Management. The Director may also make such money
24 available through grants made to the Chief of the United
25 States Forest Service, the Director of the National Park

1 Service, and any public entity that volunteers to develop
2 and implement, and that has the ability to carry out, all
3 or a significant portion of a reclamation program, or
4 through cooperative agreements between eligible States
5 and the entities referred to in this subsection.

6 **SEC. 305. STATE RECLAMATION PROGRAMS.**

7 (a) ELIGIBLE STATES.—For the purposes of section
8 304(a), “eligible States” are those States for which the
9 Secretary determines meets each of the following require-
10 ments:

11 (1) Within the State there are mined lands, wa-
12 ters, and facilities eligible for reclamation pursuant
13 to section 303.

14 (2) The State has developed an inventory of
15 such areas following the priorities established under
16 section 302(b).

17 (3) The State has established, and the Sec-
18 retary has approved, a State abandoned minerals
19 and mineral materials mine reclamation program for
20 the purpose of receiving and administering grants
21 under this subtitle.

22 (b) MONITORING.—The Secretary shall monitor the
23 expenditure of State grants to ensure they are being uti-
24 lized to accomplish the purposes of this title.

1 (c) STATE PROGRAMS.—(1) The Secretary shall ap-
2 prove any State abandoned minerals mine reclamation
3 program submitted to the Secretary by a State under this
4 title if the Secretary finds that the State has the ability
5 and necessary State legislation to implement such pro-
6 gram and that the program complies with the provisions
7 of this title and the regulations of the Secretary under
8 this title.

9 (2) No State, or a contractor for such State engaged
10 in approved reclamation work under this title, or a public
11 entity referred to in section 304(b), shall be liable under
12 any provision of Federal law for any costs or damages as
13 a result of action taken or omitted in the course of carry-
14 ing out an approved State abandoned minerals mine rec-
15 lamation program under this section. This paragraph shall
16 not preclude liability for cost or damages as a result of
17 gross negligence or intentional misconduct by the State.
18 For purposes of the preceding sentence, reckless, willful,
19 or wanton misconduct shall constitute gross negligence.

20 **SEC. 306. AUTHORIZATION OF APPROPRIATIONS.**

21 Amounts credited to the Fund are authorized to be
22 appropriated for the purpose of this title without fiscal
23 year limitation.

1 TITLE IV—ADMINISTRATIVE AND
2 MISCELLANEOUS PROVISIONS

3 **SEC. 401. POLICY FUNCTIONS.**

4 (a) MINERALS POLICY.—The Mining and Minerals
5 Policy Act of 1970 (30 U.S.C. 21a) is amended by adding
6 at the end thereof the following: “It shall also be the re-
7 sponsibility of the Secretary of Agriculture to carry out
8 the policy provisions of paragraphs (1) and (2) of this
9 Act.”.

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

18 **SEC. 402. USER FEES.**

19 The Secretaries of Interior and Agriculture are au-
20 thorized to establish and collect from persons subject to
21 the requirements of this Act such user fees as may be nec-
22 essary to reimburse the United States for a portion of the
23 expenses incurred in administering such requirements.
24 Fees may be assessed and collected under this section only
25 in such manner as may reasonably be expected to result

1 in an aggregate amount of the fees collected during any
2 fiscal year which does not exceed the aggregate amount
3 of administrative expenses referred to in this section.

4 **SEC. 403. REGULATIONS; EFFECTIVE DATES.**

5 (a) EFFECTIVE DATE.—This Act shall take effect 1
6 year after the date of enactment of this Act, except as
7 otherwise provided in this Act.

8 (b) REGULATIONS.—(1) The Secretary of the Interior
9 shall issue final regulations to implement title I, such re-
10 quirements of section 402 and 409 as may be applicable
11 to such title, title III and sections 404, 406, and 407 not
12 later than the effective date of this Act specified in sub-
13 section (a).

14 (2) The Secretary of the Interior and the Secretary
15 of Agriculture shall each issue final regulations to imple-
16 ment their respective responsibilities under title II, such
17 requirements of section 402 as may be applicable to such
18 title, and sections 405 and 409 not later than the effective
19 date of this Act referred to in subsection (a). The Sec-
20 retary of the Interior and the Secretary of Agriculture
21 shall coordinate the promulgation of such regulations.

22 (3) Failure to promulgate the regulations specified in
23 this subsection by the effective date of this Act by reason
24 of any appeal or judicial review shall not delay the effec-
25 tive date of this Act as specified in subsection (a).

1 (c) NOTICE.—Within 60 days after the publication of
 2 regulations referred to in subsection (b)(1), the Secretary
 3 of the Interior shall give notice to holders of mining claims
 4 and mill sites maintained under the general mining laws
 5 as to the requirements of section 404. Procedures for pro-
 6 viding such notice shall be established as part of the regu-
 7 lations.

8 (d) NEW MINING CLAIMS.—Notwithstanding any
 9 other provision of law, after the effective date of this Act,
 10 a mining claim for a locatable mineral on lands subject
 11 to this Act—

12 (1) may be located only in accordance with this
 13 Act,

14 (2) may be maintained only as provided in this
 15 Act, and

16 (3) shall be subject to the requirements of this
 17 Act.

18 **SEC. 404. TRANSITIONAL RULES; MINING CLAIMS AND MILL**
 19 **SITES.**

20 (a) CLAIMS UNDER THE GENERAL MINING LAWS.—

21 (1) CONVERTED MINING CLAIMS.—Notwithstanding any
 22 other provision of law, within the 3-year period after the
 23 effective date of this Act, the holder of any unpatented
 24 mining claim which was located under the general mining
 25 laws before the effective date of this Act may elect to con-

1 vert the claim under this paragraph by filing an election
2 to do so with the Secretary of the Interior that references
3 the Bureau of Land Management serial number of that
4 claim in the office designated by such Secretary. The pro-
5 visions of title I (other than subsections (a), (b), (c),
6 (d)(1), (f), and (h) of section 103) shall apply to any such
7 claim, effective upon the making of such election, and the
8 filing of such election shall constitute notice to the Sec-
9 retary for purposes of section 103(d)(2). Once a mining
10 claim has been converted, there shall be no distinction
11 made as to whether such claim was originally located as
12 a lode or placer claim.

13 (2) UNCONVERTED MINING CLAIMS.—Notwithstand-
14 ing any other provision of law, any claim referred to in
15 paragraph (1) that has not converted within the 3-year
16 period referred to in such paragraph shall be deemed for-
17 feited and declared null and void.

18 (3) CONVERTED MILL SITE CLAIMS.—Notwithstand-
19 ing any other provision of law, within the 3-year period
20 after the effective date of this Act, the holder of any
21 unpatented mill site which was located under the general
22 mining laws before the effective date of this Act may elect
23 to convert the site under this paragraph by filing an elec-
24 tion to do so with the Secretary of the Interior that ref-
25 erences the Bureau of Land Management serial number

1 of that mill site in the office designated by such Secretary.
2 The provisions of title I (other than subsections (a), (b),
3 (c), (d)(1), and (f) of section 103) shall apply to any such
4 claim, effective upon the making of such election, and the
5 filing of such election shall constitute notice to the Sec-
6 retary for purposes of section 103(d)(2). A mill site con-
7 verted under this paragraph shall be deemed a mining
8 claim under this Act.

9 (4) UNCONVERTED MILL SITE CLAIMS.—Notwith-
10 standing any other provision of law, any mill site referred
11 to in paragraph (3) that has not converted within the 3-
12 year period referred to in such paragraph shall be deemed
13 forfeited and declared null and void.

14 (5) TUNNEL SITES.—Any tunnel site located under
15 the general mining laws on or before the effective date
16 of this Act shall not be recognized as valid unless con-
17 verted pursuant to paragraph (1). No tunnel sites may
18 be located under the general mining laws after the effec-
19 tive date of this Act.

20 (b) SPECIAL APPLICATION OF REQUIREMENTS.—For
21 mining claims and mill sites converted under this section
22 each of the following shall apply:

23 (1) For the purposes of complying with the re-
24 quirements of section 103(d)(2), whenever the Sec-
25 retary receives an election under paragraphs (1) or

1 (3) of subsection (a), as the case maybe, he shall
2 provide the certificate referenced in section
3 103(d)(2) to the holder of the mining claim or mill
4 site.

5 (2) The first diligence year applicable to mining
6 claims and mill sites converted under this section
7 shall commence on the first day of the first month
8 following the date the holder of such claim or mill
9 site files an election to convert with the Secretary
10 under paragraphs (1) or (3) of subsection (a), as the
11 case may be, and subsequent diligence years shall
12 commence on the first day of that month each year
13 thereafter.

14 (3) For the purposes of determining the bound-
15 aries of a mining claim to which the rental require-
16 ments of section 104 apply for a mining claim or
17 mill site converted under this section, the rental fee
18 shall be paid on the basis of land within the bound-
19 aries of the converted mining claim or mill site as
20 described in the notice of location or certificate of lo-
21 cation filed under section 314 of the Federal Land
22 Policy and Management Act of 1976.

23 (c) PRECONVERSION.—Any unpatented mining claim
24 or mill site located under the general mining laws shall
25 be deemed to be a prior claim for the purposes of section

1 103(e) during the 3-year period referred to in subsections
2 (a)(1) or (a)(3).

3 (d) POSTCONVERSION.—Any unpatented mining
4 claim or mill site located under the general mining laws
5 shall be deemed to be a prior claim for the purposes of
6 section 103(e) if converted pursuant to subsections (a)(1)
7 or (a)(3).

8 (e) DISPOSITION OF LAND.—In the event a mining
9 claim is located under this Act for lands encumbered by
10 a prior mining claim or mill site located under the general
11 mining laws, such lands shall become part of the claim
12 located under this Act if the claim or mill site located
13 under the general mining laws is declared null and void
14 under this section or otherwise becomes null and void
15 thereafter.

16 (f) PREACT CONFLICTS.—(1) Any conflicts in exist-
17 ence on or before the date of enactment of this Act be-
18 tween holders of mining claims located under the general
19 mining laws may be resolved in accordance with applicable
20 laws governing such conflicts in effect on the date of en-
21 actment of this Act in a court with proper jurisdiction.

22 (2) Any conflicts not relating to matters provided for
23 under section 103(g) between the holders of a mining
24 claim located under this Act and a mining claim or mill
25 located under the general mining laws arising either before

1 or after the conversion of any such claim or site under
2 this section shall be resolved in a court with proper juris-
3 diction.

4 **SEC. 405. TRANSITIONAL RULES; SURFACE MANAGEMENT**
5 **REQUIREMENTS.**

6 (a) NEW CLAIMS.—Notwithstanding any other provi-
7 sion of law, any mining claim for a locatable mineral on
8 lands subject to this Act located after the date of enact-
9 ment of this Act, but prior to the effective date of this
10 Act, shall be subject to such surface management require-
11 ments as may be applicable to the mining claim in effect
12 prior to the date of enactment of this Act until the effec-
13 tive date of this Act, at which time such claim shall be
14 subject to the requirements of title II.

15 (b) PREEXISTING CLAIMS.—Notwithstanding any
16 other provision of law, any unpatented mining claim or
17 mill site located under the general mining laws shall be
18 subject to the requirements of title II as follows:

19 (1) In the event a plan of operations had not
20 been approved for mineral activities on any such
21 claim or site prior to the effective date of this Act,
22 the claim or site shall be subject to the requirements
23 of title II upon the effective date of this Act.

24 (2) In the event a plan of operations had been
25 approved for mineral activities on any such claim or

1 site prior to the effective date of this Act, such plan
2 of operations shall continue in force for a period of
3 5 years after the effective date of this Act, after
4 which time the requirements of title II shall apply,
5 except as provided under subsection (c), subject to
6 the limitations of section 204(d)(2). In order to meet
7 the requirements of section 201, the person conduct-
8 ing mineral activities under such plan of operations
9 shall apply for a modification under section 201(i).
10 During such 5-year period the provisions of section
11 202 shall apply on the basis of the surface manage-
12 ment requirements applicable to such plans of oper-
13 ations prior to the effective date of this Act.

14 (3) In the event a notice had been filed with the
15 authorized officer in the applicable district office of
16 the Bureau of Land Management (as provided for in
17 the regulations of the Secretary of the Interior in ef-
18 fect prior to the date of enactment of this Act relat-
19 ing to operations that cause a cumulative disturb-
20 ance of five acres or less) prior to the date of enact-
21 ment of this Act, mineral activities may continue
22 under such notice for a period of 2 years after the
23 effective date of this Act, after which time the re-
24 quirements of title II shall apply, except as provided
25 under subsection (c), subject to the limitations of

1 section 204(d)(2). In order to meet the requirements
2 of section 201, the person conducting mineral activi-
3 ties under such notice must apply for a modification
4 under section 201(i) unless such mineral activities
5 are conducted pursuant to section 201(b)(2). During
6 such 2-year period the provisions of section 202
7 shall apply on the basis of the surface management
8 requirements applicable to such notices prior to the
9 effective date of this Act.

10 (4) In the event a notice (as described in para-
11 graph (3)) had not been filed with the authorized of-
12 ficer in the applicable district office of the Bureau
13 of Land Management prior to the date of enactment
14 of this Act, the claim or site shall be subject to the
15 surface management requirements in effect prior to
16 the effective date of this Act at which time such
17 claims shall be subject to the requirements of title
18 II.

19 **SEC. 406. BASIS FOR CONTEST.**

20 (a) DISCOVERY.—After the effective date of this Act,
21 a mining claim may not be contested or challenged on the
22 basis of discovery under the general mining laws, except
23 as follows:

24 (1) Any claim located on or before the effective
25 date of this Act may be contested by the United

1 States on the basis of discovery under the general
2 mining laws as in effect prior to the effective date
3 of this Act if such claim is located within units of
4 the National Park System, National Wildlife Refuge
5 System, National Wilderness Preservation System,
6 Wild and Scenic Rivers System, National Trails Sys-
7 tem, or National Recreation Areas designated by an
8 Act of Congress, or within an area referred to in
9 section 205 pending a final determination referenced
10 in such section.

11 (2) Any mining claim located on or before the
12 effective date of this Act may be contested by the
13 United States on the basis of discovery under the
14 general mining laws as in effect prior to the effective
15 date of this Act if such claim was located for a min-
16 eral material that purportedly has a property giving
17 it distinct and special value within the meaning of
18 section 3(a) of the Act of July 23, 1955, or if such
19 claim was located for a mineral that was not
20 locatable under the general mining laws on or before
21 the effective date of this Act.

22 (b) The Secretary of the Interior or the Secretary of
23 Agriculture, as the case may be, may initiate contest pro-
24 ceedings against those mining claims referred to in sub-
25 section (a) at any time, except that nothing in this section

1 may be construed as requiring the Secretary to inquire
2 into or contest the validity of a mining claim for the pur-
3 pose of the conversion referred to in section 404.

4 (c) Nothing in this section may be construed as limit-
5 ing any contest proceedings initiated by the United States
6 under this section on issues other than discovery.

7 **SEC. 407. SAVINGS CLAUSE CLAIMS.**

8 (a) Notwithstanding any other provision of law, ex-
9 cept as provided under subsection (b), an unpatented min-
10 ing claim referred to in section 37 of the Mineral Leasing
11 Act (30 U.S.C. 193) may not be converted under section
12 404 until the Secretary of the Interior determines the
13 claim was valid on the date of enactment of the Mineral
14 Leasing Act and has been maintained in compliance with
15 the general mining laws.

16 (b) Immediately after the date of enactment of this
17 Act, the Secretary of the Interior shall initiate contest pro-
18 ceedings challenging the validity of all unpatented claims
19 referred to in subsection (a), including those claims for
20 which a patent application has not been filed. If a claim
21 is determined to be invalid, the Secretary shall promptly
22 declare the claim to be null and void.

23 (c) No claim referred to in subsection (a) shall be
24 declared null and void under section 404 during the period
25 such claim is subject to a proceeding under subsection (b).

1 If, as a result of such proceeding, a claim is determined
2 valid, the holder of such claim may comply with the re-
3 quirements of section 404(a)(1), except that the 3-year pe-
4 riod referred to in such section shall commence with the
5 date of the completion of the contest proceeding.

6 **SEC. 408. SEVERABILITY.**

7 If any provision of this Act or the applicability there-
8 of to any person or circumstances is held invalid, the re-
9 mainder of this Act and the application of such provision
10 to other persons or circumstances shall not be affected
11 thereby.

12 **SEC. 409. PURCHASING POWER ADJUSTMENT.**

13 The Secretary shall adjust all rental rates, penalty
14 amounts, and other dollar amounts established in this Act
15 for changes in the purchasing power of the dollar every
16 10 years following the date of enactment of this Act, em-
17 ploying the Consumer Price Index for all urban consumers
18 published by the Department of Labor as the basis for
19 adjustment, and rounding according to the adjustment
20 process of conditions of the Federal Civil Penalties Infla-
21 tion Adjustment Act of 1990 (104 Stat. 890).

22 **SEC. 410. ROYALTY.**

23 (a) RESERVATION OF ROYALTY.—Production of
24 locatable minerals (including associated minerals) from
25 any mining claim located or converted under this Act, or

1 mineral concentrates derived from locatable minerals pro-
2 duced from any mining claim located or converted under
3 this Act, as the case may be, shall be subject to a royalty
4 of not less than 8 percent of the gross income from the
5 production of such locatable minerals or concentrates, as
6 the case may be.

7 (b) ROYALTY PAYMENTS.—Royalty payments shall
8 be made to the United States not later than 30 days after
9 the end of the month in which the product is produced
10 and placed in its first marketable condition, consistent
11 with prevailing practices in the industry.

12 (c) REPORTING REQUIREMENTS.—All persons hold-
13 ing claims under this Act shall be required to provide such
14 information as determined necessary by the Secretary to
15 ensure compliance with this section, including, but not
16 limited to, quarterly reports, records, documents, and
17 other data. Such reports may also include, but not be lim-
18 ited to, pertinent technical and financial data relating to
19 the quantity, quality, and amount of all minerals extracted
20 from the mining claim.

21 (d) AUDITS.—The Secretary is authorized to conduct
22 such audits of all persons holding claims under this Act
23 as he deems necessary for the purposes of ensuring com-
24 pliance with the requirements of this section.

1 (e) DISPOSITION OF RECEIPTS.—All receipts from
2 royalties collected pursuant to this section shall be distrib-
3 uted as follows—

4 (1) 50 percent shall be deposited into the Fund
5 referred to in title III;

6 (2) 25 percent collected in any State shall be
7 paid to the State in the same manner as are pay-
8 ments to States under section 35 of the Mineral
9 Leasing Act; and

10 (3) 25 percent shall be deposited into the
11 Treasury of the United States.

12 (f) COMPLIANCE.—Any person holding claims under
13 this Act who knowingly or willfully prepares, maintains,
14 or submits false, inaccurate, or misleading information re-
15 quired by this section, or fails or refuses to submit such
16 information, shall be subject to the enforcement provisions
17 of section 202 of this Act and forfeiture of the claim.

18 (g) REGULATIONS.—The Secretary shall promulgate
19 regulations to establish gross income for royalty purposes
20 under subsection (a) and to ensure compliance with this
21 section.

22 (h) REPORT.—The Secretary shall submit to the Con-
23 gress an annual report on the implementation of this sec-
24 tion. The information to be included in the report shall
25 include, but not be limited to, aggregate and State-by-

1 State production data, and projections of mid-term and
2 long-term hard rock mineral production and trends on
3 public lands.

4 **SEC. 411. SAVINGS CLAUSE.**

5 (a) SPECIAL APPLICATION OF MINING LAWS.—Noth-
6 ing in this Act shall be construed as repealing or modify-
7 ing any Federal law, regulation, order or land use plan,
8 in effect prior to the effective date of this Act that pro-
9 hibits or restricts the application of the general mining
10 laws, including such laws that provide for special manage-
11 ment criteria for operations under the general mining laws
12 as in effect prior to the effective date of this Act, to the
13 extent such laws provide environmental protection greater
14 than required under this title.

15 (b) OTHER FEDERAL LAWS.—Nothing in this Act
16 shall be construed as superseding, modifying, amending
17 or repealing any provision of Federal law not expressly
18 superseded, modified, amended or repealed by this Act, in-
19 cluding but not necessarily limited to, all of the following
20 laws—

21 (1) the Clean Water Act (33 U.S.C. 1251 and
22 following);

23 (2) the Clean Air Act (42 U.S.C. 7401 and fol-
24 lowing);

1 (3) title IX of the Public Health Service Act
2 (the Safe Drinking Water Act (42 U.S.C. 300f and
3 following));

4 (4) the Endangered Species Act of 1973 (16
5 U.S.C. 1531 and following);

6 (5) the National Environmental Policy Act of
7 1969 (42 U.S.C. 4321 and following);

8 (6) the Atomic Energy Act of 1954 (42 U.S.C.
9 2011 and following);

10 (7) The Uranium Mill Tailings Radiation Con-
11 trol Act (42 U.S.C. 7901 to 7942);

12 (8) the Federal Mine Safety and Health Act of
13 1977 (30 U.S.C. 801 and following);

14 (9) the Solid Waste Disposal Act (42 U.S.C.
15 6901 and following);

16 (10) The Comprehensive Environmental Re-
17 sponse, Compensation, and Liability Act of 1980 (42
18 U.S.C. 9601 and following);

19 (11) the Act commonly known as the False
20 Claims Act (31 U.S.C. 3729 to 3731);

21 (12) the National Historic Preservation Act (16
22 U.S.C. 470 and following);

23 (13) the Migratory Bird Treaty Act (16 U.S.C.
24 706 and following); and

1 (14) the Forest and Rangeland Renewable Re-
 2 sources Planning Act of 1974, as amended by the
 3 National Forest Management Act of 1976.

4 (c) PROTECTION OF CONSERVATION AREAS.—In
 5 order to protect the resources and values of Denali Na-
 6 tional Park and Preserve, and all other National Con-
 7 servation System units, the Secretary of the Interior or
 8 other appropriate Secretary shall utilize authority under
 9 this Act and other applicable law to the fullest extent nec-
 10 essary to prevent mineral activities within the boundaries
 11 of such units that could have an adverse impact on the
 12 resources of values of such units.

13 **SEC. 412. AVAILABILITY OF PUBLIC RECORDS.**

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

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