

104TH CONGRESS
1ST SESSION

S. 639

To provide for the disposition of locatable minerals on Federal lands, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 28 (legislative day, MARCH 27), 1995

Mr. CAMPBELL (for himself and Mr. JOHNSTON) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To provide for the disposition of locatable minerals on Federal lands, 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) This Act may be referred to as the “Locatable
5 Mineral Mining Reform Act of 1995”.

6 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—DISPOSITION OF LOCATABLE MINERAL DEPOSITS

Sec. 101. Mining claims.

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- Sec. 105. Continuation of mining claims and mill sites.
- Sec. 106. Mineral patents.

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- Sec. 202. Notices and permits for mineral activities and claim locations.
- Sec. 203. Permits for exploration activities.
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- Sec. 401. Abandoned locatable minerals mine reclamation.
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TITLE V—TRANSITION RULES

- Sec. 501. Transition rules for mining claims.
- Sec. 502. Qualifications for fee simple patents.
- Sec. 503. Transition rules for surface management.

TITLE VI—ADMINISTRATIVE PROVISIONS

- Sec. 601. Effect on other laws.
- Sec. 602. Miscellaneous.
- Sec. 603. Purchasing power adjustment.
- Sec. 604. Mineral materials.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

- 3 (1) EXPLORATION.—The term “exploration”
- 4 means the use of methods and techniques causing
- 5 more than minimal disturbance to the environment
- 6 in order to determine the presence and characteris-

1 tics of a locatable mineral, when such use is not as-
2 sociated with mining, production, processing,
3 beneficiation or marketing of such mineral.

4 (2) FEDERAL LAND.—The term “Federal
5 land”—

6 (A) means land or an interest in land
7 owned by the United States open to the location
8 of mining claims under this Act; but

9 (B) for the purposes of title I, section 211
10 (b), (c), (d), (e), and (f), section 212, and title
11 III, does not include land that is subject to the
12 Act entitled “An Act to provide for stock-rais-
13 ing homesteads, and for other purposes,” ap-
14 proved December 29, 1916 (commonly known
15 as the “Stock Raising Homestead Act”) (43
16 U.S.C. 291 et seq.) or land in which only the
17 mineral interest is reserved to the United
18 States.

19 (3) GENERAL MINING LAWS.—The term “gen-
20 eral mining laws” means—

21 (A) sections 910, 2318 through 2330,
22 2332 through 2340, and 2343 through 2346 of
23 the Revised Statutes (30 U.S.C. 21, 22, 23, 26
24 through 28, 29, 30, 33 through 43, 46 through
25 48);

1 (B) the Mining and Minerals Policy Act of
2 1970 (30 U.S.C. 21a);

3 (C) the Act of April 26, 1882 (22 Stat. 49,
4 chapter 106; 30 U.S.C. 25, 31);

5 (D) Public Law 85-876 (30 U.S.C. 28-1,
6 28-2);

7 (E) the Act of June 21, 1949 (63 Stat.
8 214, chapter 232; 30 U.S.C. 28b through 28e,
9 54);

10 (F) the Act of March 3, 1881 (21 Stat.
11 505, chapter 140; 30 U.S.C. 32);

12 (G) the Act of May 5, 1876 (19 Stat. 52,
13 chapter 91; 30 U.S.C. 49);

14 (H) sections 15, 16, and 26 of the Act of
15 June 6, 1900 (31 Stat. 327, 328, 329, chapter
16 786; 30 U.S.C. 49a, 49c, 49d);

17 (I) section 2 of the Act of May 4, 1934
18 (48 Stat. 663, chapter 211; 30 U.S.C. 49b);

19 (J) the Act of March 2, 1907 (34 Stat.
20 1243, chapter 2559; 30 U.S.C. 49e, 49f);

21 (K) the Act of August 4, 1892 (27 Stat.
22 348, chapter 375; 30 U.S.C. 161);

23 (L) the Act of January 31, 1901 (31 Stat.
24 745, chapter 186; 30 U.S.C. 162);

1 (M) the Act of August 11, 1955 (69 Stat.
2 679, chapter 795; 30 U.S.C. 541 et seq.); and

3 (N) the Mining Claims Rights Restoration
4 Act of 1955 (30 U.S.C. 621 et seq.).

5 (4) LOCATABLE MINERAL.—The term
6 “locatable mineral”—

7 (A) means a mineral owned by the United
8 States that is not subject to disposition under
9 any Federal statute providing for the dispo-
10 sition of the mineral by lease or sale; but

11 (B) does not include a mineral that is—

12 (i) held in trust by the United States
13 for an Indian or an Indian tribe (as de-
14 fined in section 2 of the Indian Mineral
15 Development Act of 1982 (25 U.S.C.
16 2101)); or

17 (ii) owned by an Indian or an Indian
18 tribe (as defined in that section) that is
19 subject to a restriction against alienation
20 imposed by the United States.

21 (5) MINERAL ACTIVITY.—The term “mineral
22 activity” means an activity on Federal land for, re-
23 lated to, or incidental to exploration, mining, pro-
24 duction, beneficiation, processing, or reclamation for
25 any locatable mineral.

1 (6) MINING CLAIM.—The term “mining claim”
2 means a tract of Federal land or interest in land
3 that—

4 (A) does not exceed 40 acres;

5 (B) contains a valuable mineral deposit
6 that is located for the purpose of carrying out
7 exploration, mining, production, or reclamation
8 for—

9 (i) any locatable mineral situated
10 within the tract or beneficiation and proc-
11 essing for any locatable mineral; or

12 (ii) any mineral that would otherwise
13 be a locatable mineral if it were found on
14 Federal land; and

15 (C) is derived in part from a mining claim
16 that is subject to this Act or patented under the
17 general mining laws or this Act.

18 (7) NATIONAL CONSERVATION SYSTEM UNIT.—

19 The term “national conservation system unit”
20 means a national park or monument, a unit of the
21 National Wildlife Refuge System, or a unit of the
22 National Wilderness Preservation System.

23 (8) OPERATOR.—The term “operator” means a
24 person that conducts mineral activity subject to this

1 Act or an agent that conducts mineral activity on
2 behalf of such a person.

3 (9) PERSON.—The term “person” means an in-
4 dividual, Indian tribe, partnership, association, soci-
5 ety, joint venture, joint stock company, firm, com-
6 pany, limited liability company, corporation, coopera-
7 tive or other organization, and any instrumentality
8 of State or local government, including a publicly
9 owned utility or publicly owned corporation of a
10 State or local government.

11 (10) SECRETARY.—The term “Secretary”
12 means—

13 (A) the Secretary of Agriculture with re-
14 spect to land under the jurisdiction of the Sec-
15 retary of Agriculture that is subject to the re-
16 quirements of this Act; and

17 (B) the Secretary of the Interior with re-
18 spect to all other land that is subject to the re-
19 quirements of this Act.

20 **TITLE I—DISPOSITION OF**
21 **LOCATABLE MINERAL DEPOSITS**

22 **SEC. 101. MINING CLAIMS.**

23 (a) NEW LOCATIONS.—On and after the date of en-
24 actment of this Act, a mining claim may be located, on
25 land or an interest in land owned by the United States

1 open to location, only in accordance with this Act and with
2 such provisions of the general mining laws as are not in-
3 consistent with this Act.

4 (b) LOCATION OF CLAIMS.—

5 (1) DEFINITION.—In this subsection, the term
6 “eligible person” means a person who is a citizen of
7 the United States or a corporation organized under
8 the laws of the United States or of any State or the
9 District of Columbia.

10 (2) LOCATION.—An eligible person may locate
11 a mining claim for valuable locatable mineral depos-
12 its on land or an interest in land owned by the
13 United States open to the location of mining claims
14 by posting a notice of location disclosing—

15 (A) the person’s name and address;

16 (B) the time of location (which shall be the
17 date and hour of location and posting); and

18 (C) a legal description of the claim.

19 (3) POSTING.—A notice of location shall be
20 posted on a suitable durable monument erected as
21 near as practicable to the northeast corner of the
22 mining claim.

23 (c) USE OF PUBLIC LAND SURVEY.—

24 (1) IN GENERAL.—Except as provided in para-
25 graph (2)—

1 (A) a mining claim located under this Act
2 shall—

3 (i) be located in accordance with the
4 public land survey system; and

5 (ii) conform to the legal subdivisions
6 of that system; and

7 (B) the legal description of the mining
8 claim shall be based on the public land survey
9 system and its legal subdivisions.

10 (2) EXCEPTIONS.—

11 (A) PROTRACTED SURVEY.—If only a pro-
12 tracted survey exists for the Federal land con-
13 cerned—

14 (i) the legal description of the mining
15 claim shall be based on the protracted sur-
16 vey, and the mining claim shall be located
17 as near as practicable in conformance with
18 a protracted legal subdivision;

19 (ii) the mining claim shall be
20 monumented on the ground by the erection
21 of a conspicuous durable monument at
22 each corner of the claim; and

23 (iii) the legal description of the min-
24 ing claim shall include a reference to—

1 (I) an existing survey monument;

2 or

3 (II) if no such monument can be
4 found within a reasonable distance, to
5 a permanent natural object.

6 (B) NO SURVEY.—If no survey exists for
7 the Federal land concerned—

8 (i) the mining claim shall be a regular
9 square, with each side laid out in cardinal
10 directions, that best approximates legal
11 subdivisions;

12 (ii) the claim shall be monumented on
13 the ground by the erection of a conspicu-
14 ous durable monument at each corner of
15 the claim; and

16 (iii) the legal description of the min-
17 ing claim shall—

18 (I) be expressed in metes and
19 bounds;

20 (II) include a reference to any
21 existing survey monument, or where
22 no such monument can be found with-
23 in a reasonable distance, to a perma-
24 nent natural object; and

1 (III) be of sufficient accuracy
2 and completeness to permit recording
3 of the claim in the public land records
4 and to permit the Secretary and other
5 parties to find the claim on the
6 ground.

7 (d) FILING WITH SECRETARY.—Within 30 days after
8 the location of a mining claim under this section, a copy
9 of the notice of location described in subsection (b) shall
10 be filed with the Secretary of the Interior in an office des-
11 ignated by the Secretary of the Interior.

12 (e) LOCATION FEE.—

13 (1) IN GENERAL.—On and after September 30,
14 1998, notwithstanding any other law, for each
15 unpatented mining claim located after the date of
16 enactment of this Act, the claimant shall, at the
17 time the location notice is recorded with the Sec-
18 retary of the Interior, pay a location fee of \$25 per
19 claim.

20 (2) INTERIM PROVISION.—Until September 30,
21 1998, an unpatented mining claim located under
22 this Act shall be subject to section 10102 of the Om-
23 nibus Budget Reconciliation Act of 1993 (107 Stat.
24 406).

1 (f) DATE OF LOCATION.—A mining claim located
2 under this Act shall be effective based upon as of the time
3 of location.

4 (g) LANDS AND MINERALS INCLUDED IN CLAIM.—

5 (1) IN GENERAL.—A mining claim located
6 under this Act shall include all lands and interests
7 in lands owned by the United States open to location
8 within the boundaries of the claim, subject to any
9 prior claim.

10 (2) EXTENSION DOWNWARD.—The boundaries
11 of a mining claim located under this Act shall extend
12 vertically downward.

13 (3) RIGHT OF POSSESSION AND USE.—

14 (A) IN GENERAL.—A holder of a mining
15 claim under this Act and maintained in compli-
16 ance with this Act shall have the right of pos-
17 session and use of the claim and all other rights
18 incident to a mining claim under such provi-
19 sions of the general mining laws as are not in-
20 consistent with this Act, including the right to
21 use the surface for mineral activities, subject to
22 the rights of the United States under this Act
23 and other Federal law.

24 (B) TERMINATION.—The rights of a holder
25 of a claim under this Act shall terminate upon

1 cessation of the mineral activity described in
2 section 106(4), including completion of all rec-
3 lamation required by this Act.

4 (h) MILL SITES.—A mill site shall be subject to the
5 requirements and limitations of this Act pertaining to
6 mining claims and mineral activity, except that a mill site
7 shall—

8 (1) be no larger than 5 acres;

9 (2) be located only on nonmineralized Federal
10 land; and

11 (3) be used only for the purposes of—

12 (A) storage of minerals and materials re-
13 moved in part from a mining claim subject to
14 this Act or patented under the general mining
15 laws or this Act;

16 (B) beneficiation or processing of locatable
17 minerals (or any mineral that would otherwise
18 be a locatable mineral if it were found on Fed-
19 eral land) that are derived in part from mining
20 claims subject to this Act or patented under the
21 general mining laws or this Act;

22 (C) reclamation; or

23 (D) a use that is reasonably incident to a
24 use described in subparagraph (A), (B), or (C).

1 (i) CLAIM CONFLICTS.—A conflict between holders of
2 mining claims shall be resolved in accordance with applica-
3 ble Federal and State laws governing such conflicts, in-
4 cluding the general mining laws and this Act, in a court
5 of competent jurisdiction, including, as appropriate, a
6 State court.

7 (j) DISPOSITION OF LAND.—If a mining claim is lo-
8 cated under this Act for land that is encumbered by a
9 prior mining claim or a mill site that is located under the
10 general mining laws, the land or mill site shall become
11 part of the claim located under this Act if the claim or
12 mill site located under the general mining law is declared
13 void under this section or otherwise.

14 **SEC. 102. LANDS OPEN TO LOCATION.**

15 A mining claim may be located under this Act on
16 Federal land if—

17 (1) the land or interest in land was open to the
18 location of mining claims under the general mining
19 laws on the day preceding the date of enactment of
20 this Act, unless subsequently withdrawn; or

21 (2) the land or interest in land is opened to the
22 location of mining claims on or after the date of en-
23 actment of this Act by administrative action or by
24 statute, unless subsequently withdrawn.

1 **SEC. 103. ANNUAL CLAIM MAINTENANCE FEE.**

2 (a) FEE.—

3 (1) IN GENERAL.—On and after October 1,
4 1998, the holder of an unpatented mining claim
5 (other than an unpatented mining claim or mill site
6 held only for reclamation) shall pay to the Secretary
7 of the Interior on or before August 31 of each year
8 a claim maintenance fee of—

9 (A) \$100 for a claim located prior to
10 March 28, 1995; and

11 (B) \$200 for a claim located after March
12 28, 1995.

13 (2) RELIEF FOR ASSESSMENT WORK REQUIRE-
14 MENT.—Payment of a claim maintenance fee under
15 paragraph (1) shall relieve a claim holder of the as-
16 sessment work requirement of section 2324 of the
17 Revised Statutes (30 U.S.C. 28) and the related fil-
18 ing requirements of section 314 (a) and (c) of the
19 Federal Land Policy and Management Act of 1976
20 (43 U.S.C. 1744 (a) and (c)).

21 (3) INTERIM PROVISION.—For the period pre-
22 ceding October 1, 1998, an unpatented mining claim
23 shall be subject to section 10101 of the Omnibus
24 Budget Reconciliation Act of 1993 (107 Stat. 405).

1 (4) EXCEPTION.—No claim maintenance fee
2 shall be required for a mining claim or mill site on
3 which the only mineral activity is reclamation.

4 (b) TIME OF PAYMENT.—Notwithstanding subsection
5 (a), a claim maintenance fee payable for the initial assess-
6 ment year in which a location is made shall be paid at
7 the time the location notice is recorded with the Secretary
8 of the Interior.

9 (c) WAIVER.—

10 (1) IN GENERAL.—The annual claim mainte-
11 nance fee shall be waived for a claimant that cer-
12 tifies in writing to the Secretary of the Interior that
13 on the date the payment was due, the claimant and
14 all related parties held not more than 10 mining
15 claims.

16 (2) DEFINITION.—In paragraph (1):

17 (A) RELATED PARTY.—The term “related
18 party” includes—

19 (i) the spouse and a dependent child
20 (as defined in section 152 of the Internal
21 Revenue Code of 1986) of the claimant;
22 and

23 (ii) a person controlled by, controlling,
24 or under common control with the claim-
25 ant.

1 (B) CONTROL.—As used in subparagraph
2 (A), “control” means having the ability,
3 through actual control, to determine the man-
4 ner in which an entity conducts mineral activi-
5 ties.

6 (d) CO-OWNERSHIP.—

7 (1) NOTICE.—Upon the failure of a co-owner of
8 an unpatented mining claim to contribute the co-
9 owner’s portion of a claim maintenance fee, any co-
10 owner who has paid the fee may, after the payment
11 due date, give the delinquent co-owner notice of the
12 failure—

13 (A) in writing; or

14 (B) by publication in the newspaper that is
15 published nearest the claim at least once a week
16 for at least 90 days.

17 (2) FORFEITURE FOR FAILURE TO CONTRIB-
18 UTE.—If, at the expiration of 90 days after notice
19 has been given under paragraph (1), a delinquent
20 co-owner fails to contribute the co-owner’s portion of
21 a claim maintenance fee, the delinquent co-owner’s
22 interest shall become the property of any co-owner
23 that paid the fee.

24 (e) CREDIT AGAINST ROYALTY.—The amount of the
25 annual claim maintenance fee for any period shall be cred-

1 ited against the amount of royalty required to be paid
2 under section 301 for the same period with respect to that
3 claim.

4 (f) FEE ADJUSTMENTS.—

5 (1) NOTICE.—The Secretary of the Interior
6 shall provide a claimant notice of any adjustment
7 made under section 603 not later than July 1 of any
8 year in which the adjustment is made.

9 (2) APPLICABILITY.—A fee adjustment under
10 section 603 shall become applicable at the beginning
11 of the calendar year following the calendar year in
12 which it is made.

13 (g) OIL SHALE CLAIMS SUBJECT TO CLAIM MAINTENANCE FEES UNDER ENERGY POLICY ACT OF 1992.—
14 This section shall not apply to any oil share claims for
15 which a fee is required to be paid under section 2511(e)(2)
16 of the Energy Policy Act of 1992 (30 U.S.C. 242).

18 **SEC. 104. CLAIM LIMITATIONS.**

19 (a) FAILURE TO COMPLY.—

20 (1) FORFEITURE.—The failure of a claim hold-
21 er to pay a location fee or claim maintenance fee for
22 a mining claim as required by this title shall con-
23 stitute forfeiture of the mining claim, and such claim
24 shall be void.

1 (2) NO RELIEF FROM OBLIGATIONS.—Forfeit-
2 ure shall not relieve any person of any obligation
3 created under this Act, including reclamation.

4 (b) PROHIBITION.—A claimant may not locate a new
5 mining claim on the land or interest in land owned by the
6 United States included in a mining claim forfeited by the
7 claimant during the 12-month period following the date
8 on which the claim is forfeited unless the claimant locates
9 a new claim on that land or interest in land and pays a
10 \$50 claim relocation fee, which relocation fee shall be in
11 lieu of the location fee under section 101(e) and in addi-
12 tion to the claim maintenance fee under section 103.

13 **SEC. 105. CONTINUATION OF MINING CLAIMS AND MILL**
14 **SITES.**

15 (a) MINING CLAIMS.—The continued use, occupancy,
16 and retention of a mining claim subject to this Act shall
17 be exclusively for mineral activity.

18 (b) MILL SITES.—The continued use, occupancy, and
19 retention of a mill site subject to this Act shall be only
20 for the purposes stated in section 101(h)(3).

21 **SEC. 106. MINERAL PATENTS.**

22 (a) IN GENERAL.—Except as provided in section 502,
23 a mineral patent issued on or after the date of enactment
24 of this Act shall grant title to the locatable mineral estate
25 only.

1 (b) TERMS AND CONDITIONS.—A mineral patent
2 under subsection (a) shall—

3 (1) reserve to the United States the title to the
4 surface and mineral estate, other than the locatable
5 minerals, of the land to be patented;

6 (2) reserve to the United States the royalty re-
7 quired under section 310;

8 (3) include the right to use so much of the sur-
9 face overlying the patented mineral estate as may be
10 reasonably necessary for mineral activity, including
11 all such rights that the claimants would have under
12 the general mining laws that, subsequent to the date
13 of enactment of this Act, are not inconsistent with
14 this Act, if the claim were not patented, subject to
15 the reclamation and enforcement provisions of this
16 Act and subject to the Multiple Mineral Develop-
17 ment Act of 1954 (30 U.S.C. 521 et seq.), the Mate-
18 rials Act of 1947 (30 U.S.C. 601 et seq.), and the
19 Surface Resources Act of 1955 (30 U.S.C. 611 et
20 seq.); and

21 (4) subject to subsection (c), reserve a rever-
22 sionary interest by which the patented mineral es-
23 tate shall revert to the United States after cessation
24 of mineral activity for a period of 5 consecutive
25 years, not including any years during which mineral

1 activity is prohibited, suspended, or prevented by
2 governmental action or law.

3 (c) ENFORCEMENT ACTIONS AND WITHDRAWALS.—

4 (1) IN GENERAL.—An action may be taken
5 under section 211 of this Act or a withdrawal may
6 be made under section 204 of the Federal Land Pol-
7 icy and Management Act of 1976 (43 U.S.C. 1714)
8 following expiration of a 5-year period described in
9 subsection (b)(4).

10 (2) DECLARATION OF COMPLETION OF ACTIVI-
11 TIES.—The person holding the patent may declare
12 that mineral activities are completed prior to the end
13 of the 5-year period described in subsection (b)(4),
14 and the patented mineral estate shall revert to the
15 United States upon such a declaration.

16 (3) HEARING.—Before a reversion under para-
17 graph (2) becomes effective, the person holding the
18 patent may request a hearing before the Secretary,
19 and if, at the hearing, the person demonstrates
20 plans to continue mineral activity within 2 years
21 after the end of the 5-year period described in sub-
22 section (b)(4), the interest shall not revert to the
23 United States.

24 (4) EXTENSION.—The Secretary may grant an
25 extension of the 5-year period described in sub-

1 section (b)(4), but the patented mineral estate shall
2 revert to the United States after cessation of the
3 mineral activity.

4 (5) RECLAMATION.—Notwithstanding a rever-
5 sion of a patented mineral estate, the patentee and
6 the patentee’s successors or assigns shall remain re-
7 sponsible for reclamation as required by this Act and
8 for all other applicable requirements.

9 (6) LOCATION.—Land that reverts to the
10 United States under this section shall remain open
11 to the location of mining claims and mill sites, un-
12 less withdrawn.

13 **TITLE II—MINERAL ACTIVITIES**

14 **SEC. 201. DEFINITION.**

15 In this title, the term “minimal disturbance” means
16 a minor, short-term alteration of the environment.

17 **SEC. 202. NOTICES AND PERMITS FOR MINERAL ACTIVITIES** 18 **AND CLAIM LOCATIONS.**

19 (a) NOTICE OF INTENTION TO OPERATE.—

20 (1) IN GENERAL.—Except as provided in para-
21 graph (2), a person shall not engage in a mineral ac-
22 tivity or claim location activity that causes a mini-
23 mal disturbance to the environment unless the per-
24 son has filed a notice of intention to operate with
25 the Secretary.

1 (2) LESS THAN MINIMAL DISTURBANCE.—A
2 person may engage in a mineral activity or claim lo-
3 cation activity that causes less than a minimal dis-
4 turbance to the environment without filing a notice
5 of intention under paragraph (1).

6 (b) PERMIT.—A person shall not engage in a mineral
7 activity or claim location activity that may cause more
8 than a minimal disturbance to the environment unless the
9 person obtains an exploration permit under section 203
10 or a mining permit under section 204 that authorizes the
11 activity.

12 **SEC. 203. PERMITS FOR EXPLORATION ACTIVITIES.**

13 (a) APPLICATION.—Prior to initiating an exploration
14 activity on Federal land causing more than a minimal dis-
15 turbance, a person shall apply for an exploration permit.

16 (b) REQUIREMENTS.—An application for an explo-
17 ration permit under this section shall be submitted in a
18 manner prescribed by the Secretary and shall contain—

19 (1) an exploration plan;

20 (2) a reclamation plan for the proposed explo-
21 ration activity demonstrating that the applicant will
22 reclaim in accordance with the reclamation provi-
23 sions of this Act (including possible modifications of
24 such reclamation provisions under subsection 208);

1 (3) evidence of adequate financial assurance as
2 may be required under section 205;

3 (4) documentation sufficient to demonstrate
4 that the proposed exploration activity will comply
5 with applicable Federal and State environmental
6 laws and regulations; and

7 (5) other relevant information that may be nec-
8 essary to satisfy the requirements of this Act.

9 (c) ISSUANCE.—

10 (1) IN GENERAL.—The Secretary shall approve
11 a permit application and issue an exploration permit
12 if the application is in compliance with the require-
13 ments of this Act, any regulations promulgated pur-
14 suant to this Act, and other applicable law.

15 (2) CONDITIONS.—The Secretary may reason-
16 ably condition the approval of an exploration permit
17 to satisfy the requirements of this Act.

18 (d) MINERAL REMOVAL.—An exploration permit
19 shall not authorize the permit holder to remove any min-
20 eral for sale or to conduct any activities other than those
21 required for exploration for locatable minerals and for
22 reclamation.

23 (e) PERMIT MODIFICATION.—

1 (1) APPLICATION.—The holder of an explo-
2 ration permit may submit an application to modify
3 the permit.

4 (2) DETERMINATIONS.—To approve a proposed
5 modification to an exploration permit, the Secretary
6 shall make the same determinations as are required
7 in the case of an original exploration permit unless
8 the nature or limited extent of the proposed modi-
9 fication makes it unnecessary.

10 **SEC. 204. MINING PERMITS.**

11 (a) PERMIT APPLICATION REQUIREMENTS.—An ap-
12 plication for a mining permit shall be submitted in a man-
13 ner prescribed by the Secretary and shall contain—

14 (1) information describing the condition of the
15 land and water resources of the area before the com-
16 mencement of mineral activity;

17 (2) an operations plan demonstrating that the
18 applicant will operate in accordance with the stand-
19 ards of this Act and implementing regulations;

20 (3) a reclamation plan for the proposed mineral
21 activity demonstrating that the applicant will re-
22 claim in accordance with the reclamation provisions
23 of this Act;

24 (4) evidence of adequate financial assurance
25 under section 205;

1 (5) documentation establishing that the appli-
2 cant is eligible to receive a permit under section 207;

3 (6) documentation sufficient to demonstrate
4 that the proposed mineral activity will comply with
5 applicable Federal and State environmental laws and
6 regulations; and

7 (7) other relevant information that may be nec-
8 essary to satisfy the requirements of this Act.

9 (b) ISSUANCE.—

10 (1) IN GENERAL.—Subject to paragraph (3),
11 the Secretary shall approve a permit application and
12 issue a mining permit if the application is in compli-
13 ance with the requirements of this Act, any regula-
14 tions promulgated pursuant to this Act, and other
15 applicable law.

16 (2) CONDITIONS.—The Secretary may reason-
17 ably condition the approval of a mining permit to
18 satisfy the requirements of this Act.

19 (3) NATIONAL CONSERVATION SYSTEM
20 UNITS.—In the case of an application for a mining
21 permit for mineral activity located in close proximity
22 to a national conservation system unit, the Secretary
23 shall approve the application and issue a mining per-
24 mit only if—

1 (A) the application is in compliance with
2 the requirements of this Act, any regulations
3 promulgated pursuant to this Act, and other
4 applicable law; and

5 (B) the Secretary determines that condi-
6 tions can be imposed to ensure that—

7 (i) the proposed mineral activity will
8 not significantly degrade the wildlife values
9 of the national conservation system unit;

10 (ii) the noise and traffic impacts of
11 the mineral activity will not significantly
12 degrade the values for which the national
13 conservation system unit was established;
14 and

15 (iii) any adverse visual impacts associ-
16 ated with mineral activity will be mini-
17 mized so as not to significantly degrade
18 the values for which the national conserva-
19 tion system unit was established.

20 (c) PERMIT MODIFICATION.—

21 (1) APPLICATION.—The holder of a mining per-
22 mit may submit an application to modify the permit.

23 (2) DETERMINATIONS.—To approve a proposed
24 modification to a mining permit, the Secretary shall
25 make the same determinations as are required in the

1 case of an original mining permit unless the nature
2 or limited extent of the proposed modification makes
3 it unnecessary.

4 **SEC. 205. FINANCIAL ASSURANCES.**

5 (a) EVIDENCE OF FINANCIAL ASSURANCE.—Prior to
6 the commencement of any mineral activity requiring an
7 exploration permit or mining permit, an applicant for a
8 permit shall furnish evidence to the Secretary of a bond,
9 surety, or other financial assurance (including the use of
10 a bonding pool) in an amount determined by the Secretary
11 that is not less than the estimated cost to complete rec-
12 lamation as required by this Act.

13 (b) REVIEW OF ASSURANCE.—Not later than 5 years
14 after a financial assurance is provided, and at least each
15 5 years thereafter, the Secretary shall review the financial
16 assurance for adequacy under this section.

17 (c) ADJUSTMENT.—The Secretary may adjust the
18 amount of the required financial assurance upon a deter-
19 mination by the Secretary that a portion of the reclama-
20 tion is completed as required by this Act.

21 (d) NOTICE AND COMMENT.—Prior to reduction in
22 or final release of financial assurance, the Secretary shall
23 provide public notice and opportunity for written com-
24 ment.

1 (e) FINANCIAL ASSURANCE FOR INCREMENTS.—A fi-
2 nancial assurance for an increment for mineral activity
3 may be authorized if—

4 (1) no mineral activity is allowed in addition to
5 that for which a financial assurance is posted under
6 subsection (a);

7 (2) the financial assurance for an increment
8 covers all reclamation costs within the permit area
9 for that increment; and

10 (3) the amount and terms of the financial as-
11 surance for each increment are reviewed annually.

12 **SEC. 206. TRANSFERS, ASSIGNMENTS, AND SALES OF**
13 **RIGHTS.**

14 (a) IN GENERAL.—The approval of the Secretary
15 shall be required prior to the transfer, assignment, or sale
16 of rights under an exploration or mining permit.

17 (b) APPROVAL.—The Secretary shall approve the
18 transfer, assignment, or sale of rights of an exploration
19 or mining permit if—

20 (1) the successor in interest agrees to assume
21 the liability and reclamation responsibilities (includ-
22 ing the financial assurance provisions under section
23 205) established by the permit under this Act (with-
24 out affecting the transferor's liability under any
25 other law); and

1 (2) the requirements of section 207 are met.

2 **SEC. 207. PERSONS INELIGIBLE FOR PERMITS.**

3 (a) PERMIT VIOLATORS.—The Secretary shall not
4 issue an exploration permit or mining permit or approve
5 the assignment, sale, or other transfer of a permit to any
6 person, or to any other person that is controlled by or
7 under common control with the person, during any period
8 in which the person has failed to comply in any respect
9 with a reclamation requirement or other standard estab-
10 lished under this title for any permit issued previously to
11 that person under this Act.

12 (b) NOTICE.—Prior to making a determination that
13 a person has failed to comply with a reclamation require-
14 ment or other standard, the Secretary shall provide notice
15 and an opportunity to comply and shall consider whether
16 any administrative or judicial appeal is pending.

17 (c) COMPLIANCE.—If a person who has failed to com-
18 ply comes into compliance with the requirement or stand-
19 ard concerned, a permit may be issued or an assignment,
20 sale, or transfer approved.

21 (d) DEFINITION.—In this section, the term “control”
22 means having the ability, through actual control, to deter-
23 mine the manner in which a person conducts mineral
24 activity.

1 **SEC. 208. OPERATIONS AND RECLAMATION STANDARDS.**

2 (a) DEFINITION.—In this section, the term “best
3 technology currently available” means equipment, devices,
4 and methods that have demonstrated engineering and eco-
5 nomic feasibility, success, and practicality, as determined
6 by the Secretary on a case-by-case basis during the review
7 process for an exploration permit or mining permit, under
8 criteria established by the Secretary, in consultation with
9 the States.

10 (b) OPERATIONS.—A mineral activity on Federal
11 land shall employ the best technology currently available
12 to minimize adverse impact to the environment.

13 (c) RECLAMATION.—Using the best technology cur-
14 rently available, an operator shall reclaim land on which
15 mineral activity has been conducted to return the land to
16 such a condition as will make the land capable of support-
17 ing the uses that the land supported prior to surface dis-
18 turbance by the operator or to other beneficial uses that
19 are consistent with the applicable Federal land use plan.

20 (d) MONITORING.—The Secretary shall require an
21 operator to develop and maintain appropriate monitoring
22 and evaluation systems to monitor compliance with this
23 section.

24 (e) REGULATIONS.—

25 (1) IN GENERAL.—Not later than 2 years after
26 the date of enactment of this Act, the Secretary

1 shall develop regulations establishing operating and
2 reclamation standards for mineral activity consistent
3 with the standards in subsections (b) and (c).

4 (2) CONSULTATION.—

5 (A) IN GENERAL.—In developing regula-
6 tions under this subsection, the Secretary shall
7 work in close consultation with, and give careful
8 consideration to, the comments of the States
9 that are affected by such regulations.

10 (B) INAPPLICABILITY OF FACA.—The Fed-
11 eral Advisory Committee Act (5 U.S.C. App.)
12 shall not apply to the participation by States in
13 development of regulations, cooperative agree-
14 ments, guidelines, or other such instruments.

15 (3) STATE STANDARDS.—The regulations under
16 this subsection shall, to the maximum extent prac-
17 ticable, adopt the operations and reclamation stand-
18 ards of a State, with respect to an activity in that
19 State, if such standards meet or exceed the stand-
20 ards in subsections (b) and (c).

21 (4) REGIONAL AND SITE-SPECIFIC STAND-
22 ARDS.—In developing regulations this subsection,
23 and in cooperative agreements, guidelines, or such
24 other instruments, the Secretary shall establish re-

1 regional and site-specific operating and reclamation
2 standards that—

3 (A) are consistent with the standards in
4 subsections (b) and (c); and

5 (B) take appropriate account of differences
6 in terrain, soils, vegetation, water resources, ge-
7 ology, climate, wildlife populations, and other
8 relevant regional, site-specific, or mineral-spe-
9 cific factors.

10 (5) COMPLIANCE WITH NEPA.—Section 102 of
11 the National Environmental Policy Act (42 U.S.C.
12 4332) shall not apply to the development or issuance
13 of regulations under this subsection.

14 (6) OPERATING AND RECLAMATION STAND-
15 ARDS.—The regulations under this subsection shall
16 set forth operating and reclamation standards that
17 provide for the following:

18 (A) REVEGETATION.—The area disturbed
19 by mineral activities shall be revegetated to es-
20 tablish a diverse, effective, and permanent vege-
21 tative cover.

22 (B) TOPSOIL AND OTHER SUITABLE
23 GROWTH MEDIA.—

24 (i) IN GENERAL.—Except as provided
25 in clause (ii), the operator shall remove

1 topsoil or other growth media from the
2 lands disturbed by mineral activities and
3 segregated and stored for later use in
4 revegetation during reclamation.

5 (ii) MEDIA OF POOR QUALITY.—If
6 topsoil or growth media are of such poor
7 quality as not to be reasonably effective in
8 sustaining vegetation or if other strata or
9 suitable growth media can be shown to be
10 more suitable for vegetation requirements,
11 the operator shall remove, segregate, and
12 preserve, in a like manner, such other
13 strata or suitable growth media as are best
14 able to support vegetation.

15 (C) STRUCTURAL STABILITY.—

16 (i) SURFACE AREAS.—Surface areas
17 disturbed by mineral activity, including
18 spoil piles, shall be stabilized and protected
19 so as to effectively control erosion and to
20 otherwise comply with applicable air, water
21 quality, toxic substance, solid waste, and
22 other environmental laws.

23 (ii) FACILITIES.—Facilities such as
24 basins and ditches shall be designed, con-
25 structed, and maintained where necessary

1 to control sediments, erosion, and drainage
2 of the area subject to mineral activity and
3 to otherwise comply with air, water quality,
4 toxic substance, solid waste, and other en-
5 vironmental laws.

6 (D) GRADING AND CONTOURING.—Surface
7 areas disturbed by mineral activity shall be
8 shaped, graded, and contoured to blend with
9 the surrounding topography or to a final topog-
10 raphy consistent with the post-mining land use
11 pursuant to subsection (c), except that back-
12 filling of open pits shall not be required.

13 (E) SEALING.—All drill holes and under-
14 ground openings shall be sealed, filled, or other-
15 wise controlled.

16 (F) TRANSPORTATION FACILITIES.—All
17 roads, conveyors, buildings, and other associ-
18 ated facilities not needed for public or govern-
19 mental use shall be removed or reclaimed, as
20 appropriate.

21 (G) LEACH PADS.—Leach pads shall be
22 neutralized and stabilized to protect public
23 health and safety, and the environment.

24 (H) FISH AND WILDLIFE.—

1 (i) FISH AND WILDLIFE RE-
2 SOURCES.—Measures shall be taken to
3 protect fish and wildlife resources from
4 portions of the area subject to mineral ac-
5 tivity that are potentially harmful to fish
6 and wildlife.

7 (ii) FISH AND WILDLIFE HABITAT.—
8 All fish and wildlife habitat in areas sub-
9 ject to mineral activity shall be reclaimed,
10 but the Secretary and the operator may
11 agree that the operator may create or en-
12 hance off-site habitat to mitigate the effect
13 of on-site impacts.

14 (f) SURFACE AND GROUND WATER QUALITY.—

15 (1) GUIDELINES.—The Secretary, acting
16 through the Director of the United States Geological
17 Survey, shall work with the States to—

18 (A) study the impacts of mineral activities
19 on surface and ground water quality; and

20 (B) develop advisory guidelines that the
21 States may follow in the regulation of mineral
22 activity.

23 (2) BEST TECHNOLOGY CURRENTLY AVAIL-
24 ABLE.—The Secretary shall provide information con-
25 cerning the best technology currently available to

1 minimize adverse impact to surface and ground
2 water quality.

3 (g) EXPLORATION.—The Secretary shall establish
4 separate reclamation requirements for exploration permits
5 based upon the extent and impact of exploration activities,
6 and such separate requirements shall meet the standards
7 in subsections (a), (b), and (d).

8 (h) EFFECT ON OTHER LAWS.—

9 (1) IN GENERAL.—Nothing in this section shall
10 be construed—

11 (A) to supersede, modify, amend, or repeal
12 any other provision of Federal law, or State law
13 or regulation or program delegated pursuant
14 thereto, that is not expressly superseded, modi-
15 fied, amended, or repealed by this section;

16 (B) to supersede any State law with re-
17 spect to water quantity; or

18 (C) to supersede any generally applicable
19 law, regulation, or requirement of any State re-
20 lating to surface management requirements to
21 the extent that such law, regulation, or require-
22 ment is at least as stringent as the require-
23 ments of this section.

24 (2) CONSTRUCTION OF OTHER LAWS.—Any
25 generally applicable State law or regulation relating

1 to surface management that meets or exceeds the re-
2 quirements of this section shall be construed to be
3 consistent with the requirements of this section.

4 (3) AGENCY RESPONSIBILITIES.—Nothing in
5 this section shall be construed to alter, supersede, or
6 limit the authorities or responsibilities of any Fed-
7 eral agency under any other law or to affect or mod-
8 ify in any way the obligation or liabilities of any per-
9 son under any other law.

10 **SEC. 209. FEDERAL AND STATE ROLES.**

11 (a) RELATION TO STATE LAW.—Any State reclama-
12 tion, financial guarantee, or inspection standard or re-
13 quirement that meets or exceeds the requirements of this
14 Act shall be construed to be consistent with the require-
15 ments of this Act.

16 (b) COOPERATIVE AGREEMENTS.—

17 (1) IN GENERAL.—Upon request by a State,
18 the Secretary shall enter into a cooperative agree-
19 ment with the State for joint administration of the
20 requirements of this Act relating to permitting, op-
21 erations, financial assurances, reclamation, inspec-
22 tion, monitoring, and enforcement, and in accord-
23 ance with title IV, an abandoned mine land pro-
24 gram, if the Secretary determines in writing that—

1 (A) the terms of the cooperative agreement
2 fully comply with the requirements of this Act;
3 and

4 (B) the State has the capability to carry
5 out the terms of the cooperative agreement, in-
6 cluding sufficient qualified administrative and
7 technical personnel and funding necessary to
8 carry out the agreement.

9 (2) COVERAGE.—A cooperative agreement may
10 cover some or all of the responsibilities enumerated
11 in this paragraph and may cover some or all mineral
12 activities within a State.

13 (3) PERMITTING PROCESS.—

14 (A) IN GENERAL.—Under a cooperative
15 agreement, a State and the Secretary may
16 jointly permit mineral activity affecting Federal
17 lands.

18 (B) LEAD AGENCY.—The State and the
19 Secretary may decide that either the State or
20 the Secretary shall be the lead agency in the
21 permitting process.

22 (C) TIMELY DECISIONS.—The State may,
23 and the Secretary shall, make an independent
24 and timely decision regarding individual permit
25 applications under this Act.

1 (4) LAND USE PLANNING AND SITING OF AC-
2 TIVITIES.—All decisions and reviews regarding Fed-
3 eral land use planning and the siting of mineral ac-
4 tivities shall be made by the Secretary.

5 (5) INSPECTIONS, MONITORING, AND ENFORCE-
6 MENT.—A cooperative agreement shall provide
7 that—

8 (A) the State may conduct inspections and
9 monitoring activities and take enforcement ac-
10 tions as necessary to obtain compliance with the
11 requirements of this Act; and

12 (B) the Secretary or the State, or both the
13 Secretary and the State, shall conduct at least
14 1 complete inspection each year for mineral ac-
15 tivity on Federal land and take any enforce-
16 ment action required by this Act if a violation
17 is observed during the inspection.

18 (6) FINANCIAL ASSURANCE.—

19 (A) BASIS OF CALCULATION; BOND.—
20 Under a cooperative agreement, the financial
21 assurance for reclamation shall be calculated
22 based on the completion of both Federal and
23 State reclamation requirements, and may be
24 held as a single bond payable to both the
25 United States and the State.

1 (B) APPROVAL AND RELEASE.—

2 (i) FEDERAL LAND.—The approval
3 and release of a financial assurance shall
4 be by the Secretary for Federal land, ex-
5 cept when the mineral activity covered by
6 the assurance also affects land other than
7 Federal land, in which case the State shall
8 concur in the approval and release of the
9 assurance.

10 (ii) OTHER LAND.—The approval and
11 release of a financial assurance shall be by
12 a State for land other than Federal land,
13 except when the mining activity covered by
14 the assurance also affects land or an inter-
15 est in Federal land, in which case the Sec-
16 retary shall concur in the approval and re-
17 lease of the assurance.

18 (7) REIMBURSEMENT OF REGULATORY
19 COSTS.—If a cooperative agreement is entered into
20 under this subsection, the Secretary shall, subject to
21 the availability of appropriations, reimburse the
22 State for its regulatory costs in an amount approxi-
23 mating, but not exceeding, the amount that the Fed-
24 eral Government would have expended for such regu-

1 lation if the State had not entered into the coopera-
2 tive agreement.

3 (8) FAILURE OF PERFORMANCE.—

4 (A) IN GENERAL.—A cooperative agree-
5 ment under this subsection shall provide that—

6 (i) the Secretary may take appro-
7 priate action, which may include termi-
8 nation of a cooperative agreement, upon a
9 determination by the Secretary that State
10 performance under the agreement is not in
11 compliance with the agreement, this Act,
12 or implementing regulations; and

13 (ii) prior to taking any such action,
14 the Secretary shall provide notice to the
15 State and the State shall have a reasonable
16 time in which to comply with the agree-
17 ment, this Act, or implementing regula-
18 tions, as the case may be.

19 (9) TERMINATION BY THE STATE.—A State
20 may terminate a cooperative agreement under this
21 subsection upon notice to the Secretary.

22 (c) PRIOR AGREEMENTS.—Any cooperative agree-
23 ment or understanding between the Secretary and any
24 State related to the surface management of mineral activ-
25 ity on land subject to this Act that was in existence on

1 the date of enactment of this Act shall continue in force
2 after the effective date of this Act to the extent that the
3 agreement is consistent with the requirements of this Act.

4 **SEC. 210. INSPECTION.**

5 (a) ANNUAL INSPECTIONS.—

6 (1) IN GENERAL.—The Secretary (or in the
7 case of a State with which the Secretary has entered
8 into a cooperating agreement under section 209, the
9 Secretary and the State, under the terms of the co-
10 operative agreement) shall conduct a complete in-
11 spection of all mineral activity subject to a mining
12 permit at least once each year to ensure compliance
13 with the terms of the permit and the requirements
14 of this Act.

15 (2) ADDITIONAL INSPECTION.—The Secretary
16 may conduct inspections more frequently than once
17 a year.

18 (3) SEASONAL ACTIVITIES.—The Secretary may
19 modify the inspection frequency for a mineral activ-
20 ity that is conducted on a seasonal basis.

21 (b) REVEGETATION.—After revegetation has been es-
22 tablished in accordance with the approved plan, the Sec-
23 retary shall conduct at least 2 complete inspections annu-
24 ally until final release of the financial assurance.

1 **SEC. 211. ENFORCEMENT.**

2 (a) NOTICES OF NONCOMPLIANCE; CIVIL ACTIONS.—

3 (1) MANDATORY ACTION.—Subject to para-
4 graph (2), if the Secretary finds that a person has
5 failed to comply with a surface management require-
6 ment under this Act, the Secretary shall—

7 (A) issue a notice of noncompliance order-
8 ing the person to comply with the requirement;
9 or

10 (B) request the Attorney General to bring
11 a civil action in accordance with subsection (b).

12 (2) DISCRETIONARY ACTION.—

13 (A) IN GENERAL.—The Secretary may, but
14 is not required to, issue a notice of noncompli-
15 ance or bring a civil action under paragraph (1)
16 if—

17 (i) the failure to comply can be cor-
18 rected within 30 days;

19 (ii) the failure to comply is not caus-
20 ing and is not likely to cause environ-
21 mental harm;

22 (iii) the failure to comply is not 1 of
23 a series of intermittent failures to comply;
24 and

25 (iv) the Secretary has informed the
26 operator of the failure to comply.

1 (B) CONTINUED NONCOMPLIANCE.—In the
2 case of a continued existence of a failure to
3 comply described in subparagraph (A) for 30
4 days after the Secretary informs the operator of
5 its existence, the Secretary shall file a notice of
6 noncompliance or request the Attorney General
7 to bring a civil action in accordance with sub-
8 section (b).

9 (3) CONTENTS OF NOTICE.—A notice of non-
10 compliance under paragraph (1)—

11 (A) shall state the nature of the failure to
12 comply;

13 (B) shall require compliance within a spec-
14 ified period of time that the Secretary deter-
15 mines to be reasonable; and

16 (C) may require specific abatement meas-
17 ures.

18 (4) EXTENSION OF TIME.—The Secretary may
19 extend the time specified a notice of noncompliance
20 for compliance for a period of time that the Sec-
21 retary determines to be reasonable, taking into ac-
22 count the seriousness of the failure to comply and
23 any good faith efforts to comply with applicable re-
24 quirements.

1 (5) ORDER TO CEASE ACTIVITY.—If the Sec-
2 retary finds that—

3 (A) a failure to comply has not been
4 abated within the time specified for compliance
5 in a notice of noncompliance; or

6 (B) a condition, practice, or failure to com-
7 ply with a surface management requirement is
8 causing or can reasonably be expected to cause
9 an imminent danger to the health or safety of
10 the public or significant, imminent harm to
11 land, air, water, fish, or wildlife resources,

12 the Secretary shall immediately order cessation of all
13 mineral activities or of the mineral activity that is
14 related to the condition, practice, or failure to com-
15 ply and shall order abatement of the condition, prac-
16 tice, or failure to comply.

17 (6) FAILURE TO ABATE NONCOMPLIANCE.—If a
18 person conducting mineral activity subject to surface
19 management requirement under this Act fails to
20 abate a material failure to comply or defaults on a
21 material term of a permit, the Secretary shall—

22 (A) effect a forfeiture of the financial as-
23 surance for the permit as necessary to ensure
24 abatement and reclamation under this Act; or

1 (B) prescribe conditions under which a
2 surety may perform abatement or reclamation
3 in accordance with the approved plan.

4 (b) CIVIL ACTIONS.—At the request of the Secretary,
5 the Attorney General may institute a civil action in the
6 district court of the United States for any district in which
7 the affected operation or defendant is located for a tem-
8 porary restraining order, injunction, or other appropriate
9 remedy to enforce any provision of this Act, any regulation
10 or order issued under this Act, or any permit issued pursu-
11 ant to this Act.

12 (c) CIVIL PENALTIES.—

13 (1) IN GENERAL.—A person that fails to com-
14 ply with any provision of this Act or any permit,
15 regulation, or order issued under this Act, shall be
16 liable for a civil penalty of not more than \$7,500 for
17 each day of the continuance of the failure.

18 (2) OPPORTUNITY FOR CORRECTIVE ACTION;
19 HEARING.—

20 (A) IN GENERAL.—No penalty shall be as-
21 sessed under paragraph (1) until the person
22 charged with a failure of compliance has been
23 given—

1 (i) notice of the failure and a reason-
2 able period of time in which to take correc-
3 tive action; and

4 (ii) an opportunity for a hearing.

5 (B) IMMEDIATE ASSESSMENT OF PEN-
6 ALTY.—If a failure described in paragraph (1)
7 constitutes a threat of serious, irreparable, or
8 immediate harm or damage to life (including
9 fish and wildlife), property (including a mineral
10 deposit), or the environment, a civil penalty
11 may be assessed without allowing time for cor-
12 rective action under subparagraph (B)(i).

13 (d) CRIMINAL PENALTIES.—

14 (1) OFFENSE.—A person who knowingly and
15 willfully—

16 (A) violates any provision of this Act or of
17 any permit, regulation, or order issued under
18 this Act;

19 (B) makes a false statement, representa-
20 tion, or certification or omits or conceals mate-
21 rial information in an application, record, re-
22 port, or other document filed or required to be
23 maintained under this Act; or

24 (C) falsifies, tampers with, or renders inac-
25 curate or fails to utilize any monitoring device

1 or method of record required to be maintained
2 under this Act,
3 shall be fined under title 18, United States Code,
4 imprisoned not more than 2 years, or both.

5 (2) CONSIDERATION OF AGGRAVATING FAC-
6 TORS.—In determining the punishment for a viola-
7 tion, a court shall consider, among other things—

8 (A) in the case of a violation described in
9 paragraph (1)(A), whether the provision that
10 was violated was a provision designed to protect
11 health, safety, or the environment or conserve
12 natural resources or that is related to the col-
13 lection of royalties;

14 (B) in the case of a violation described in
15 paragraph (1) (B) or (C), the expense or dif-
16 ficulty of detecting a violation of the kind con-
17 cerned.

18 (3) CONTINUING VIOLATION.—Each day that a
19 violation under paragraph (1) continues, or each day
20 that any monitoring device or data recorder remains
21 inoperative or inaccurate because of any activity de-
22 scribed in paragraph (1)(C), shall constitute a sepa-
23 rate offense.

24 (e) LIABILITY OF CORPORATE OFFICERS AND
25 AGENTS FOR VIOLATIONS BY CORPORATION.—If a cor-

1 poration or other entity commits an offense under sub-
2 section (d), any officer or agent of the corporation or en-
3 tity who knowingly and willfully authorized, ordered, or
4 carried out the offense shall be subject to the penalties
5 prescribed by subsection (d).

6 **SEC. 212. ADMINISTRATIVE REVIEW.**

7 (a) NOTICE OF NONCOMPLIANCE.—

8 (1) IN GENERAL.—A recipient of a notice of
9 noncompliance under section 211(a)(1) or any per-
10 son that may become ineligible to receive a permit
11 as a result of the issuance of the notice may apply
12 to the Secretary for review of the notice within 30
13 days after receipt of the notice, or, if the notice is
14 modified, within 30 days after receiving notice of the
15 modification.

16 (2) ASSESSMENT OF PENALTY.—Any person as-
17 sessed a civil penalty under this Act may apply to
18 the Secretary for review of the assessment within 30
19 days after receiving notice of the assessment.

20 (b) HEARING.—At the request of a recipient of a no-
21 tice of noncompliance under section 211(a)(1) or of a per-
22 son that may become ineligible to receive a permit as a
23 result of the issuance of the notice, the Secretary shall
24 provide an opportunity for a hearing on the record .

25 (c) TEMPORARY RELIEF.—

1 (1) REQUEST.—Pending completion of a review
2 proceeding under subsection (a), a recipient of a no-
3 tice of noncompliance under section 211(a)(1) or of
4 a person that may become ineligible to receive a per-
5 mit as a result of the issuance of the notice may file
6 with the Secretary a written request that the Sec-
7 retary grant temporary relief from the notice, which
8 request shall include a detailed statement giving rea-
9 sons why granting such relief would be appropriate.

10 (2) EXPEDITIOUS ORDER.—The Secretary shall
11 expeditiously issue an order granting or denying a
12 request under paragraph (1).

13 **SEC. 213. JUDICIAL REVIEW.**

14 (a) RULEMAKING.—

15 (1) IN GENERAL.—Any final action of the Sec-
16 retary that constitutes rulemaking to implement this
17 Act shall be subject to judicial review only in the
18 United States Court of Appeals for the District of
19 Columbia.

20 (2) TIME FOR REVIEW.—A petition for review
21 of a rulemaking action under paragraph (1) shall be
22 filed within 60 days after the date of the action, or
23 after that date if the petition is based solely on
24 grounds arising after the 60th day.

1 (b) OTHER AGENCY ACTION.—A final agency action
2 under this Act other than an action described in sub-
3 section (a) shall be subject to judicial review in the district
4 courts of the United States on or before 60 days after
5 the date of the action, or after that date if the petition
6 is based solely on grounds arising after the 60th day.

7 (c) RECORD.—The court shall hear any petition or
8 complaint filed under this subsection solely on the record
9 made before the Secretary.

10 **TITLE III—ROYALTIES**

11 **SEC. 301. ROYALTIES.**

12 (a) RESERVATION OF ROYALTY.—

13 (1) IN GENERAL.—Production of locatable min-
14 erals, including mineral concentrates and products
15 derived from locatable minerals, shall be subject to
16 the payment of a royalty on the gross value of the
17 first marketable product.

18 (2) GOLD.—The royalty on gold production
19 subject to this Act shall be 3 percent of the gross
20 value of the first marketable product.

21 (3) MINERAL OTHER THAN GOLD.—

22 (A) IN GENERAL.—The royalty on mineral
23 production subject to this Act other than gold
24 production shall be 2 percent of the gross value
25 of the first marketable product.

1 (B) WAIVER.—If the Secretary of the Inte-
2 rior determines that the Secretary’s cost of ac-
3 counting for and collecting a royalty for any
4 mineral other than gold exceeds or is likely to
5 exceed the amount of royalty to be collected, the
6 Secretary shall waive the royalty.

7 (4) EFFECTIVE DATE.—

8 (A) IN GENERAL.—The royalty required
9 under this section shall take effect with respect
10 to production on or after the first day of the
11 first month following the date of enactment of
12 this Act.

13 (B) PHASE-IN.—The royalty payments re-
14 quired under this section shall be reduced—

15 (i) by $66\frac{2}{3}$ percent for the first 12
16 months following the date of enactment of
17 this Act for which royalties are due on pro-
18 duction pursuant to this Act; and

19 (ii) by $33\frac{1}{3}$ percent for the second 12
20 months for which royalties are due on pro-
21 duction pursuant to this Act.

22 (C) TIME FOR PAYMENT.—Any royalty
23 payment attributable to production during the
24 first 12 calendar months after the date of en-
25 actment of this Act, after any reduction under

1 paragraph (B), shall be due on the date that is
2 12 months after the date of enactment of this
3 Act.

4 (D) NO MARKETABLE QUANTITY PRIOR TO
5 DATE OF ENACTMENT.—For a claim, group of
6 claims, or patents comprising an operation that
7 has not produced a marketable quantity prior
8 to the date of enactment of this Act, the royalty
9 payments required pursuant to this section
10 shall be reduced—

11 (i) by $66\frac{2}{3}$ percent for the first 12
12 months for which royalties are due on pro-
13 duction pursuant to this Act; and

14 (ii) by $33\frac{1}{3}$ percent for the second 12
15 months for which royalties are due on pro-
16 duction pursuant to this Act.

17 (5) ROYALTY REDUCTION FOR MARGINAL OPER-
18 ATIONS.—

19 (A) APPLICATION.—A person that is re-
20 quired to make a royalty payment under this
21 section may apply to the Secretary for a reduc-
22 tion in royalty if the payor can demonstrate
23 that payment of the royalty would preclude re-
24 covery of costs of production (including invested
25 capital over the remaining life of the operation)

1 for a claim, group of claims, or patents com-
2 prising an operation.

3 (B) PROJECTED REVENUES.—For the pur-
4 poses of an application under subparagraph
5 (A), projected revenues shall be calculated using
6 the operator’s current and projected rates of
7 production at the average price for the preced-
8 ing 12 months.

9 (C) DEFINITION.—In this paragraph, the
10 term “costs of production” means—

11 (i) operating and maintenance costs of
12 mining, crushing, milling, smelting, refin-
13 ing, and transporting the production of a
14 mining operation; and

15 (ii) depreciation and amortization,
16 general and administrative costs, and
17 taxes, that are directly attributable to that
18 production.

19 (D) COSTS EXCEEDING REVENUES.—If the
20 costs of production for an operation exceed the
21 projected revenues, the Secretary shall waive in
22 full the payment of any royalty.

23 (E) REVENUES EXCEEDING COSTS.—If the
24 revenues projected for an operation exceed the
25 costs of production by less than the full royalty

1 under this section, the royalty rate shall be re-
 2 duced in accordance with the following:

Revenues net of costs as a percentage of total revenues	Royalty rate reduction (per- cent)
Less than 1%	100
1% or more but less than 2%	80
2% or more but less than 3%	60

3 (F) TIME FOR FINAL ACTION ON APPLICA-
 4 TION.—Within 180 days after the filing of an
 5 application under subparagraph (A), the Sec-
 6 retary shall take final action determining
 7 whether the application meets the test described
 8 in that subparagraph.

9 (G) JUDICIAL REVIEW.—A determination
 10 by the Secretary under subparagraph (F) shall
 11 be judicially reviewable under section 702 of
 12 title 5, United States Code, only for actions
 13 filed within 30 days after the Secretary’s deter-
 14 mination.

15 (H) ANNUAL FILING OF DATA.—If a re-
 16 duction in royalty is provided under this para-
 17 graph, the royalty payor shall file cost and reve-
 18 nue data with the Secretary annually during the
 19 period of royalty waiver or reduction.

1 (I) PERIODIC REVIEW.—The Secretary
2 shall review the conditions that supported a re-
3 duction in royalty not less often than every 5
4 years to determine whether to continue, modify,
5 or terminate the reduction.

6 (J) SUSPENSION OF FILING REQUIRE-
7 MENT.—If the Secretary determines that the
8 conditions of a specific operation so warrant,
9 the Secretary may suspend the requirement for
10 an annual filing under subparagraph (H).

11 (K) FURTHER JUDICIAL REVIEW.—Any
12 determination by the Secretary to continue,
13 modify, or terminate relief shall be judicially
14 reviewable only as provided in subparagraph
15 (F).

16 (b) DUTIES OF CLAIM HOLDERS, OPERATORS, AND
17 TRANSPORTERS.—A person that is required to make a
18 royalty payment under this section shall make the pay-
19 ment to the United States at such time and in such man-
20 ner as the Secretary of the Interior may by rule prescribe.

21 (c) RECORDKEEPING AND REPORTING REQUIRE-
22 MENTS.—

23 (1) IN GENERAL.—A claim holder, operator, or
24 other person directly involved in the conduct of min-
25 eral activity, transportation, purchase, or sale of

1 locatable minerals, concentrates, or products derived
2 therefrom that are subject to this Act, through the
3 point of royalty computation shall establish and
4 maintain any records, make any reports, and provide
5 any information that the Secretary of the Interior
6 may reasonably require for the purposes of imple-
7 menting this section or determining compliance with
8 rules or orders under this section.

9 (2) DISCLOSURE.—At the request of any person
10 duly designated by the Secretary of the Interior con-
11 ducting an audit or investigation under this Act, the
12 appropriate records, reports, or information that
13 may be required by this section shall be made avail-
14 able for inspection and duplication by that person.

15 (3) TIME PERIOD.—

16 (A) IN GENERAL.—A record required by
17 the Secretary of the Interior under this section
18 shall be maintained for 6 years after the
19 records are generated unless the Secretary noti-
20 fies the recordholder that the Secretary has ini-
21 tiated an audit or investigation involving the
22 records and that the records must be main-
23 tained for a longer period.

24 (B) PENDING AUDIT OR INVESTIGATION.—

25 In any case in which an audit or investigation

1 is pending, a record shall be maintained until
2 the Secretary releases the recordholder from the
3 obligation to maintain the records.

4 (d) INTEREST ASSESSMENTS.—If a royalty payment
5 is not received by the Secretary of the Interior on the date
6 on which the payment is due, or if the payment is made
7 in an amount that is less than the amount due, the Sec-
8 retary shall charge interest on the unpaid amount at the
9 interest rate applicable under section 6621(a)(2) of the
10 Internal Revenue Code of 1986.

11 (e) HEARINGS AND INVESTIGATIONS.—The authori-
12 ties provided to the Secretary of the Interior under section
13 107 of the Federal Oil and Gas Royalty Management Act
14 of 1982 (30 U.S.C. 1717) shall be available to the Sec-
15 retary of the Interior in carrying out this section.

16 **TITLE IV—ABANDONED LOCAT-**
17 **ABLE MINERALS MINE REC-**
18 **LAMATION FUND**

19 **SEC. 401. ABANDONED LOCATABLE MINERALS MINE REC-**
20 **LAMATION.**

21 (a) ESTABLISHMENT.—There is established in the
22 Treasury of the United States a fund to be known as the
23 Abandoned Locatable Minerals Mine Reclamation Fund
24 (referred to in this title as the “Fund”).

1 (b) ADMINISTRATION.—The fund shall be adminis-
2 tered by the Secretary of the Interior.

3 (c) AMOUNTS.—Amounts equal to the amounts of all
4 royalties collected under this Act shall be transferred to
5 the Fund.

6 (d) INVESTMENTS.—

7 (1) CERTIFICATION.—At least once annually,
8 the Secretary of the Interior shall submit to the Sec-
9 retary of the Treasury a certification stating the
10 amount of any portion of the Fund that is not, in
11 the Secretary's judgment, needed to meet current
12 withdrawals.

13 (2) INVESTMENT.—The Secretary of the Treas-
14 ury shall invest the portion of the Fund that, as cer-
15 tified by the Secretary of the Interior, is not needed
16 to meet current withdrawals, in public debt securi-
17 ties with maturities suitable for the needs of such
18 Fund and bearing interest at rates determined by
19 the Secretary of the Treasury, taking into consider-
20 ation current market yields on outstanding market-
21 place obligations of the United States of comparable
22 maturities.

23 (3) INCOME.—The income on such investments
24 shall be credited to the Fund.

25 (e) FINANCIAL REPORTING.—

1 (1) IN GENERAL.—The Secretary of the Inte-
2 rior, in consultation with the Secretary of Agri-
3 culture, shall submit an annual report to Congress
4 and affected States and Indian tribes.

5 (2) CONTENTS.—The report shall identify—

6 (A) receipts of the Fund, including the
7 amount from each State or Indian tribe or
8 other source of receipts; and

9 (B) expenditures from the Fund, including
10 amounts allocated to each State, Indian tribe,
11 or Federal agency, and projects undertaken.

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

13 (a) IN GENERAL.—In addition to the general purpose
14 of carrying out this Act, as authorized by section 405(b),
15 amounts in the Fund may be used for the purpose of con-
16 ducting reclamation of land and water resources adversely
17 affected by past mineral activity, including—

18 (1) prevention, abatement, treatment, and con-
19 trol of water pollution created by abandoned mine
20 drainage;

21 (2) reclamation of abandoned surface and un-
22 derground mined areas;

23 (3) reclamation of abandoned milling and proc-
24 essing areas;

1 (4) backfilling, sealing, or otherwise controlling
2 abandoned underground mine entries;

3 (5) revegetation of land adversely affected by
4 past mineral activities to prevent erosion and sedi-
5 mentation and enhance wildlife habitat;

6 (6) control of surface subsidence caused by the
7 presence of abandoned underground mines;

8 (7) disbursement to the Secretary of Agri-
9 culture to accomplish the purposes of this title; and

10 (8) the making of grants to States and Indian
11 tribes to accomplish the purposes of this title, which
12 may include reasonable administrative expenses of
13 each State or Indian tribe to develop, establish, and
14 administer its reclamation plan and to carry out the
15 purposes of this title.

16 (b) PRIORITIES.—

17 (1) IN GENERAL.—Expenditures from the Fund
18 shall reflect the following priorities, in the order
19 stated except as provided in paragraph (2).

20 (A) EXTREME DANGER.—Protection of
21 public health, safety, general welfare, and prop-
22 erty from extreme danger from the adverse ef-
23 fects of past mineral activity.

24 (B) ADVERSE EFFECTS.—Protection of
25 public health, safety, general welfare, and prop-

1 erty from the adverse effects of past mineral ac-
2 tivity.

3 (C) DEGRADATION.—The restoration of
4 land, water, and fish and wildlife resources de-
5 graded by the adverse effects of past mineral
6 activity.

7 (2) COMBINATION OF PRIORITIES.—When it is
8 feasible and appropriate, a combination of the prior-
9 ities stated in paragraph (1) may be made in order
10 to achieve more cost-effective full-site or full-drain-
11 age restoration.

12 (3) CONSIDERATIONS.—In allocating expendi-
13 tures from the Fund to meet the priorities stated in
14 paragraph (1), the Secretary shall consider the geo-
15 graphic area from which revenue was derived and
16 the historic locatable minerals production of a State
17 or Indian tribe.

18 (c) OTHER AFFECTED LANDS.—Where mineral ex-
19 ploration, mining, beneficiation, processing, or reclamation
20 activity has been carried out on non-Federal land with re-
21 spect to any mineral that would be a locatable mineral
22 if the mineral were situated on Federal lands, the Sec-
23 retary may make amounts in the Fund available to States
24 and Indian tribes for reclamation under subsection (a) for

1 all such non-Federal lands that directly affect Federal
2 land or water resources.

3 (d) RESPONSE ACTIONS.—After appropriate con-
4 sultation with the Administrator of the Environmental
5 Protection Agency, the Secretary shall ensure that rec-
6 lamation activities under this title are consistent with ap-
7 plicable Federal law.

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

9 (a) ELIGIBILITY.—

10 (1) IN GENERAL.—Reclamation expenditures
11 under this title may be made only with respect to
12 Federal lands, Indian lands, and other lands or
13 water resources that traverse, are contiguous to, or
14 directly affect Federal or Indian lands or water re-
15 sources, where such lands or water resources—

16 (A) have been affected by past mineral ex-
17 ploration, mining, beneficiation, processing, or
18 reclamation activity for locatable minerals or
19 for any mineral that would be a locatable min-
20 eral if the mineral were situated on Federal
21 lands; and

22 (B)(i) were used for or affected by mineral
23 exploration, mining, beneficiation, processing,
24 or reclamation activities for locatable minerals,
25 or for any mineral that would be a locatable

1 mineral if the mineral were situated on Federal
2 lands, and abandoned or left in an inadequate
3 reclamation status before the date of enactment
4 date of this Act; and

5 (ii) are lands and water resources for
6 which the Secretary makes a determination that
7 reclamation should be undertaken notwithstand-
8 ing any opportunities for enforcement of con-
9 tinuing reclamation or remediation responsibil-
10 ities of a claim holder, operator, or other person
11 who abandoned the site prior to completion of
12 required reclamation under Federal or State
13 law.

14 (2) PURPOSE AND EFFECT OF DETERMINA-
15 TION.—Any determination under paragraph
16 (1)(B)(ii) shall be made solely for the purpose of de-
17 termining eligibility of the site to receive monies
18 from the Fund and shall have no effect on the liabil-
19 ity of any person in an administrative or judicial ac-
20 tion under any law.

21 (b) RELEASE OF FINANCIAL ASSURANCE.—

22 (1) EFFECT OF MINERAL ACTIVITY.—The con-
23 duct of mineral activity on land eligible for reclama-
24 tion under this title shall not affect the eligibility of
25 the land for reclamation under this title after the re-

1 lease of the financial assurance for the mineral ac-
2 tivity.

3 (2) FORFEITURE OF FINANCIAL ASSURANCE.—

4 If the financial assurance for mineral activity on
5 land otherwise eligible for reclamation is forfeited,
6 funds available under this title may be used if the
7 amount of such financial assurance is not sufficient
8 to provide for adequate reclamation or abatement.

9 (c) RECOVERED FUNDS.—

10 (1) USE.—Any funds recovered by the Sec-
11 retary under other Federal or State law with regard
12 to a site shall be used to offset the cost of reclama-
13 tion performed under this Act to the extent ex-
14 pended at that site consistent with those laws, and
15 shall be deposited in the Fund.

16 (2) COORDINATION.—To the extent that a
17 cause of action exists under State law under which
18 either the Secretary or the State affected may re-
19 cover funds with regard to a site, the Secretary shall
20 coordinate with the State before initiating an action.

21 (d) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—

22 Sites and areas designated for remedial action pursuant
23 to the Uranium Mill Tailings Radiation Control Act of
24 1978 (42 U.S.C. 7901 et seq.) or listed for remedial action
25 pursuant to the Comprehensive Environmental Response

1 Compensation and Liability Act of 1980 (42 U.S.C. 9601
2 et seq.) shall not be eligible for expenditures from the
3 Fund under this title.

4 (e) PRIORITY RECLAMATION PROJECTS.—The Sec-
5 retary of the Interior, in coordination with the Secretary
6 of Agriculture for land under the jurisdiction of the Sec-
7 retary of Agriculture, and in consultation with States, In-
8 dian tribes, and other Federal agencies, as appropriate,
9 shall prepare and maintain an appropriate summary of
10 priority reclamation projects intended to address the rec-
11 lamation of abandoned locatable mineral mines on Federal
12 land and abandoned mines on Indian land that may be
13 eligible for expenditures under this title.

14 **SEC. 404. FUND EXPENDITURES.**

15 (a) EXPENDITURES.—

16 (1) STATES AND INDIAN TRIBES.—

17 (A) COOPERATIVE AGREEMENTS;
18 GRANTS.—Amounts may be expended from the
19 Fund for the purposes specified in section 402
20 by the Secretary through—

21 (i) cooperative agreements with States
22 and Indian tribes for the purpose of carry-
23 ing out specific reclamation projects; and

24 (ii) grants under subsection (b) or (c).

1 (B) ENCOURAGEMENT OF COOPERATIVE
2 AGREEMENTS.—The Secretary shall encourage
3 cooperative reclamation efforts with States and
4 with Indian tribes.

5 (2) FEDERAL OFFICERS.—The Secretary of the
6 Interior may make amounts in the fund available for
7 the purpose of carrying out specific reclamation
8 projects to the Director of the Bureau of Land Man-
9 agement, the Director of the National Park Service,
10 Director of the United States Fish and Wildlife
11 Service, or to the head of any other agency of the
12 United States.

13 (3) LAND UNDER THE JURISDICTION OF THE
14 SECRETARY OF AGRICULTURE.—

15 (A) IN GENERAL.—The Secretary of the
16 Interior shall make amounts in the fund avail-
17 able for the purposes specified in section 402 to
18 the Secretary of Agriculture, who shall have
19 sole authority to expend moneys made available
20 from the Fund for projects on land under the
21 jurisdiction of the Secretary of Agriculture.

22 (B) PROJECTS AFFECTING LAND UNDER
23 THE JURISDICTION OF THE SECRETARY OF AG-
24 RICULTURE.—The Secretary of the Interior
25 shall obtain the concurrence of the Secretary of

1 Agriculture for projects that directly affect land
2 under the jurisdiction of the Secretary of
3 Agriculture.

4 (C) PROJECTS AFFECTING LANDS MAN-
5 AGED BY THE SECRETARY OF THE INTERIOR.—

6 The Secretary of Agriculture shall obtain the
7 concurrence of the Secretary of the Interior for
8 projects on land under the jurisdiction of the
9 Secretary of Agriculture that directly affect
10 lands managed by the Secretary of the Interior.

11 (b) GRANTS TO STATES AND INDIAN TRIBES WITH
12 APPROVED ABANDONED MINE RECLAMATION PRO-
13 GRAMS.—In the case of a State or Indian tribe with an
14 approved abandoned mine reclamation program under sec-
15 tion 405 of the Surface Mining Control and Reclamation
16 Act of 1977 (30 U.S.C. 1235), a grant to that State or
17 Indian Tribe made pursuant to subsection (a) may be
18 made as a supplement to a grant received by the State
19 or Indian tribe under section 402(g)(1) of that Act (30
20 U.S.C. 1232(g)(1)).

21 (c) GRANTS TO STATES AND INDIAN TRIBES WITH-
22 OUT APPROVED ABANDONED MINE RECLAMATION PRO-
23 GRAMS.—

24 (1) SUBMISSION OF RECLAMATION PLANS.—A
25 State or Indian tribe that does not qualify to receive

1 a grant under subsection (b) but has within its
2 boundaries lands or waters that are eligible lands or
3 waters under section 404 of the Surface Mining
4 Control and Reclamation Act of 1977 (30 U.S.C.
5 1234) may submit a reclamation plan to the Sec-
6 retary of the Interior for approval.

7 (2) APPROVAL.—If the Secretary of the Interior
8 finds, in accordance with standards set forth by reg-
9 ulation, that a State or Indian tribe has the ability
10 and the necessary legislation to carry out a reclama-
11 tion plan, the Secretary shall approve the reclama-
12 tion plan and make the State or Indian tribe eligible
13 to receive annual grants under this title.

14 (3) PLANS AFFECTING LAND UNDER THE JU-
15 RISDICTION OF THE SECRETARY OF AGRI-
16 CULTURE.—Prior to approval of a plan that may in-
17 volve projects on land under the jurisdiction of the
18 Secretary of Agriculture, the Secretary of the Inte-
19 rior shall obtain the concurrence of the Secretary of
20 Agriculture.

21 (d) LIABILITY.—

22 (1) IN GENERAL.—No State, or a contractor for
23 the State engaged in approved reclamation work
24 under this title, or any other entity authorized by a
25 State to conduct approved reclamation activity, shall

1 be liable under any Federal law for any costs or
2 damages as a result of action taken or omitted in
3 the course of carrying out reclamation pursuant to
4 this section unless the act or omission constitutes
5 gross negligence or intentional misconduct.

6 (2) GROSS NEGLIGENCE.—For the purposes of
7 paragraph (1), reckless, willful, or wanton mis-
8 conduct constitutes gross negligence.

9 **SEC. 405. APPROPRIATIONS AND SPENDING AUTHORITY.**

10 (a) OBRA RECEIPTS.—The Secretary and, for land
11 under the jurisdiction of the Secretary of Agriculture, the
12 Secretary of Agriculture, may, subject to the availability
13 of appropriations, use the receipts of fees paid under sec-
14 tions 10101 and 10102 of the Omnibus Budget Reconcili-
15 ation Act of 1993 (30 U.S.C. 28f, 28g) for payment of
16 the costs of carrying out this Act.

17 (b) AVAILABILITY OF FUNDS.—Amounts transferred
18 and credited to the Fund under section 401 are appro-
19 priated for the purpose of carrying out this Act and are
20 made available for expenditure by the Secretary of the In-
21 terior and, for land under the jurisdiction of the Secretary
22 of Agriculture, by the Secretary of Agriculture.

1 **TITLE V—TRANSITION RULES**

2 **SEC. 501. TRANSITION RULES FOR MINING CLAIMS.**

3 (a) **NEW CLAIMS.**—Notwithstanding any other law,
4 any mining claim that is located on or after the date of
5 enactment of this Act shall be subject to—

6 (1) this Act;

7 (2) the Multiple Mineral Development Act of
8 1954 (30 U.S.C. 521 et seq.);

9 (3) the Materials Act of 1947 (30 U.S.C. 601
10 et seq.); and

11 (4) the Surface Resources Act of 1955 (30
12 U.S.C. 611–615).

13 (b) **PREEXISTING CLAIMS.**—

14 (1) **IN GENERAL.**—Except as provided in para-
15 graph (2) and in section 503, any unpatented min-
16 ing claim, mill site, or tunnel site that was located
17 and maintained under the general mining laws in ef-
18 fect on the day preceding the date of enactment of
19 this Act shall be subject to—

20 (A) the claim maintenance fee provisions
21 set forth in section 103; and

22 (B) the provisions of this Act as though it
23 were a mining claim under this Act.

24 (2) **EXCEPTION.**—A mining claim, mill site, or
25 tunnel site described in subparagraph (A) shall not

1 be subject to section 101(h)(2) or to the acreage
2 limitation set forth in section 1(6) and there shall
3 continue to be a distinction made as to whether such
4 a mining claim was originally located as a lode or
5 placer claim.

6 **SEC. 502. QUALIFICATIONS FOR FEE SIMPLE PATENTS.**

7 (a) MINING CLAIMS.—

8 (1) ISSUANCE OF PATENTS.—After the date of
9 enactment of this Act, patents shall be issued by the
10 United States only pursuant to section 106 of this
11 Act unless, in the case of a claim that was located
12 and maintained under the general mining laws (in-
13 cluding the claim maintenance requirements of those
14 laws) in effect on the day preceding the date of en-
15 actment of this Act—

16 (A) a patent application was filed by the
17 claim holder with the Secretary before the date
18 of enactment of this Act; and

19 (B) all requirements established under sec-
20 tions 2325 and 2326 of the Revised Statutes
21 (30 U.S.C. 29, 30) for vein or lode claims and
22 sections 2329, 2330, 2331, and 2333 of the Re-
23 vised Statutes (30 U.S.C. 35, 36, 37) for placer
24 claims were fully complied with by the applicant
25 by that date.

1 (2) PATENT UNDER PRIOR LAW.—If the Sec-
2 retary, before, on, or after the date of enactment of
3 this Act determines that an applicant meets the re-
4 quirements of subparagraph (1), the applicant shall
5 be entitled to the issuance of a patent in accordance
6 with the law in effect on the day preceding the date
7 of enactment of this Act.

8 (b) MILL SITES.—

9 (1) ISSUANCE OF PATENTS.—After the date of
10 enactment of this Act, a patent for a mill site that
11 was located and maintained under the general min-
12 ing laws in effect on the day preceding the date of
13 enactment of this Act and maintained in accordance
14 with section 103 shall be issued if—

15 (A) a patent application was filed by the
16 claim holder with the Secretary before the date
17 of enactment of this Act; and

18 (B) all requirements applicable to the pat-
19 ent application were fully complied with by that
20 date.

21 (2) PATENT UNDER PRIOR LAW.—If the Sec-
22 retary, before, on, or after the date of enactment of
23 this Act determines that an applicant meets the re-
24 quirements of subparagraph (1), the applicant shall
25 be entitled to the issuance of a patent in accordance

1 with the law in effect on the day preceding the date
2 of enactment of this Act.

3 **SEC. 503. TRANSITION RULES FOR SURFACE MANAGEMENT.**

4 (a) PLANS OF OPERATION OR NOTICES NOT SUBMIT-
5 TED ON OR AFTER MARCH 27, 1995.—

6 (1) IN GENERAL.—Mineral activity for which a
7 plan of operations or a notice under the general min-
8 ing laws have not been filed prior to March 28,
9 1995, shall be subject to the requirements and
10 standards of title II.

11 (2) INTERIM PROVISION.—Until regulations to
12 implement sections 203, 204, 205, 206, 207, and
13 208 become effective, mineral activity described in
14 paragraph (1) shall be subject to the law in effect
15 prior to enactment of this Act, and inspection and
16 enforcement under sections 210 and 211 during that
17 period shall apply based upon standards applicable
18 to such activities prior to the enactment date of this
19 Act.

20 (3) DELAYED EFFECTIVENESS.—The Secretary
21 shall determine when regulations, or portions there-
22 of, implementing sections 203, 204, 205, 206, 207,
23 and 208 become effective, but in no event shall the
24 effective dates be later than 1 year following publica-
25 tion of final rules in the Federal Register.

1 (b) PLANS OF OPERATION OR NOTICES SUBMITTED
2 OR APPROVED PRIOR TO MARCH 27, 1995.—

3 (1) PLANS OF OPERATIONS.—

4 (A) DELAY IN APPLICATION OF ACT.—If a
5 plan of operations (including modifications or
6 amendments made thereto) was approved prior
7 to March 28, 1995, for a period of 6 years fol-
8 lowing the date of enactment of this Act, min-
9 eral activity at the site shall be subject to the
10 plan of operations (including modifications or
11 amendments submitted or approved prior to
12 March 28, 1995, and minor modifications or
13 minor amendments made after the date of en-
14 actment of this Act, approval of which shall be
15 determined in accordance with the law applica-
16 ble prior to enactment of this Act).

17 (B) APPLICATION OF ACT.—After the 6-
18 year period described in subparagraph (A), the
19 requirements of title II and the provisions of
20 paragraph (3) of this subsection relating to
21 variances shall apply to mineral activity de-
22 scribed in subparagraph (A).

23 (2) NOTICES.—

24 (A) DELAY IN APPLICATION OF ACT.—If a
25 notice was submitted prior to March 28, 1995,

1 for a period of 1 year following the effective
2 date of regulations implementing sections 203,
3 204, 205, 206, 207, and 208, mineral activity
4 at the site shall be subject to that notice.

5 (B) APPLICATION OF ACT.—After the 1-
6 year period described in subparagraph (A) the
7 requirements of title II and the provisions of
8 paragraph (3) of this section shall apply to min-
9 eral activity described in subparagraph (A).

10 (3) COMPLIANCE WITH THIS ACT.—

11 (A) SUBMISSION TO THE SECRETARY.—
12 Upon the effective dates of regulations to imple-
13 ment sections 203, 204, 205, 206, 207, and
14 208, the operator shall have 1 year in which to
15 submit to the Secretary a description of oper-
16 ation and reclamation measures being under-
17 taken at the site, together with an explanation
18 whether those operation and reclamation meas-
19 ures comply with the standards of this Act and
20 regulations promulgated under this Act.

21 (B) DETERMINATION OF NO SUBSTANTIAL
22 COMPLIANCE.—Upon a determination by the
23 Secretary that the reclamation measures of an
24 operator are not in substantial compliance with

1 the standards implementing title III, the opera-
2 tor shall—

3 (i) make the necessary changes by the
4 date that is 6 years after the date of enact-
5 ment of this Act, or, for operations con-
6 ducted under notice, such lesser period as
7 the Secretary may determine, in accord-
8 ance with applicable procedures; or

9 (ii) apply for a variance from the rec-
10 lamation requirements under this Act.

11 (C) VARIANCES.—The Secretary shall
12 grant a variance if an operator demonstrates
13 that the changes necessary for compliance are
14 economically or physically impracticable, unless
15 the Secretary determines that the variance is
16 likely to pose a significant threat to public
17 health or safety or to the environment.

18 (4) FINANCIAL ASSURANCE.—

19 (A) DETERMINATION.—The Secretary
20 shall determine whether a financial assurance
21 exists or is in compliance with this Act during
22 the period beginning on the date of enactment
23 of this Act and ending on the date on which
24 regulations implementing section 205 become
25 effective.

1 (B) NO FINANCIAL ASSURANCE OR FINAN-
2 CIAL ASSURANCE NOT IN COMPLIANCE.—If the
3 Secretary finds that financial assurances do not
4 exist or are not in substantial compliance with
5 this Act, the operator shall, not later than 180
6 days after the date on which regulations imple-
7 menting section 205 become effective, obtain
8 and maintain a financial assurance that is in
9 substantial compliance with this Act.

10 (c) EXCLUSION.—Claims for which the Secretary of
11 the Interior has determined a right to patent under law
12 existing prior to the date of enactment of this Act has
13 vested under section 502 shall not be subject to title II
14 or title III.

15 **TITLE VI—ADMINISTRATIVE** 16 **PROVISIONS**

17 **SEC. 601. EFFECT ON OTHER LAWS.**

18 (a) GENERAL MINING LAWS.—This Act supersedes
19 the general mining laws to the extent that those laws are
20 inconsistent with this Act.

21 (b) OTHER LAWS.—Except for the general mining
22 laws, nothing in this Act shall be construed to supersede,
23 modify, amend, or repeal any other Federal law, or any
24 State law that carries out a function delegated to the State

1 under Federal law, that is not expressly superseded, modi-
2 fied, amended, or repealed by this Act.

3 (c) WATER QUANTITY LAWS.—Nothing in this Act
4 shall be construed to supersede any State law with respect
5 to water quantity.

6 (d) LAWS RELATING TO SURFACE MANAGEMENT.—

7 (1) NO SUPERSEDURE.—Nothing in this Act
8 shall be construed to supersede any generally appli-
9 cable law, regulation, or requirement of any State
10 relating to surface management to the extent that
11 such law, regulation, or requirement is at least as
12 stringent as the requirements of this Act.

13 (2) CONSISTENCY WITH THIS ACT.—Any gen-
14 erally applicable surface management requirement in
15 State law or regulation that meets or exceeds the re-
16 quirements of this Act shall be construed to be con-
17 sistent with the requirements of this Act.

18 (e) AGENCY RESPONSIBILITIES.—Nothing in this
19 Act—

20 (1) shall be construed to alter, supersede, or
21 limit the authorities or responsibilities of any Fed-
22 eral agency under any other law; or

23 (2) shall affect or modify in any way the obliga-
24 tions or liabilities of any person under any such law.

1 (f) MINERAL ACTIVITY.—Nothing in this Act shall be
2 construed to apply to or limit a mineral investigation,
3 study, or other mineral activity conducted by any Federal
4 or State agency acting in its governmental capacity pursu-
5 ant to authority of other law.

6 **SEC. 602. MISCELLANEOUS.**

7 (a) REGULATIONS.—In carrying out the duties of the
8 Secretary under this Act, each Secretary may issue such
9 regulations as are necessary to carry out this Act.

10 (b) JOINT REGULATIONS.—The Secretary of the In-
11 terior and the Secretary of Agriculture shall jointly issue
12 regulations implementing provisions of this Act that apply
13 to both Secretaries.

14 (c) CONSULTATION.—

15 (1) IN GENERAL.—The Secretary shall consult
16 with States that may be affected by regulations
17 under this Act in the development of such regula-
18 tions prior to publication in the Federal Register of
19 proposed regulations.

20 (2) FACA.—The Federal Advisory Committee
21 Act (5 U.S.C. App.) shall not apply to consultation
22 under subparagraph (A).

23 **SEC. 603. PURCHASING POWER ADJUSTMENT.**

24 Except as otherwise provided in this Act, the Sec-
25 retary shall adjust all fees, penalties, and other dollar

1 amounts established in this Act for changes in the pur-
2 chasing power of the dollar every 5 years following the
3 date of enactment of this Act, by an amount equal to the
4 annual adjustment in the implicit price deflator for the
5 Gross National Product established by the Secretary of
6 Commerce.

7 **SEC. 604. MINERAL MATERIALS.**

8 (a) DETERMINATIONS.—Section 3 of the Surface Re-
9 sources Act of 1955 (30 U.S.C. 611) is amended—

10 (1) by striking “No deposit” and inserting “(a)
11 VARIETIES OF MINERALS NOT DEEMED VALUABLE
12 MINERAL DEPOSITS.—No deposit”;

13 (2) in the first sentence, by striking “or cin-
14 ders” and inserting “cinders, or clay”; and

15 (3) by adding at the end the following new sub-
16 section:

17 “(b) DISPOSAL.—

18 “(1) IN GENERAL.—Subject to valid existing
19 rights, after the date of enactment of this sub-
20 section, deposits of minerals referred to in sub-
21 section (a) (except deposits of bentonite and gyp-
22 sum) shall be subject to disposal under the terms
23 and conditions of the Materials Act of 1947 (30
24 U.S.C. 601 et seq.).

1 “(2) DEFINITION.—In paragraph (1), the term
2 ‘valid existing right’ means a mining claim located
3 for a mineral material that—

4 “(A) has a property that gives the claim
5 distinct and special value as described in sub-
6 section (a), including so-called ‘block pumice’ as
7 described in subsection (a);

8 “(B) was properly located and maintained
9 under the general mining laws on the date of
10 enactment of this subsection;

11 “(C) was supported by a discovery of a val-
12 uable mineral deposit within the meaning of the
13 general mining law on the date of enactment of
14 this subsection; and

15 “(D) continues to be valid.”.

16 (b) MINERALS MATERIALS SUBJECT TO RIGHT OF
17 THE UNITED STATES FOR DISPOSAL AND SEVERANCE.—
18 Subsections (b) and (c) of section 4 of the Surface Re-
19 sources Act of 1955 (30 U.S.C. 612) are each amended
20 by inserting “and mineral material” after “vegetative”
21 each place it appears.

22 (c) CONFORMING AMENDMENT.—The first sentence
23 of section 1 of the Materials Act of 1947 (30 U.S.C. 601)
24 is amended by striking “common varieties of”.

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S 639 IS—2

S 639 IS—3

S 639 IS—4

S 639 IS—5

S 639 IS—6

S 639 IS—7