

108TH CONGRESS
1ST SESSION

H. R. 2141

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

IN THE HOUSE OF REPRESENTATIVES

MAY 15, 2003

Mr. RAHALL (for himself, Mr. SHAYS, Mr. INSLEE, Mr. BLUMENAUER, Mr. BAIRD, Ms. JACKSON-LEE of Texas, Mr. KILDEE, Mr. GEORGE MILLER of California, Mr. LIPINSKI, Mr. UDALL of Colorado, Mr. KIND, Mr. FRANK of Massachusetts, Mrs. NAPOLITANO, Mr. FALEOMAVAEGA, Mr. GRIJALVA, Ms. SOLIS, Ms. MCCOLLUM, Mr. SCHIFF, and Mr. McDERMOTT) introduced the following bill; which was referred to the Committee on Resources

A BILL

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

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Mineral Exploration and Development Act of 2003”.

6 (b) TABLE OF CONTENTS.—

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

TITLE I—MINERAL EXPLORATION AND DEVELOPMENT

- Sec. 101. Lands open to location.
- Sec. 102. Rights under this Act.
- Sec. 103. Claim maintenance requirements.
- Sec. 104. Location fee.
- Sec. 105. Co-ownership.
- Sec. 106. Other requirements.
- Sec. 107. Fee adjustments.
- Sec. 108. Use of fees.
- Sec. 109. Prohibition.
- Sec. 110. Failure to comply.
- Sec. 111. Limitation on patents.
- Sec. 112. Royalty.

TITLE II—ENVIRONMENTAL CONSIDERATIONS OF MINERAL EXPLORATION AND DEVELOPMENT

- Sec. 201. Surface management standard.
- Sec. 202. Permits.
- Sec. 203. Operations permit.
- Sec. 204. Persons ineligible for permits.
- Sec. 205. Financial assurance.
- Sec. 206. Operation and reclamation.
- Sec. 207. State law and regulation.
- Sec. 208. Unsuitability review.
- Sec. 209. Certain mineral activities covered by other law.

TITLE III—ABANDONED LOCATABLE MINERALS MINE RECLAMATION FUND

- Sec. 301. Abandoned Locatable Minerals Mine Reclamation.
- Sec. 302. Use and objectives of the Fund.
- Sec. 303. Eligible lands and waters.
- Sec. 304. Fund expenditures.
- Sec. 305. Authorization of appropriations.

TITLE IV—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

Subtitle A—Administrative Provisions

- Sec. 401. Policy functions.
- Sec. 402. User fees.
- Sec. 403. Inspection and monitoring.
- Sec. 404. Citizens suits.
- Sec. 405. Administrative and judicial review.
- Sec. 406. Enforcement.
- Sec. 407. Regulations; effective dates.

Subtitle B—Miscellaneous Provisions

- Sec. 411. Transitional rules; surface management requirements.
- Sec. 412. Oil shale claims subject to special rules.
- Sec. 413. Purchasing power adjustment.
- Sec. 414. Savings clause.

Sec. 415. Availability of public records.

Sec. 416. Miscellaneous powers.

Sec. 417. Multiple mineral development and surface resources.

Sec. 418. Mineral materials.

Sec. 419. Application of Act to beneficiation and processing of non-Federal minerals on Federal lands.

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

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

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

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

8 (B) Any partner of such person.

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

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

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

19 (4) The term “claim holder” means a person
20 holding a mining claim located or converted under
21 this Act. Such term may include an agent of a claim
22 holder.

1 (5) The term “control” means having the abil-
2 ity, directly or indirectly, to determine (without re-
3 gard to whether exercised through one or more cor-
4 porate structures) the manner in which an entity
5 conducts mineral activities, through any means, in-
6 cluding without limitation, ownership interest, au-
7 thority to commit the entity’s real or financial as-
8 sets, position as a director, officer, or partner of the
9 entity, or contractual arrangement. The Secretary
10 and the Secretary of Agriculture shall jointly pro-
11 mulgate such rules as may be necessary under this
12 paragraph.

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

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

24 (8) The term “Indian tribe” means any Indian
25 tribe, band, nation, pueblo, or other organized group

1 or community, including any Alaska Native village
2 or regional corporation as defined in or established
3 pursuant to the Alaska Native Claims Settlement
4 Act (43 U.S.C. 1601 and following), which is recog-
5 nized as eligible for the special programs and serv-
6 ices provided by the United States to Indians be-
7 cause of their status as Indians.

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

16 (10) The term “legal subdivisions” means an
17 aliquot quarter quarter section of land as established
18 by the official records of the public land survey sys-
19 tem, or a single lot as established by the official
20 records of the public land survey system if the perti-
21 nent section is irregular and contains fractional lots,
22 as the case may be.

23 (11)(A) The term “locatable mineral” means
24 any mineral, the legal and beneficial title to which

1 remains in the United States and which is not sub-
2 ject to disposition under any of the following:

3 (i) The Mineral Leasing Act (30 U.S.C.
4 181 and following).

5 (ii) The Geothermal Steam Act of 1970
6 (30 U.S.C. 1001 and following).

7 (iii) The Act of July 31, 1947, commonly
8 known as the Materials Act of 1947 (30 U.S.C.
9 601 and following).

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

12 (B) The term “locatable mineral” does not in-
13 clude any mineral held in trust by the United States
14 for any Indian or Indian tribe, as defined in section
15 2 of the Indian Mineral Development Act of 1982
16 (25 U.S.C. 2101), or any mineral owned by any In-
17 dian or Indian tribe, as defined in that section, that
18 is subject to a restriction against alienation imposed
19 by the United States.

20 (12) The term “millsite claim” means a claim
21 to public land that—

22 (A) does not exceed 5 acres for each 20
23 acres of mining claim for a vein or lode;

24 (B) is noncontiguous to such vein or lode;

25 and

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

5 (13) The term “mineral activities” means any
6 activity on Federal lands for, related to, or inci-
7 dental to, mineral exploration, mining, beneficiation,
8 processing, or reclamation activities for any locatable
9 mineral.

10 (14) The term “minimize” means to reduce the
11 adverse impact of an operation to the lowest prac-
12 tical level.

13 (15) The term “mining” means the processes
14 employed for the extraction of a locatable mineral
15 from the earth.

16 (16) The term “National Conservation System
17 unit” means any unit of the National Park System,
18 National Wildlife Refuge System, National Wild and
19 Scenic Rivers System, National Trails System, or a
20 National Conservation Area, National Recreation
21 Area, a National Monument or any unit of the Na-
22 tional Wilderness Preservation System.

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

1 (18) The term “person” means an individual,
2 Indian tribe, partnership, association, society, joint
3 venture, joint stock company, firm, company, cor-
4 poration, cooperative, or other organization and any
5 instrumentality of State or local government includ-
6 ing any publicly owned utility or publicly owned cor-
7 poration of State or local government.

8 (19) The term “processing” means processes
9 downstream of beneficiation employed to prepare
10 locatable mineral ore into the final marketable prod-
11 uct, including but not limited to, smelting and elec-
12 trolytic refining.

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

15 (21) The term “surface management require-
16 ments” means the requirements and standards of
17 title II, and such other standards as are established
18 by the Secretary governing mineral activities pursu-
19 ant to this Act.

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

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

7 **TITLE I—MINERAL EXPLO-**
8 **RATION AND DEVELOPMENT**

9 **SEC. 101. LANDS OPEN TO LOCATION.**

10 (a) LANDS OPEN TO LOCATION.—Except as provided
11 in subsection (b), mining claims may be located under this
12 Act on lands and interests in lands owned by the United
13 States if—

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

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

21 (b) LANDS NOT OPEN TO LOCATION.—

22 (1) IN GENERAL.—Notwithstanding any other
23 provision of law and subject to valid existing rights,
24 each of the following shall not be open to the loca-

1 tion of mining claims under this Act on or after the
2 date of enactment of this Act:

3 (A) Lands recommended for wilderness
4 designation by the agency managing the sur-
5 face, pending a final determination by the Con-
6 gress of the status of such recommended lands,
7 or otherwise being managed as roadless areas
8 under an applicable land use plan.

9 (B) Lands being managed by the Sec-
10 retary, acting through Bureau of Land Manage-
11 ment, as wilderness study areas or National
12 Monuments on the date of enactment of this
13 Act except where the location of mining claims
14 is specifically allowed to continue by the statute
15 designating the study area, pending a final de-
16 termination by the Congress of the status of
17 such lands.

18 (C) Lands that are—

19 (i) in designated Wild and Scenic Riv-
20 ers and under study for inclusion in the
21 National Wild and Scenic River System
22 pursuant to section 5(a) of the Wild and
23 Scenic Rivers Act (16 U.S.C. 1276(a)),
24 pending a final determination by the Con-
25 gress of the status of such lands;

1 (ii) determined by a Federal agency
2 under section 5(d) of such Act (16 U.S.C.
3 1276(d)) to be eligible for inclusion in such
4 system, pending a final determination by
5 the Congress of the status of such lands;
6 or

7 (iii) designated Wild and Scenic Riv-
8 ers that have been withdrawn from mineral
9 entry by action of the Secretary of the In-
10 terior.

11 (D) Lands withdrawn or segregated from
12 mineral entry under authority of other law.

13 (E) Lands designated as Areas of Critical
14 Environmental Concern.

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

17 (2) DEFINITIONS.—(A) As used in this sub-
18 section, the term “valid existing rights” means a
19 mining claim or millsite claim located on lands de-
20 scribed in paragraph (1) of subsection (a), that—

21 (i) was properly located and maintained
22 under this Act prior to and on the applicable
23 date, or

1 (ii) was properly located and maintained
2 under the general mining laws prior to the ap-
3 plicable date, and

4 (I) was supported by a discovery of a
5 valuable mineral deposit within the mean-
6 ing of the general mining laws on the ap-
7 plicable date, or satisfies the limitations
8 under existing law for millsite claims, and

9 (II) continues to be valid under this
10 Act.

11 (B) As used in this paragraph, the term “appli-
12 cable date” means one of the following:

13 (i) In the case of lands described in para-
14 graph (1)(A), such term means the date of the
15 recommendation referred to in paragraph
16 (1)(A) if such recommendation is made on or
17 after the date of the enactment of this Act.

18 (ii) In the case of lands described in para-
19 graph (1)(A), if the recommendation referred to
20 in paragraph (1)(A) was made before the date
21 of the enactment of this Act, such term means
22 the earlier of (I) the date of enactment of this
23 Act or (II) the date of any withdrawal of such
24 lands from mineral activities.

1 (iii) For lands described in paragraph
2 (1)(B), such term means the date of the enact-
3 ment of this Act.

4 (iv) For lands referred to in paragraph
5 (1)(C)(i) and (1)(C)(iii), such term means the
6 date of the enactment of the amendment to the
7 Wild and Scenic Rivers Act listing the river seg-
8 ment for study and for lands referred to in
9 paragraph (1)(C)(ii), such term means the date
10 of the eligibility determination.

11 (v) For lands referred to in paragraph
12 (1)(D), such term means the date of the with-
13 drawal.

14 **SEC. 102. RIGHTS UNDER THIS ACT.**

15 The holder of a mining claim located under the gen-
16 eral mining laws and maintained in compliance with this
17 Act shall have the exclusive right of possession and use
18 of the claimed land for mineral activities, including the
19 right of ingress and egress to such claimed lands for such
20 activities, subject to the rights of the United States under
21 this Act and other applicable Federal law. Such rights of
22 the claim holder shall terminate upon completion of min-
23 eral activities of lands to the satisfaction of the Secretary.
24 In cases where an area is determined unsuitable under
25 section 208, holders of claims located under the general

1 mining laws shall be entitled to receive a refund of claim
2 maintenance fees.

3 **SEC. 103. CLAIM MAINTENANCE REQUIREMENTS.**

4 (a) CLAIM MAINTENANCE FEE.—Except as provided
5 in subsections (c), (d), and (e), the holder of each
6 unpatented mining claim, mill, or tunnel site located pur-
7 suant to the general mining laws, whether located before
8 or after the enactment of this Act, shall pay to the Sec-
9 retary, on or before August 31 of each year, a claim main-
10 tenance fee of \$100 per claim. Such claim maintenance
11 fee shall be in lieu of the assessment work requirement
12 contained in the general mining laws and the related filing
13 requirements contained in section 314(a) of the Federal
14 Land Policy and Management Act of 1976 (43 U.S.C.
15 1744(a)).

16 (b) TIME OF PAYMENT.—The claim maintenance fee
17 payable pursuant to subsection (a) for any assessment
18 year (as defined under the general mining laws) shall be
19 paid before the commencement of the assessment year.

20 (c) OIL SHALE CLAIMS SUBJECT TO CLAIM MAINTENANCE FEES UNDER ENERGY POLICY ACT OF 1992.—
21 This section shall not apply to any oil shale claims for
22 which a fee is required to be paid under section 2511(e)(2)
23 of the Energy Policy Act of 1992 (106 Stat. 3111; 30
24 U.S.C. 242).
25

1 (d) WAIVER FOR PATENT APPLICANTS.—The Sec-
2 retary may waive the claim maintenance fee required
3 under this section for a claimant who certifies in writing
4 to the Secretary that on the date the payment was due,
5 the claimant and all related parties—

6 (1) had filed a patent application with the Sec-
7 retary on or before September 30, 1994; and

8 (2) had fully complied with all requirements es-
9 tablished under sections 2325 and 2326 of the Re-
10 vised Statutes (30 U.S.C. 29 and 30) for vein or
11 lode claims and sections 2329, 2330, 2331, and
12 2333 of the Revised Statutes (30 U.S.C. 35, 36, and
13 37) for placer claims, and section 2337 of the Re-
14 vised Statutes (30 U.S.C. 42) for millsite claims, by
15 that date.

16 (e) EXCEPTIONS FOR CLAIMANTS HOLDING 10 OR
17 FEWER MINING CLAIMS.—

18 (1) IN GENERAL.—A claimant may elect to per-
19 form the assessment work required under the gen-
20 eral mining laws in lieu of paying the maintenance
21 fee required under this section if the claimant cer-
22 tifies in writing to the Secretary that on the date the
23 payment was due, the claimant and all related par-
24 ties—

1 (A) are producing hard rock minerals
2 under a valid notice or plan of operation which
3 production results in not less than \$1,500 and
4 not more than \$800,000 in gross revenues per
5 year from a total of 10 or fewer claims;

6 (B) are performing exploration work to
7 disclose, expose, or otherwise make known pos-
8 sible valuable mineralization on a total of 10 or
9 fewer claims under a valid notice or plan of op-
10 eration; and

11 (C) have less than 10 acres of unreclaimed
12 surface disturbance from such mining activity
13 or such exploration work.

14 (2) CLAIMANTS ELECTING TO DO ASSESSMENT
15 WORK.—A claimant holding 10 or fewer mining
16 claims, who elects to do the assessment work re-
17 quired by the general mining laws in lieu of paying
18 the claim maintenance fee required under this sec-
19 tion shall be required to meet the filing requirements
20 of section 314(a) and (c) of the Federal Land Policy
21 and Management Act (43 U.S.C. 1744(a) and (c))
22 on such 10 or fewer claims and shall certify the per-
23 formance of such assessment work to the Secretary
24 by August 31 of each year.

1 (f) CO-OWNERSHIP.—Upon the failure of any one or
2 more of several co-claimants to contribute such co-claim-
3 ant or claimants’ portion of the fee under this section, any
4 co-claimant who has paid such fee may, after the payment
5 due date, give the delinquent co-claimant or claimants no-
6 tice of such failure in writing (or by publication in the
7 newspaper nearest the claim for at least once a week for
8 at least 90 days). If at the expiration of 90 days after
9 such notice in writing or by publication, any delinquent
10 co-claimant fails or refuses to contribute the co-claimant’s
11 portion, the co-claimant’s interest in the claim shall be-
12 come the property of the co-claimants who have paid the
13 required fee.

14 (g) FUND.—All moneys received by the United States
15 under this section shall be deposited in the Abandoned
16 Locatable Minerals Mine Reclamation Fund established
17 under title III.

18 (h) CREDIT AGAINST ROYALTY.—The amount of the
19 annual claim maintenance fee required to be paid under
20 this section for any claim for any period shall be credited
21 against the amount of royalty required to be paid under
22 section 112 for the same period with respect to that claim.

23 (i) DEFINITIONS.—For purposes of this section:

24 (1) With respect to any claimant, the term “re-
25 lated party” means—

1 (A) the spouse and dependent children (as
2 defined in section 152 of the Internal Revenue
3 Code of 1986), of the claimant; and

4 (B) any affiliate of the claimant, including
5 a person who controls, is controlled by, or is
6 under common control with the claimant.

7 (2) The term “control” includes actual control,
8 legal control, and the power to exercise control,
9 through or by common directors, officers, stock-
10 holders, a voting trust, or a holding company or in-
11 vestment company, or any other means.

12 **SEC. 104. LOCATION FEE.**

13 (a) IN GENERAL.—Notwithstanding any other provi-
14 sion of law, for every unpatented mining claim, mill, or
15 tunnel site located after the date of enactment of this Act,
16 pursuant to the general mining laws, the locator shall, at
17 the time the location notice is recorded with the Bureau
18 of Land Management, pay to the Secretary a location fee,
19 in addition to the claim maintenance fee required by sec-
20 tion 103, of \$25.00 per claim.

21 (b) TIME OF PAYMENT.—The location fee imposed
22 under subsection (a) shall be payable not later than 90
23 days after the date of location.

1 **SEC. 105. CO-OWNERSHIP.**

2 The co-ownership provisions of the general mining
3 laws shall remain in effect, except that in applying such
4 provisions, the annual claim maintenance fee required
5 under this title shall, where applicable, replace applicable
6 assessment requirements and expenditures.

7 **SEC. 106. OTHER REQUIREMENTS.**

8 Nothing in this title shall change or modify the re-
9 quirements of section 314(b) of the Federal Land Policy
10 and Management Act of 1976 (43 U.S.C. 1744(b)), re-
11 lated to filings required by section 314(b), and such re-
12 quirements shall remain in effect with respect to claims
13 and mill or tunnel sites for which fees are required to be
14 paid under this section.

15 **SEC. 107. FEE ADJUSTMENTS.**

16 (a) INFLATION ADJUSTMENTS.—The Secretary of
17 the Interior shall adjust the fees required by this section
18 to reflect changes in the Consumer Price Index published
19 by the Bureau of Labor Statistics of the Department of
20 Labor, every 5 years after the date of the enactment of
21 this Act or more frequently if the Secretary determines
22 an adjustment to be reasonable.

23 (b) NOTICE.—The Secretary shall provide claimants
24 notice of any adjustment made under this section not later
25 than July 1 of any year in which the adjustment is made.

1 (c) APPLICATION OF ADJUSTMENT.—A fee adjust-
2 ment under this section shall begin to apply during the
3 first assessment year (as defined under the general mining
4 laws) that begins at noon on the first day of September
5 after the adjustment is made.

6 **SEC. 108. USE OF FEES.**

7 All moneys received by the United States under this
8 title shall be deposited in the Abandoned Locatable Min-
9 erals Mine Reclamation Fund established under title III.

10 **SEC. 109. PROHIBITION.**

11 If the Secretary prohibits the use of a mining claim
12 for mineral activities pursuant to section 208 of this Act
13 (relating to unsuitability), the provisions of sections 101
14 through 107 shall no longer apply with respect to that
15 claim.

16 **SEC. 110. FAILURE TO COMPLY.**

17 (a) FORFEITURE.—The failure of the claim holder to
18 file the notice of location, to pay the location fee, or to
19 comply with the claim maintenance provisions of section
20 103 for a mining claim as required by this title shall be
21 deemed conclusively to constitute forfeiture of the mining
22 claim by operation of law. Forfeiture shall not relieve any
23 person of any obligation created under this Act, including
24 reclamation.

1 (b) PROHIBITION.—No claim holder may locate a new
2 claim on the lands such claim holder included in a for-
3 feited claim for 2 years from the date such claim is
4 deemed forfeited.

5 (c) RELINQUISHMENT.—A claim holder deciding not
6 to pursue mineral activities on a claim may relinquish such
7 claim by notifying the Secretary. A claim holder relin-
8 quishing a claim is responsible for reclamation as required
9 by section 206 of this Act and all other applicable require-
10 ments. A claim holder who relinquishes a claim shall not
11 be subject to the prohibition of subsection (b) of this sec-
12 tion unless the Secretary determines that the claim is
13 being relinquished and relocated for the purpose of avoid-
14 ing compliance with any provision of this Act, including
15 payment of the claim maintenance fee.

16 **SEC. 111. LIMITATION ON PATENTS.**

17 (a) MINING CLAIMS.—

18 (1) DETERMINATIONS REQUIRED.—After the
19 date of enactment of this Act, no patent shall be
20 issued by the United States for any mining claim lo-
21 cated under the general mining laws unless the Sec-
22 retary determines that, for the claim concerned—

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

1 (B) all requirements established under sec-
2 tions 2325 and 2326 of the Revised Statutes
3 (30 U.S.C. 29 and 30) for vein or lode claims
4 and sections 2329, 2330, 2331, and 2333 of
5 the Revised Statutes (30 U.S.C. 35, 36, and
6 37) for placer claims were fully complied with
7 by that date.

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

17 (b) MILLSITE CLAIMS.—

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

23 (A) a patent application for such land was
24 filed with the Secretary on or before September
25 30, 1994; and

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

4 (2) RIGHT TO PATENT.—If the Secretary makes
5 the determinations referred to in subparagraphs (A)
6 and (B) of paragraph (1) for any millsite claim, the
7 holder of the claim shall be entitled to the issuance
8 of a patent in the same manner and degree to which
9 such claim holder would have been entitled to prior
10 to the enactment of this Act, unless and until such
11 determinations are withdrawn or invalidated by the
12 Secretary or by a court of the United States.

13 **SEC. 112. ROYALTY.**

14 (a) RESERVATION OF ROYALTY.—Production of all
15 locatable minerals from any mining claim located under
16 the general mining laws and maintained in compliance
17 with this Act, or mineral concentrates or products derived
18 from locatable minerals from any mining claim located
19 under the general mining laws and maintained in compli-
20 ance with this Act, as the case may be, shall be subject
21 to a royalty of 8 percent of the net smelter return from
22 such production. The claim holder and any operator to
23 whom the claim holder has assigned the obligation to make
24 royalty payments under the claim and any person who

1 controls such claim holder or operator shall be jointly and
2 severally liable for payment of such royalties.

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

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

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

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

1 (3) A person conducting mineral activities shall—

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

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

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

24 (c) RECORDKEEPING AND REPORTING REQUIRE-
25 MENTS.—(1) A claim holder, operator, or other person di-

1 rectly involved in developing, producing, processing, trans-
2 porting, purchasing, or selling locatable minerals, con-
3 centrates, or products derived therefrom, subject to this
4 Act, through the point of royalty computation shall estab-
5 lish and maintain any records, make any reports, and pro-
6 vide any information that the Secretary may reasonably
7 require for the purposes of implementing this section or
8 determining compliance with rules or orders under this
9 section. Such records shall include, but not be limited to,
10 periodic reports, records, documents, and other data. Such
11 reports may also include, but not be limited to, pertinent
12 technical and financial data relating to the quantity, qual-
13 ity, composition volume, weight, and assay of all minerals
14 extracted from the mining claim. Upon the request of any
15 officer or employee duly designated by the Secretary or
16 any State conducting an audit or investigation pursuant
17 to this section, the appropriate records, reports, or infor-
18 mation which may be required by this section shall be
19 made available for inspection and duplication by such offi-
20 cer or employee or State.

21 (2) Records required by the Secretary under this sec-
22 tion shall be maintained for 6 years after release of finan-
23 cial assurance under section 205 unless the Secretary noti-
24 fies the operator that the Secretary has initiated an audit
25 or investigation involving such records and that such

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

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

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

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

9 (3) Trade secrets, proprietary, and other confidential
10 information shall be made available by the Secretary pur-
11 suant to a cooperative agreement under this subsection to
12 the Secretary of Agriculture upon request only if—

13 (A) the Secretary of Agriculture consents in
14 writing to restrict the dissemination of the informa-
15 tion to those who are directly involved in an audit
16 or investigation under this section and who have a
17 need to know;

18 (B) the Secretary of Agriculture accepts liabil-
19 ity for wrongful disclosure; and

20 (C) the Secretary of Agriculture demonstrates
21 that such information is essential to the conduct of
22 an audit or investigation under this subsection.

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

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

7 (2) If there is any underreporting of royalty owed on
8 production from a claim for any production month by any
9 person liable for royalty payments under this section, the
10 Secretary may assess a penalty of 10 percent of the
11 amount of that underreporting.

12 (3) If there is a substantial underreporting of royalty
13 owed on production from a claim for any production
14 month by any person liable for the royalty, the Secretary
15 may assess a penalty of 25 percent of the amount of that
16 underreporting.

17 (4) For the purposes of this subsection, the term
18 “underreporting” means the difference between the roy-
19 alty on the value of the production which should have been
20 reported and the royalty on the value of the production
21 which was reported, if the value which should have been
22 reported is greater than the value which was reported. An
23 underreporting constitutes a “substantial underreporting”
24 if such difference exceeds 10 percent of the royalty on the
25 value of production which should have been reported.

1 (5) The Secretary shall not impose the assessment
2 provided in paragraphs (2) or (3) of this subsection if the
3 person liable for royalty payments under this section cor-
4 rects the underreporting before the date such person re-
5 ceives notice from the Secretary that an underreporting
6 may have occurred, or before 90 days after the date of
7 the enactment of this section, whichever is later.

8 (6) The Secretary shall waive any portion of an as-
9 sessment under paragraph (2) or (3) of this subsection
10 attributable to that portion of the underreporting for
11 which the person responsible for paying the royalty dem-
12 onstrates that—

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

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

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

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

1 (7) All penalties collected under this subsection shall
2 be deposited in the Abandoned Locatable Minerals Mine
3 Reclamation Fund established under title III.

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

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

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

22 (j) EFFECTIVE DATE.—The royalty under this sec-
23 tion shall take effect with respect to the production of
24 locatable minerals after the enactment of this Act, but any
25 royalty payments attributable to production during the

1 first 12 calendar months after the enactment of this Act
2 shall be payable at the expiration of such 12-month period.

3 (k) FAILURE TO COMPLY WITH ROYALTY REQUIRE-
4 MENTS.—Any person who fails to comply with the require-
5 ments of this section or any regulation or order issued to
6 implement this section shall be liable for a civil penalty
7 under section 109 of the Federal Oil and Gas Royalty
8 Management Act (30 U.S.C. 1719) to the same extent as
9 if the claim located under the general mining laws and
10 maintained in compliance with this Act were a lease under
11 that Act.

12 **TITLE II—ENVIRONMENTAL**
13 **CONSIDERATIONS OF MIN-**
14 **ERAL EXPLORATION AND DE-**
15 **VELOPMENT**

16 **SEC. 201. SURFACE MANAGEMENT STANDARD.**

17 Notwithstanding any other provision of law, and in
18 accordance with this title and applicable law, the Secretary
19 shall require that mineral activities on Federal lands con-
20 ducted by any person shall minimize adverse impacts to
21 the environment.

22 **SEC. 202. PERMITS.**

23 (a) PERMITS REQUIRED.—No person may engage in
24 mineral activities on Federal lands that may cause a dis-
25 turbance of surface resources, including but not limited

1 to land, air, ground water and surface water, and fish and
2 wildlife, unless—

3 (1) the claim was properly located or converted
4 under this Act and properly maintained; and

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

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

13 (1) the use of mechanized earth moving equip-
14 ment, suction dredging, explosives;

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

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

19 **SEC. 203. OPERATIONS PERMIT.**

20 (a) **OPERATIONS PERMIT.**—Any claim holder may
21 apply to the Secretary, or for National Forest System
22 lands, the Secretary of Agriculture, for an operations per-
23 mit authorizing the claim holder to carry out mineral ac-
24 tivities on Federal lands for any activity greater than cas-
25 ual use (as that term is used in section 202(b)). If the

1 Secretary decides to issue such permit, the permit shall
2 include such terms and conditions as prescribed by such
3 Secretary to carry out this title.

4 (b) PERMIT APPLICATION REQUIREMENTS.—An ap-
5 plication for an operations permit under this section shall
6 be submitted in a manner satisfactory to the Secretary
7 concerned and shall contain an operations plan, a reclama-
8 tion plan, such documentation as necessary to ensure com-
9 pliance with applicable Federal and State environmental
10 laws and regulations, and each of the following:

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

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

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

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

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

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

24 (3) A statement of whether a person referred to
25 in subparagraphs (A) through (D) of paragraph (2)

1 is currently in violation of, or was, during the 3-
2 year period preceding the date of application, found
3 to be in violation of any of the following and if so,
4 a brief explanation of the facts involved, including
5 identification of the site and the nature of the viola-
6 tion:

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

9 (B) Any applicable toxic substance, solid
10 waste, air, water quality, or fish and wildlife
11 conservation law or regulation at any site where
12 mining, beneficiation, or processing activities
13 are occurring or have occurred.

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

20 (4) A statement of any current or previous per-
21 mits or plans of operations issued under the Surface
22 Mining Control and Reclamation Act of 1977 (30
23 U.S.C. 1201 and following) or the Federal Land
24 Policy and Management Act of 1976 (43 U.S.C.
25 1701 and following).

1 (5) A description of the type and method of
2 mineral activities proposed, the engineering tech-
3 niques proposed to be used, and the equipment pro-
4 posed to be used.

5 (6) The anticipated starting and termination
6 dates of each phase of the mineral activities pro-
7 posed, including any planned temporary cessation of
8 operations.

9 (7) Maps, to an appropriate scale, clearly show-
10 ing the lands, watersheds, and surface waters, to be
11 affected by the proposed mineral activities; surface
12 and mineral ownership; facilities, including roads
13 and other man-made structures; proposed disturb-
14 ances; soils and vegetation; topography; and water
15 supply intakes and surface water bodies.

16 (8) A description of the biological resources in
17 or associated with the area subject to mineral activi-
18 ties, including vegetation, fish and wildlife, and ri-
19 parian and wetland habitats.

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

1 (10) A description of the quantity and quality
2 of surface and ground water resources in or associ-
3 ated with the area subject to mineral activities,
4 based on predisturbance monitoring sufficient to es-
5 tablish seasonal variations.

6 (11) An analysis of the probable hydrologic con-
7 sequences of the mineral activities, both on and off
8 the area subject to mineral activities, with respect to
9 the hydrologic regime, quantity and quality of water
10 in surface and ground water systems including the
11 dissolved and suspended solids under seasonal flow
12 conditions and the collection of sufficient data for
13 the mine site and surrounding areas so that an as-
14 sessment can be made by the Secretary concerned of
15 the probable cumulative impacts of the anticipated
16 mineral activities in the area upon the hydrology of
17 the area and particularly upon water availability and
18 quality.

19 (12) A description of the monitoring systems to
20 be used to detect and determine whether compliance
21 has and is occurring consistent with the surface
22 management requirements, including the type and
23 location of monitoring devices, sampling parameters
24 and frequency, analytical methods, reporting proce-
25 dures, and procedures to respond to reporting re-

1 sults, which will monitor the effects of mineral ac-
2 tivities on the site and surrounding environment, in-
3 cluding but not limited to, ground water, surface
4 water, air, soils, and fish and wildlife resources.

5 (13) Accident contingency plans that include,
6 but are not limited to, immediate response strategies
7 and corrective measures to mitigate environmental
8 impacts and appropriate insurance to cover accident
9 contingencies.

10 (14) Any measures to comply with any condi-
11 tions on minerals activities that are required in the
12 applicable land use plan or any condition stipulated
13 pursuant to section 208.

14 (15) Information determined necessary by the
15 Secretary concerned to assess the cumulative im-
16 pacts of mineral activities, as required to comply
17 with the National Environmental Policy Act of 1969,
18 if impacts of the proposed mineral activities are ad-
19 ditions to the impacts associated with other mineral
20 activities.

21 (16) Such other environmental baseline data as
22 the Secretaries, by joint regulation, shall require suf-
23 ficient to validate the determinations required for
24 issuance of a permit under this Act.

1 (17) Evidence of appropriate financial assur-
2 ance as specified in section 205.

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

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

9 (20) A demonstration that the mining claim is
10 economically valuable for development, taking into
11 account the costs of compliance with this Act and
12 other applicable law.

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

15 (c) OPERATION AND RECLAMATION PLAN APPLICA-
16 TION REQUIREMENTS.—The operation and reclamation
17 plan referred to in subsection (b) shall include such rec-
18 lamation measures as prescribed by the Secretary, or for
19 National Forest System lands the Secretary of Agri-
20 culture, and each of the following:

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

1 (2) A description of operation and reclamation
2 measures proposed pursuant to the requirements of
3 section 206.

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

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

9 (5) A description of the proposed condition of
10 the land, including the fish and wildlife resources
11 and habitat contained thereon, following the comple-
12 tion of reclamation.

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

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

22 (d) PERMIT ISSUANCE OR DENIAL.—(1) After pro-
23 viding notice and opportunity for public comment and
24 hearing pursuant to subsection (k), the Secretary, or for
25 National Forest System lands the Secretary of Agri-

1 culture, shall issue an operations permit if such Secretary
2 makes each of the following determinations in writing, and
3 such Secretary shall deny a permit which he or she finds
4 does not fully meet the requirements of this paragraph:

5 (A) The permit application, operations plan,
6 and reclamation plan are complete and accurate.

7 (B) The applicant has demonstrated that the
8 proposed reclamation in the operation and reclama-
9 tion plan can be accomplished.

10 (C) The condition of the land including the fish
11 and wildlife resources and habitat contained thereon,
12 after the completion of mineral activities and final
13 reclamation, conforms to the land use plan applica-
14 ble to the area subject to mineral activities and are
15 returned to a productive use.

16 (D) The area subject to the proposed plan is
17 not included within an area designated unsuitable or
18 not open to location for the types of mineral activi-
19 ties proposed.

20 (E) The applicant has obtained the necessary
21 Federal, State, and local permits to demonstrate
22 that the mineral activities will be in compliance with
23 this Act and all other applicable Federal require-
24 ments, and any State requirements agreed to by the
25 appropriate Secretary pursuant to cooperative agree-

1 ments under section 207 and local land use and zon-
2 ing requirements.

3 (F) The assessment of the probable cumulative
4 impact of all anticipated mining in the area on the
5 hydrologic balance specified in subsections (b)(10)
6 and (11) have been made and the proposed oper-
7 ation has been designed to minimize disturbances to
8 the prevailing hydrologic balance of the permit area.

9 (G) The applicant has fully complied with the
10 requirements of section 205 (relating to financial as-
11 surance) and is not ineligible to receive a permit
12 under section 204.

13 (2) Issuance of an operations permit under this sec-
14 tion shall be based on information supplied by the appli-
15 cant or other interested parties and the applicant shall
16 have the burden of establishing that the application com-
17 plies with paragraph (1).

18 (3) With respect to any activities specified in the rec-
19 lamation plan referred to in subsection (b) which con-
20 stitute a removal or remedial action under section 101 of
21 the Comprehensive Environmental Response, Compensa-
22 tion and Liability Act of 1980, the Secretary shall consult
23 with the Administrator of the Environmental Protection
24 Agency prior to the issuance of an operations permit. To
25 the extent practicable, the Administrator shall ensure that

1 the reclamation plan does not require activities which
2 would increase the costs or likelihood of removal or reme-
3 dial actions under Comprehensive Environmental Re-
4 sponse, Compensation and Liability Act of 1980 or correc-
5 tive actions under the Solid Waste Disposal Act.

6 (e) TERM OF PERMIT; RENEWAL.—(1) An operations
7 permit shall be for a stated term. The term shall be no
8 greater than that necessary to accomplish the proposed
9 mineral activities subject to the permit, and in no case
10 for more than 10 years, unless the applicant demonstrates
11 to the satisfaction of the Secretary, or for National Forest
12 System lands the Secretary of Agriculture, that a specified
13 longer term is reasonably needed for such mineral activi-
14 ties.

15 (2) Failure by the operator to commence mineral ac-
16 tivities within one year of the date scheduled in an oper-
17 ations permit shall require a modification of the permit
18 unless the Secretary concerned determines that the delay
19 was beyond the control of the applicant.

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

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

3 (B) The operator has not demonstrated that
4 the financial assurance would continue to apply in
5 full force and effect for the renewal term.

6 (C) Any additional revised or updated informa-
7 tion required by the Secretary concerned has not
8 been provided.

9 (D) The applicant has not demonstrated that
10 the mineral activities will be in compliance with the
11 requirements of all other applicable Federal require-
12 ments, and any State requirements agreed to by the
13 Secretary concerned pursuant to cooperative agree-
14 ments under section 207.

15 (4) A renewal of an operations permit shall be for
16 a term of 10 years or for such additional term as the Sec-
17 retary concerned deems appropriate. Application for re-
18 newal shall be made at least one year prior to the expira-
19 tion of the existing permit. Where a renewal application
20 has been timely submitted and a permit expires prior to
21 Secretarial action on the renewal application, reclamation
22 shall and other mineral activities may continue in accord-
23 ance with the terms of the expired permit until the Sec-
24 retary concerned makes a decision on the renewal applica-
25 tion.

1 (f) PERMIT MODIFICATION.—(1) During the term of
2 an operations permit the operator may submit an applica-
3 tion to modify the permit (including the operations plan
4 or reclamation plan, or both). To approve a proposed
5 modification, the Secretary, or for National Forest System
6 lands the Secretary of Agriculture, shall make the same
7 determinations as are required in the case of an original
8 operations permit, except that the Secretaries may estab-
9 lish joint rules regarding the extent to which requirements
10 for original permits under this section shall apply to appli-
11 cations to modify a permit based on whether such modi-
12 fications are deemed significant or minor. Such rules shall
13 provide that all requirements applicable to a new permit
14 shall apply to any extension of the area covered by the
15 permit (except for incidental boundary revisions).

16 (2) The Secretary, or for National Forest System
17 lands the Secretary of Agriculture, may, at any time, re-
18 quire reasonable modification to any operations plan or
19 reclamation plan upon a determination that the require-
20 ments of this Act cannot be met if the plan is followed
21 as approved. Such determination shall be based on a writ-
22 ten finding and subject to notice and hearing requirements
23 established by the Secretary concerned.

24 (3) A permit modification is required before changes
25 are made to the approved plan of operations, or if unan-

1 anticipated events or conditions exist on the mine site, in-
2 cluding in the case of—

3 (A) development of acid or toxic drainage;

4 (B) loss of springs or water supplies;

5 (C) the need for long-term water treatment;

6 (D) reclamation failure;

7 (E) the discovery of significant scientific, cul-
8 tural, or biological resources that were not addressed
9 in the original plan; or

10 (F) the discovery of hazards to public safety.

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

12 An operator conducting mineral activities under an oper-
13 ations permit in effect under this title may not cease min-
14 eral activities for a period of 180 days or more under an
15 operations permit unless the Secretary concerned has ap-
16 proved such temporary cessation or unless the temporary
17 cessation is permitted under the original permit. Any oper-
18 ator temporarily ceasing mineral activities for a period of
19 180 days or more under an existing operations permit
20 shall submit, before the expiration of such 180-day period,
21 a complete application for temporary cessation of oper-
22 ations to the Secretary concerned for approval unless the
23 temporary cessation is permitted under the original per-
24 mit.

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

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

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

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

23 (C) A determination that the amount of finan-
24 cial assurance filed with the permit application is
25 sufficient to assure completion of the reclamation ac-

1 activities identified in the approved reclamation plan in
2 the event of forfeiture.

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

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

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

1 or for National Forest System lands the Secretary of Agri-
2 culture, of reviewing, administering, and enforcing such
3 permit, as determined by such Secretary. All moneys re-
4 ceived under this subsection shall be deposited in the
5 Abandoned Locatable Minerals Mine Reclamation Fund
6 established under title III.

7 (j) TRANSFER, ASSIGNMENT, OR SALE OF RIGHTS.—
8 (1) No transfer, assignment, or sale of rights granted by
9 a permit under this section shall be made without the prior
10 written approval of the Secretary, or for National Forest
11 System lands the Secretary of Agriculture.

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

17 (A) is eligible to receive a permit in accordance
18 with section 204;

19 (B) has submitted evidence of financial assur-
20 ance satisfactory under section 205; and

21 (C) meets any other requirements specified by
22 such Secretary.

23 (3) The successor in interest shall assume the liability
24 and reclamation responsibilities established by the existing
25 permit and shall conduct the mineral activities in full com-

1 pliance with this Act, and the terms and conditions of the
2 permit as in effect at the time of transfer, assignment,
3 or sale.

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

18 (k) PUBLIC PARTICIPATION.—(1) Concurrent with
19 submittal of an application for a permit under this section
20 or a renewal or significant modification thereof, the appli-
21 cant shall publish a notice in a newspaper of local circula-
22 tion at least once a week for 4 consecutive weeks and in
23 the Federal Register. The notice shall include: the name
24 of the applicant, the location of the proposed mineral ac-
25 tivities, the type and expected duration of the proposed

1 mineral activities, the proposed use of the land after the
2 completion of mineral activities and a location where such
3 plans are publicly available. The applicant shall also notify
4 in writing other Federal, State, and local government
5 agencies and Indian tribes that regulate mineral activities
6 or land planning decisions in the area subject to mineral
7 activities or that manage lands adjacent to the area sub-
8 ject to mineral activities. The applicant shall provide proof
9 of such notification to the Secretary, or for National For-
10 est System lands, the Secretary of Agriculture.

11 (2) The applicant for a permit under this section
12 shall make paper and digital copies of the complete permit
13 application, permit modifications, or permit renewals
14 available for public review at the office of the responsible
15 Federal surface management agency located nearest to the
16 location of the proposed mineral activities, and at such
17 other public locations deemed appropriate by the State or
18 local government for the county in which the proposed
19 mineral activities will occur prior to final decision by the
20 Secretary, or for National Forest System lands, the Sec-
21 retary of Agriculture. Any person, and the authorized rep-
22 resentative of a Federal, State, or local governmental
23 agency or Indian tribe, shall have the right to file written
24 comments relating to the approval or disapproval of the
25 permit application until 30 days after the last day of news-

1 paper publication. The Secretary concerned shall promptly
2 make such comments available to the applicant.

3 (3) Any person may file written comments during the
4 comment period specified in paragraph (2) and any person
5 who is, or may be, adversely affected by the proposed min-
6 eral activities may request a nonadjudicatory public hear-
7 ing to be held in the county in which the mineral activities
8 are proposed. The Secretary concerned shall consider all
9 written comments filed during such period. If a hearing
10 is requested by any person who is, or may be, adversely
11 affected by the proposed mineral activities, the Secretary
12 concerned shall consider such request and may conduct
13 such hearing. When a hearing is to be held, notice of such
14 hearing shall be published in a newspaper of local circula-
15 tion at least once a week for 2 weeks prior to the hearing
16 date.

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

20 **SEC. 204. PERSONS INELIGIBLE FOR PERMITS.**

21 (a) CURRENT VIOLATIONS.—Unless corrective action
22 has been taken in accordance with subsection (c), no per-
23 mit under this title shall be issued or transferred to an
24 applicant if the applicant or any agent of the applicant,
25 the operator (if different than the applicant) of the claim

1 concerned, any claim holder (if different than the appli-
2 cant) of the claim concerned, or any affiliate or officer
3 or director of the applicant is currently in violation of any
4 of the following:

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

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

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

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

23 (c) CORRECTION.—(1) The Secretary, or for National
24 Forest System lands the Secretary of Agriculture, may
25 issue or reinstate a permit under this title if the applicant

1 submits proof that the violation referred to in subsection
2 (a) or (b) has been corrected or is in the process of being
3 corrected to the satisfaction of such Secretary or if the
4 applicant submits proof that the violator has filed and is
5 presently pursuing, a direct administrative or judicial ap-
6 peal to contest the existence of the violation. For purposes
7 of this section, an appeal of any applicant's relationship
8 to an affiliate shall not constitute a direct administrative
9 or judicial appeal to contest the existence of the violation.

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

16 (d) PATTERN OF WILLFUL VIOLATIONS.—No permit
17 under this Act may be issued to any applicant if there
18 is a demonstrated pattern of willful violations of the sur-
19 face management requirements of this Act by the appli-
20 cant, any affiliate of the applicant, or the operator or
21 claim holder if different than the applicant, and such vio-
22 lations are of such nature and duration, and with such
23 resulting irreparable damage to the environment, as to
24 clearly indicate an intent not to comply with the surface
25 management requirements and other applicable statutes.

1 **SEC. 205. FINANCIAL ASSURANCE.**

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

13 (2) The financial assurance shall cover all lands with-
14 in the initial permit area, and shall be extended to cover
15 all lands added pursuant to any permit modification made
16 under section 203(f) (relating to operations permits), or
17 affected by mineral activities.

18 (b) AMOUNT.—The amount of the financial assur-
19 ance required under this section shall be sufficient to as-
20 sure the completion of reclamation satisfying the require-
21 ments of this Act if the work were to be performed by
22 the Secretary concerned in the event of forfeiture, includ-
23 ing the construction and maintenance costs for any treat-
24 ment facilities necessary to meet Federal and State envi-
25 ronmental requirements. The calculation of such amount
26 shall take into account the maximum level of financial ex-

1 posure which shall arise during the mineral activity and
2 administrative costs associated with a government agency
3 reclaiming the site.

4 (c) DURATION.—The financial assurance required
5 under this section shall be held for the duration of the
6 mineral activities and for an additional period to cover the
7 operator's responsibility for revegetation as specified
8 under section 206(b)(6)(B), and effluent treatment as
9 specified in subsection (g).

10 (d) ADJUSTMENTS.—The amount of the financial as-
11 surance and the terms of the acceptance of the assurance
12 may be adjusted by the Secretary concerned from time to
13 time as the area requiring coverage is increased or de-
14 creased, or where the costs of reclamation or treatment
15 change, or pursuant to section 203(h) (relating to oper-
16 ations permits), but the financial assurance shall other-
17 wise be in compliance with this section. The Secretary con-
18 cerned shall review the financial guarantee as part of the
19 permit review under section 203(h).

20 (e) RELEASE.—Upon request, and after notice and
21 opportunity for public comment, and after inspection by
22 the Secretary, or for National Forest System lands, the
23 Secretary of Agriculture, such Secretary may, after con-
24 sultation with the Administrator of the Environmental
25 Protection Agency, release in whole or in part the financial

1 assurance required under this section if the Secretary
2 makes both of the following determinations:

3 (1) A determination that reclamation covered
4 by the financial assurance has been accomplished as
5 required by this Act.

6 (2) A determination that the terms and condi-
7 tions of any other applicable Federal requirements,
8 and State requirements applicable pursuant to coop-
9 erative agreements under section 207, have been ful-
10 filled.

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

13 (1) After the operator has completed any re-
14 quired backfilling, regrading, and drainage control of
15 an area subject to mineral activities and covered by
16 the financial assurance, and has commenced revege-
17 tation on the regraded areas subject to mineral ac-
18 tivities in accordance with the approved plan, that
19 portion of the total financial assurance secured for
20 the area subject to mineral activities attributable to
21 the completed activities may be released.

22 (2) After the operator has completed success-
23 fully all remaining mineral activities and reclamation
24 activities and all requirements of the operations plan
25 and the reclamation plan (including the provisions of

1 section 206(b)(6)(B) relating to revegetation and ef-
2 fluent treatment required by subsection (g)), and all
3 other requirements of this Act have in fact been
4 fully met, the remaining portion of the financial as-
5 surance may be released.

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

11 (g) EFFLUENT.—Notwithstanding section 206(b)(4),
12 where any discharge resulting from the mineral activities
13 requires treatment in order to meet the applicable effluent
14 limitations and water quality standards, the financial as-
15 surance shall include the estimated cost of maintaining
16 such treatment for the projected period that will be needed
17 after the cessation of mineral activities. The portion of the
18 financial assurance attributable to such estimated cost of
19 treatment shall not be released until the discharge has
20 ceased for a period of 5 years, or, if the discharge con-
21 tinues, until the operator has met all applicable effluent
22 limitations and water quality standards for 5 full years
23 without treatment.

24 (h) ENVIRONMENTAL HAZARDS.—If the Secretary,
25 or for National Forest System lands, the Secretary of Ag-

1 riculture, determines, after final release of financial assur-
2 ance, that an environmental hazard resulting from the
3 mineral activities exists, or the terms and conditions of
4 the operations permit of this Act were not fulfilled in fact
5 at the time of release, such Secretary shall issue an order
6 under section 406 requiring the claim holder or operator
7 (or any person who controls the claim holder or operator)
8 to correct the condition such that applicable laws and reg-
9 ulations and any conditions from the plan of operations
10 are met.

11 **SEC. 206. OPERATION AND RECLAMATION.**

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

17 (A) the uses which such lands were capable of
18 supporting prior to surface disturbance by the oper-
19 ator, or

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

24 (2) Reclamation shall proceed as contemporaneously
25 as practicable with the conduct of mineral activities.

1 (b) OPERATION AND RECLAMATION STANDARDS.—
2 Mineral activities shall be conducted in accordance with
3 the following standards, as well as any additional stand-
4 ards the Secretaries may jointly promulgate under section
5 201 and subsection (a) of this section to address specific
6 environmental impacts of selected methods of mining:

7 (1) SOILS.—

8 (A) Soils, including top soils and subsoils
9 removed from lands subject to mineral activi-
10 ties, shall be segregated from waste material
11 and protected to minimize erosion and sustain
12 revegetation when reclamation begins. If such
13 soil is not replaced on a backfill area within a
14 time-frame short enough to avoid deterioration
15 of the topsoil, vegetative cover or other means
16 shall be used so that the soil is preserved from
17 wind and water erosion, remains free of con-
18 tamination by acid or other toxic material, and
19 is in a usable condition for sustaining vegeta-
20 tion when restored during reclamation.

21 (B) In the event the topsoil from lands
22 subject to mineral activities is of insufficient
23 quantity or of inferior quality for sustaining
24 vegetation, and other suitable growth media re-
25 moved from the lands subject to the mineral ac-

1 activities are available that shall support vegeta-
2 tion, the best available growth medium shall be
3 removed, segregated and preserved in a like
4 manner as under subparagraph (A) for sus-
5 taining vegetation when restored during rec-
6 lamation.

7 (C) In the event the soil (other than top-
8 soil) from lands subject to mineral activities is
9 of insufficient quantity or of inferior quality for
10 sustaining vegetation, and other suitable growth
11 media removed from the lands subject to the
12 mineral activities are available that support re-
13 vegetation, these substitute materials shall be
14 removed, segregated, or preserved in a like
15 manner as under subparagraph (A) for later
16 use in reclamation.

17 (D) Mineral activities shall be conducted to
18 prevent contamination of soils to the extent
19 possible using the best technology currently
20 available. If contamination occurs, the operator
21 shall decontaminate or dispose of any contami-
22 nated soils which have resulted from the min-
23 eral activities.

24 (2) STABILIZATION.—All surface areas subject
25 to mineral activities, including segregated soils or

1 other growth medium, waste material piles, ore piles,
2 subgrade ore piles, and open or partially backfilled
3 mine pits that meet the requirements of paragraph
4 (5), shall be engineered to a stable condition to ef-
5 fectively control fugitive dust and erosion and other-
6 wise comply with toxic substance, solid waste, air
7 and water pollution control laws and other environ-
8 mental laws.

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

15 (4) HYDROLOGIC BALANCE.—(A) Mineral ac-
16 tivities shall be conducted to minimize disturbances
17 to the prevailing hydrologic balance of the permit
18 area and surrounding hydrologic basins affected by
19 mining activities existing prior to the mineral activi-
20 ties in the permit area and in the surrounding wa-
21 tershed, as established by the baseline information
22 provided pursuant to section 203(b)(10) (relating to
23 operations permits). Hydrologic balance includes the
24 quality and quantity of ground water and surface
25 water and their interrelationships, including re-

1 charge and discharge rates. In all cases, the operator
2 shall comply with Federal and State laws related to
3 the quality and quantity of such waters.

4 (B) Mineral activities shall be conducted to pre-
5 vent where possible the formation of acidic, toxic, or
6 other contaminated water. Where the formation of
7 acidic, toxic, or other contaminated water occurs,
8 standard mineral activities shall be conducted so as
9 to minimize the formation of acidic, toxic, or other
10 contaminated water.

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

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

21 (E) Where the quality of surface water or
22 ground water used for domestic, municipal, agricul-
23 tural, or industrial purposes is adversely impacted
24 by mineral activities, such water shall be treated, or
25 replaced with the same quantity and approximate

1 quality of water, comparable to premining conditions
2 as established in paragraph (10) of section 203(b)
3 (relating to operations permits).

4 (5) SURFACE RESTORATION.—(A) The surface
5 area disturbed by mineral activities shall be shaped,
6 graded, and contoured to its natural topography.
7 Backfilling of an open pit mine shall be required
8 only if the Secretary, or for National Forest System
9 lands the Secretary of Agriculture, finds that such
10 open pit or partially backfilled, graded, or contoured
11 pit would pose a significant threat to the public
12 health, safety, or have a significant adverse effect on
13 the environment in terms of surface water or
14 groundwater pollution.

15 (B) In instances where complete backfilling of
16 an open pit is not required, the pit shall be graded
17 to blend with the surrounding topography as much
18 as practicable to minimize disturbance to the hydro-
19 logic balance, and revegetated in accordance with
20 paragraph (6), and the water quality in the pit and
21 other water impoundments and wells adjacent or
22 hydrologically connected by groundwater shall com-
23 ply with applicable Federal, State, and, where appro-
24 priate, local government water quality standards.

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

20 (B) In order to ensure compliance with sub-
21 paragraph (A), the period for determining successful
22 revegetation shall be for a period of 5 full years
23 after the last year of augmented seeding, fertilizing,
24 irrigation, or other work, except that such period
25 shall be 10 full years where the annual average pre-

1 precipitation is 26 inches or less. The period may be for
2 a longer time at the discretion of the Secretary con-
3 cerned where the average precipitation is 26 inches
4 or less.

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

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

20 (8) SEALING.—All drill holes, and openings on
21 the surface associated with underground mineral ac-
22 tivities, shall be backfilled, sealed, or otherwise con-
23 trolled when no longer needed for the conduct of
24 mineral activities to ensure protection of the public

1 and the environment, protection of groundwater, and
2 management of fish and wildlife and livestock.

3 (9) STRUCTURES.—All buildings, structures, or
4 equipment constructed, used, or improved during
5 mineral activities shall be removed, unless the Sec-
6 retary concerned, in consultation with the affected
7 land managing agency, determines that use of the
8 buildings, structures, or equipment would be con-
9 sistent with subsection (a) or for environmental
10 monitoring and the Secretary concerned takes own-
11 ership of such structures.

12 (10) CULTURAL, PALEONTOLOGICAL, AND CAVE
13 RESOURCES.—The operator shall not knowingly dis-
14 turb, alter, injure, or destroy any scientifically im-
15 portant paleontologic remains or any historic,
16 archeologic, or cave-related sites, structure, building,
17 resource or object without including in the plan of
18 operations a proposed action to preserve the re-
19 source that is approved by the Secretary prior to the
20 disturbance taking place.

21 (11) ROADS AND STRUCTURES.—All buildings,
22 structures, roads, and equipment constructed, used,
23 or improved during mineral activities shall be de-
24 signed, constructed, and maintained to minimize ero-
25 sion, siltation, and air pollution and then removed

1 after mining, unless the Secretary concerned in con-
2 sultation with the affected land managing agency,
3 determines that use of the buildings, structures,
4 roads, or equipment would be consistent with sub-
5 section (a) or for environmental monitoring, and the
6 Secretary concerned takes ownership of such struc-
7 tures, buildings, or equipment, or roads.

8 (12) DRILL HOLES.—(A) Drilling fluids shall
9 not be allowed to flow off the site.

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

14 (13) LEACHING OPERATIONS AND IMPOUND-
15 MENTS.—Leach pads, tailing impoundments, waste
16 rock and overburden, ponds, and solution holding fa-
17 cilities shall be designed, constructed, and operated
18 according to standard engineering practices to
19 achieve and maintain the stability of the site and fa-
20 cilitate reclamation. These facilities shall be con-
21 structed with a low-permeability liner or contain-
22 ment system that will detect leaks, and prevent the
23 release of solutions to the environment. All leaching
24 facilities and impoundments shall withstand a local

1 24-hour, 100-year storm event in addition to the so-
2 lution expected for the facility.

3 (14) FIRE PREVENTION AND CONTROL.—All
4 applicable Federal and State fire laws and regula-
5 tions shall be complied with, including taking all rea-
6 sonable measures to prevent and suppress fire in the
7 project area.

8 (15) TEMPORARY CESSATION.—During tem-
9 porary cessation of operations, the operator shall
10 maintain the site, and take measures to stabilize the
11 excavation and workings, control toxic or deleterious
12 materials, and monitor site conditions.

13 (c) SPECIAL RULE.—A modified reclamation plan
14 shall not be required for mineral activities related to rec-
15 lamation where a mining claim is forfeited, relinquished,
16 or lapsed, or a plan is revoked or suspended or has expired
17 in any such case. Reclamation activities shall continue
18 only as approved by the Secretary, or for National Forest
19 System lands the Secretary of Agriculture, pursuant to the
20 previously approved reclamation plan.

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

22 (1) The term “waste material” means the mate-
23 rial resulting from mineral activities involving ex-
24 traction, beneficiation, and processing, including but
25 not limited to tailings, and such material resulting

1 from mineral activities involving processing, to the
2 extent such material is not subject to subtitle C of
3 the Solid Waste Disposal Act (42 U.S.C. 3251 and
4 following) or the Uranium Mill Tailings Radiation
5 Control Act of 1978 (42 U.S.C. 7901 and following).

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

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

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

19 **SEC. 207. STATE LAW AND REGULATION.**

20 (a) STATE LAW.—(1) Any reclamation standard or
21 requirement in State law or regulation that meets or ex-
22 ceeds the requirements of section 206 shall not be con-
23 strued to be inconsistent with any such standard.

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

1 of section 205 shall not be construed to be inconsistent
2 with such requirements.

3 (3) Any inspection standard or requirement in State
4 law or regulation that meets or exceeds the requirements
5 of section 403 shall not be construed to be inconsistent
6 with such requirements.

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

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

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

1 (2) In such instances where the proposed mineral ac-
2 tivities would affect lands not subject to this Act in addi-
3 tion to lands subject to this Act, in order to approve a
4 plan of operations the Secretary concerned shall enter into
5 a cooperative agreement with the State that sets forth a
6 common regulatory framework consistent with the surface
7 management requirements of this Act for the purposes of
8 such plan of operations.

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

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

23 (e) DELEGATION.—The Secretary, or for National
24 Forest System lands the Secretary of Agriculture, shall
25 not delegate to any State, or political subdivision thereof,

1 the Secretary's authorities, duties, and obligations under
2 this Act, including with respect to any cooperative agree-
3 ments entered into under this section.

4 (f) PREEMPTION.—Subject to section 414(b), the re-
5 quirements of this Act shall preempt any conflicting re-
6 quirements of any State, or political subdivision thereof
7 relating to mineral activities for locatable minerals.

8 **SEC. 208. UNSUITABILITY REVIEW.**

9 (a) AUTHORITY.—(1) As provided for in this section,
10 the Secretary of the Interior, in carrying out that Sec-
11 retary's responsibilities under the Federal Land Policy
12 and Management Act of 1976, and the Secretary of Agri-
13 culture, in carrying out that Secretary's responsibilities
14 under the Forest and Rangeland Renewable Resources
15 Planning Act of 1974, shall each review lands that are
16 subject to this Act in order to determine, in accordance
17 with the provisions of subsection (b), whether there are
18 any areas on such lands that are either unsuitable for all
19 types of mineral activities or conditionally suitable for cer-
20 tain types of mineral activities.

21 (2) Any determination made in accordance with sub-
22 section (b) shall be immediately effective. Such determina-
23 tion shall be incorporated into the applicable land use plan
24 when such plan is adopted, revised, or significantly amend-
25 ed pursuant to provisions of law other than this Act.

1 (3) In any instance where a determination is made
2 in accordance with subsection (b) that an area is condi-
3 tionally suitable for all or certain mineral activities, the
4 Secretary concerned shall take appropriate steps to notify
5 the public that any operations permit application relevant
6 to that area shall be conditioned accordingly.

7 (b) SPECIAL CHARACTERISTICS.—(1) The Secretary,
8 or for National Forest System lands the Secretary of Agri-
9 culture, shall determine that an area open to location is
10 unsuitable for all or certain mineral activities if such Sec-
11 retary finds that such activities would result in significant,
12 permanent, and irreparable damage to special characteris-
13 ties as described in paragraph (3) that cannot be pre-
14 vented by the imposition of conditions in the operations
15 permit required under section 203(b).

16 (2) The Secretary, or for National Forest System
17 lands, the Secretary of Agriculture, may determine, after
18 notice and opportunity for public comment, that an area
19 is conditionally suitable for all or certain types of mineral
20 activities, if the Secretary concerned determines that any
21 of the special characteristics of such area, as listed in
22 paragraph (3), require protection from the effects of min-
23 eral activities.

1 (3) Any of the following shall be considered special
2 characteristics of an area which contains lands or interests
3 in lands open to location under this Act:

4 (A) The existence of significant water resources
5 or supplies in or associated with such area, such as
6 aquifers and aquifer recharge areas.

7 (B) The presence in such area of publicly
8 owned places which are listed on or are determined
9 eligible for listing on the National Register of His-
10 toric Places.

11 (C) The designation of all or any portion of
12 such area or any adjacent area as a National Con-
13 servation System unit.

14 (D) The designation of all or any portion of
15 such area or any adjacent area as critical habitat for
16 threatened or endangered species under the Endan-
17 gered Species Act of 1973 (16 U.S.C. 1531 and fol-
18 lowing).

19 (E) The designation of all or any portion of
20 such area as Class I under section 162 of the Clean
21 Air Act (42 U.S.C. 7401).

22 (F) The presence of such other resource values
23 as the Secretary, or for National Forest System
24 lands, the Secretary of Agriculture, may, by joint

1 rule, specify based upon field testing that verifies
2 such criteria.

3 (G) Areas that are designated as or adjacent to
4 Research Natural Areas.

5 (H) Lands containing Native American “sacred
6 sites” as defined in Executive Order 13007, and
7 other cultural and religious values.

8 (c) EFFECT OF DETERMINATION.—(1) In any in-
9 stance in which a determination of unsuitability is made
10 for any area in accordance with subsection (b)(1), all min-
11 eral activities shall be prohibited in such area, and the
12 Secretary shall (with the consent of the Secretary of Agri-
13 culture for National Forest System lands) withdraw such
14 area pursuant to section 204 of the Federal Land Policy
15 and Management Act of 1976 (43 U.S.C. 1714). The Sec-
16 retary’s determination under this section shall constitute
17 the documentation required to be provided under section
18 204(c)(12) of the Federal Land Policy and Management
19 Act of 1976 (43 U.S.C. 1714).

20 (2) In any instance where the Secretary, or for Na-
21 tional Forest System lands, the Secretary of Agriculture,
22 determines in accordance with subsection (b)(2) that, by
23 reason of any of the special characteristics listed in sub-
24 section (b)(3), an area is conditionally suitable for all or
25 certain mineral activities, the Secretary concerned shall in-

1 clude such additional conditions in each permit for mineral
2 activities in such area as necessary to limit or control min-
3 eral activities to the extent necessary to protect the special
4 characteristics concerned.

5 (3) Nothing in this section shall be construed as af-
6 fecting lands where mineral activities were being con-
7 ducted on the date of enactment of this Act under ap-
8 proved plans of operations or under notice (as provided
9 for in the regulations of the Secretary of the Interior in
10 effect prior to the date of enactment of this Act relating
11 to operations that cause a cumulative disturbance of 5
12 acres or less).

13 (4) Nothing in this section shall be construed as pro-
14 hibiting mineral activities at a specific site, where substan-
15 tial legal and financial commitments in such mineral ac-
16 tivities were in existence on the date of enactment of this
17 Act, but nothing in this section shall be construed as pro-
18 hibiting either Secretary from regulating such activities in
19 accordance with other authority of law. As used in this
20 paragraph, the term “substantial legal and financial com-
21 mitments” means, with respect to a specific site, signifi-
22 cant investments, expenditures, or undertakings that have
23 been made to explore or develop any mining claim and
24 or millsite located at such site under the general mining
25 laws, such as but not limited to: contracts for minerals

1 produced; construction; contracts for the construction; or
2 commitment to raise capital for the construction of proc-
3 essing, beneficiation, extraction, or refining facilities, or
4 transportation or utility infrastructure; exploration activi-
5 ties conducted to delineate proven or probable ore re-
6 serves; acquisition of mining claims (but only if such ac-
7 quisition is part of other significant investments specified
8 in this paragraph); and such other costs or expenditures
9 related to mineral activities at such site as are similar to
10 the foregoing itemized costs or expenditures and as may
11 be specified by the Secretaries by joint rule.

12 (d) WITHDRAWAL REVIEW.—(1) In carrying out the
13 responsibilities referred to in subsection (a), the Secretary
14 or, for National Forest System lands, the Secretary of Ag-
15 riculture, shall review all administrative withdrawals of
16 land under such Secretary’s jurisdiction (other than wil-
17 derness study areas) to determine whether the revocation
18 or modification of such withdrawal for the purpose of al-
19 lowing such lands to be opened to the location of mining
20 claims under this Act is appropriate as a result of either
21 of the following:

22 (A) The imposition of any conditions imposed
23 as part of the land use planning process or the im-
24 position of any conditions as a result of the review
25 process under subsection (a).

1 (B) The limitation of section 111 (relating to
2 limitation on patent issuance).

3 (2) The Secretary concerned shall publish the review
4 referred to in paragraph (1) in the Federal Register no
5 later than 1 year after the date of enactment of this Act.
6 After providing notice and opportunity for comment, the
7 Secretary may issue a revocation or modification of such
8 administrative withdrawals as he deems appropriate by
9 reason of the criteria listed in subparagraph (A) or (B)
10 of paragraph (1).

11 **SEC. 209. CERTAIN MINERAL ACTIVITIES COVERED BY**
12 **OTHER LAW.**

13 This title shall not apply to any mineral activities
14 that are subject to the Stockraising Homestead Acts (43
15 U.S.C. 218 and following).

16 **TITLE III—ABANDONED**
17 **LOCATABLE MINERALS MINE**
18 **RECLAMATION FUND**

19 **SEC. 301. ABANDONED LOCATABLE MINERALS MINE REC-**
20 **LAMATION.**

21 (a) ESTABLISHMENT.—(1) There is established on
22 the books of the Treasury of the United States a trust
23 fund to be known as the Abandoned Locatable Minerals
24 Mine Reclamation Fund (hereinafter in this title referred
25 to as the “Fund”). The Fund shall be administered by

1 the Secretary acting through the Director of the Office
2 of Surface Mining Reclamation and Enforcement.

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

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

16 (1) All moneys received from the collection of
17 claim maintenance fees under section 103.

18 (2) All moneys collected pursuant to section
19 110 (relating to failure to comply), section 406 (re-
20 lating to enforcement) and section 404 (relating to
21 citizens suits).

22 (3) All permit fees and transfer fees received
23 under section 203.

1 (4) All donations by persons, corporations, as-
2 sociations, and foundations for the purposes of this
3 title.

4 (5) All amounts referred to in section 112 (re-
5 lating to royalties and penalties for underreporting).

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

8 (7) All moneys received pursuant to section 111
9 from issuance of patents.

10 (c) ADMINISTRATIVE COSTS.—(1) In calculating the
11 amount to be deposited in the Fund during any fiscal year
12 under subsection (b), the enacted appropriation of the De-
13 partment of the Interior during the preceding year attrib-
14 utable to administering this Act shall be deducted from
15 the total of the amounts listed in subsection (b) prior to
16 the transfer of such amounts to the Fund.

17 (2) The amount deducted under paragraph (1) of this
18 section shall be available to the Secretary, subject to ap-
19 propriation, for payment of the costs of administering this
20 Act.

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

22 (a) IN GENERAL.—The Secretary is authorized, sub-
23 ject to appropriations, to use moneys in the Fund for the
24 reclamation and restoration of land and water resources
25 adversely affected by past mineral activities on lands the

1 legal and beneficial title to which resides in the United
2 States, land within the exterior boundary of any national
3 forest system unit, or other lands described in subsection
4 (d) or section 303, including any of the following:

5 (1) Preventing, abating, treating, and control-
6 ling water pollution created by abandoned mine
7 drainage.

8 (2) Reclaiming and restoring abandoned surface
9 and underground mined areas.

10 (3) Reclaiming and restoring abandoned milling
11 and processing areas.

12 (4) Backfilling, sealing, or otherwise control-
13 ling, abandoned underground mine entries.

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

18 (6) Controlling of surface subsidence due to
19 abandoned underground mines.

20 (b) PRIORITIES.—Expenditures of moneys from the
21 Fund shall reflect the following priorities in the order stat-
22 ed:

23 (1) The protection of public health, safety, gen-
24 eral welfare, and property from extreme danger from
25 the adverse effects of past mineral activities, espe-

1 cially as relates to surface water and groundwater
2 contaminants.

3 (2) The protection of public health, safety, and
4 general welfare from the adverse effects of past min-
5 eral activities.

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

9 (c) HABITAT.—Reclamation and restoration activities
10 under this title, particularly those identified under sub-
11 section (a)(4), shall include appropriate mitigation meas-
12 ures to provide for the continuation of any established
13 habitat for wildlife in existence prior to the commencement
14 of such activities.

15 (d) OTHER AFFECTED LANDS.—Where mineral ex-
16 ploration, mining, beneficiation, processing, or reclamation
17 activities have been carried out with respect to any mineral
18 which would be a locatable mineral if the legal and bene-
19 ficial title to the mineral were in the United States, if such
20 activities directly affect lands managed by the Bureau of
21 Land Management as well as other lands and if the legal
22 and beneficial title to more than 50 percent of the affected
23 lands resides in the United States, the Secretary is author-
24 ized, subject to appropriations, to use moneys in the Fund

1 for reclamation and restoration under subsection (a) for
2 all directly affected lands.

3 (e) **RESPONSE OR REMOVAL ACTIONS.**—Reclamation
4 and restoration activities under this title which constitute
5 a removal or remedial action under section 101 of the
6 Comprehensive Environmental Response, Compensation,
7 and Liability Act of 1980 (42 U.S.C. 9601), shall be con-
8 ducted with the concurrence of the Administrator of the
9 Environmental Protection Agency. The Secretary and the
10 Administrator shall enter into a Memorandum of Under-
11 standing to establish procedures for consultation, concur-
12 rence, training, exchange of technical expertise and joint
13 activities under the appropriate circumstances, which pro-
14 vide assurances that reclamation or restoration activities
15 under this title, to the extent practicable, shall not be con-
16 ducted in a manner that increases the costs or likelihood
17 of removal or remedial actions under the Comprehensive
18 Environmental Response, Compensation, and Liability Act
19 of 1980 (42 U.S.C. 9601 and following), and which avoid
20 oversight by multiple agencies to the maximum extent
21 practicable.

22 **SEC. 303. ELIGIBLE LANDS AND WATERS.**

23 (a) **ELIGIBILITY.**—Reclamation expenditures under
24 this title may only be made with respect to Federal lands
25 or Indian lands or water resources that traverse or are

1 contiguous to Federal lands or Indian lands where such
2 lands or water resources have been affected by past min-
3 eral activities, including any of the following:

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

8 (2) Lands for which the Secretary makes a de-
9 termination that there is no continuing reclamation
10 responsibility of a claim holder, operator, or other
11 person who abandoned the site prior to completion
12 of required reclamation under State or other Federal
13 laws.

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

20 (b) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—

21 The provisions of section 411(d) of the Surface Mining
22 Control and Reclamation Act of 1977 (30 U.S.C.
23 1240a(d)) shall apply to expenditures made from the
24 Fund established under this title.

1 (c) INVENTORY.—The Secretary shall prepare and
2 maintain an inventory of abandoned locatable minerals
3 mines on Federal lands and any abandoned mine on In-
4 dian lands which may be eligible for expenditures under
5 this title.

6 **SEC. 304. FUND EXPENDITURES.**

7 Moneys available from the Fund may be expended for
8 the purposes specified in section 302 directly by the Direc-
9 tor of the Office of Surface Mining Reclamation and En-
10 forcement. The Director may also make such money avail-
11 able for such purposes to the Director of the Bureau of
12 Land Management, the Chief of the United States Forest
13 Service, the Director of the National Park Service, or Di-
14 rector of the United States Fish and Wildlife Service, to
15 any other agency of the United States, to an Indian tribe,
16 or to any public entity that volunteers to develop and im-
17 plement, and that has the ability to carry out, all or a
18 significant portion of a reclamation program under this
19 title.

20 **SEC. 305. AUTHORIZATION OF APPROPRIATIONS.**

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

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

5 **SEC. 401. POLICY FUNCTIONS.**

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

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

20 **SEC. 402. USER FEES.**

21 The Secretary and the Secretary of Agriculture are
22 each authorized to establish and collect from persons sub-
23 ject to the requirements of this Act such user fees as may
24 be necessary to reimburse the United States for the ex-
25 penses incurred in administering such requirements. Fees

1 may be assessed and collected under this section only in
2 such manner as may reasonably be expected to result in
3 an aggregate amount of the fees collected during any fiscal
4 year which does not exceed the aggregate amount of ad-
5 ministrative expenses referred to in this section.

6 **SEC. 403. INSPECTION AND MONITORING.**

7 (a) INSPECTIONS.—(1) The Secretary, or for Na-
8 tional Forest System lands the Secretary of Agriculture,
9 shall make inspections of mineral activities so as to ensure
10 compliance with the surface management requirements of
11 title II.

12 (2) The Secretary concerned shall establish a fre-
13 quency of inspections for mineral activities conducted
14 under a permit issued under title II, but in no event shall
15 such inspection frequency be less than one complete in-
16 spection per calendar quarter or, two per calendar quarter
17 in the case of a permit for which the Secretary concerned
18 approves an application under section 203(g) (relating to
19 temporary cessation of operations). After revegetation has
20 been established in accordance with a reclamation plan,
21 such Secretary shall conduct annually 2 complete inspec-
22 tions. Such Secretary shall have the discretion to modify
23 the inspection frequency for mineral activities that are
24 conducted on a seasonal basis. Inspections shall continue

1 under this subsection until final release of financial assur-
2 ance.

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

1 unless that person elects to accompany an authorized rep-
2 resentative on the inspection.

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

11 (b) MONITORING.—(1) The Secretary, or for Na-
12 tional Forest System lands the Secretary of Agriculture,
13 shall require all operators to develop and maintain a moni-
14 toring and evaluation system which shall identify compli-
15 ance with all surface management requirements.

16 (2) Monitoring shall be conducted as close as tech-
17 nically feasible to the mineral activity involved, and in all
18 cases such monitoring shall be conducted within the per-
19 mit area.

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

1 (4) The Secretary concerned may require additional
2 monitoring be conducted as necessary to assure compli-
3 ance with the reclamation and other environmental stand-
4 ards of this Act.

5 (5) The operator shall file reports with the Secretary,
6 or for National Forest System lands the Secretary of Agri-
7 culture, on a frequency determined by the Secretary con-
8 cerned, on the results of the monitoring and evaluation
9 process, except that if the monitoring and evaluation show
10 a violation of the surface management requirements under
11 this Act, it shall be reported immediately to the Secretary
12 concerned. Information received pursuant to this sub-
13 section from any natural person shall not be used against
14 any such natural person in any criminal case, except a
15 prosecution for perjury or for giving a false statement.
16 The Secretary shall evaluate the reports submitted pursu-
17 ant to this paragraph, and based on those reports and any
18 necessary inspection shall take enforcement action pursu-
19 ant to this section.

20 (6) The Secretary, or for National Forest System
21 lands the Secretary of Agriculture, shall determine what
22 information shall be reported by the operator pursuant to
23 paragraph (5). A failure to report as required by the Sec-
24 retary concerned shall constitute a violation of this Act

1 and subject the operator to enforcement action pursuant
2 to section 406.

3 **SEC. 404. CITIZENS SUITS.**

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

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

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

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

1 layed, except that an action to compel agency action re-
2 viewable under section 405 may only be filed in a United
3 States district court within the circuit in which such action
4 would be reviewable under section 405.

5 (b) EXCEPTIONS.—(1) No action may be commenced
6 under subsection (a) prior to 60 days after the plaintiff
7 has given notice in writing of such alleged violation to the
8 Secretary, or for National Forest System lands the Sec-
9 retary of Agriculture, except that any such action may be
10 brought immediately after such notification if the violation
11 complained of constitutes an imminent threat to the envi-
12 ronment or to the health or safety of the public.

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

18 (3) No action may be commenced under paragraph
19 (2) of subsection (a) against either Secretary to review any
20 rule promulgated by, or to any permit issued or denied
21 by such Secretary if such rule or permit issuance or denial
22 is judicially reviewable under section 405 or under any
23 other provision of law at any time after such promulga-
24 tion, issuance, or denial is final.

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

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

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

1 to be a waiver of the sovereign immunity of an Indian tribe
2 except as provided for in section 203.

3 **SEC. 405. ADMINISTRATIVE AND JUDICIAL REVIEW.**

4 (a) REVIEW BY SECRETARY.—(1)(A) Any person
5 issued a notice of violation or cessation order under sec-
6 tion 406, or any person having an interest which is or
7 may be adversely affected by such notice or order, may
8 apply to the Secretary, or for National Forest System
9 lands the Secretary of Agriculture, for review of the notice
10 or order within 30 days after receipt thereof, or as the
11 case may be, within 30 days after such notice or order
12 is modified, vacated, or terminated.

13 (B) Any person who is subject to a penalty assessed
14 under section 110 (relating to failure to comply), or sec-
15 tion 406 may apply to the Secretary concerned for review
16 of the assessment within 45 days of notification of such
17 penalty.

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

20 (D) Pending a review by the Secretary or resolution
21 of an administrative appeal, final decisions (except en-
22 forcement actions under section 406) shall be stayed.

23 (2) The Secretary concerned shall provide an oppor-
24 tunity for a public hearing at the request of any party
25 to the proceeding as specified in paragraph (1). The filing

1 of an application for review under this subsection shall not
2 operate as a stay of any order or notice issued under sec-
3 tion 406.

4 (3) For any review proceeding under this subsection,
5 the Secretary concerned shall make findings of fact and
6 shall issue a written decision incorporating therein an
7 order vacating, affirming, modifying, or terminating the
8 notice, order, or decision, or with respect to an assess-
9 ment, the amount of penalty that is warranted. Where the
10 application for review concerns a cessation order issued
11 under section 406 the Secretary concerned shall issue the
12 written decision within 30 days of the receipt of the appli-
13 cation for review or within 30 days after the conclusion
14 of any hearing referred to in paragraph (2), whichever is
15 later, unless temporary relief has been granted by the Sec-
16 retary concerned under paragraph (4).

17 (4) Pending completion of any review proceedings
18 under this subsection, the applicant may file with the Sec-
19 retary, or for National Forest System lands the Secretary
20 of Agriculture, a written request that the Secretary grant
21 temporary relief from any order issued under section 406
22 together with a detailed statement giving reasons for such
23 relief. The Secretary concerned shall expeditiously issue
24 an order or decision granting or denying such relief. The
25 Secretary concerned may grant such relief under such con-

1 ditions as he may prescribe only if such relief shall not
2 adversely affect the health or safety of the public or cause
3 imminent environmental harm to land, air, or water re-
4 sources.

5 (5) The availability of review under this subsection
6 shall not be construed to limit the operation of rights
7 under section 404 (relating to citizen suits).

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

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

10 (3) The availability of judicial review established in
11 this subsection shall not be construed to limit the oper-
12 ations of rights under section 404 (relating to citizens
13 suits).

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

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

24 (c) COSTS.—Whenever a proceeding occurs under
25 subsection (a) or (b), at the request of any person, a sum

1 equal to the aggregate amount of all costs and expenses
2 (including attorney fees) as determined by the Secretary
3 or Secretaries concerned or the court to have been reason-
4 ably incurred by such person for or in connection with par-
5 ticipation in such proceedings, including any judicial re-
6 view of the proceeding, may be assessed against either
7 party as the court, in the case of judicial review, or the
8 Secretary or Secretaries concerned in the case of adminis-
9 trative proceedings, deems proper if it is determined that
10 such party prevailed in whole or in part, achieving some
11 success on the merits, and that such party made a sub-
12 stantial contribution to a full and fair determination of
13 the issues.

14 **SEC. 406. ENFORCEMENT.**

15 (a) ORDERS.—(1) If the Secretary, or for National
16 Forest System lands the Secretary of Agriculture, or an
17 authorized representative of such Secretary, determines
18 that any person is in violation of any surface management
19 or monitoring requirement, such Secretary or authorized
20 representative shall issue to such person a notice of viola-
21 tion describing the violation and the corrective measures
22 to be taken. The Secretary concerned, or the authorized
23 representative of such Secretary, shall provide such person
24 with a period of time not to exceed 30 days to abate the
25 violation. Such period of time may be extended by the Sec-

1 retary concerned upon a showing of good cause by such
2 person. If, upon the expiration of time provided for such
3 abatement, the Secretary concerned, or the authorized
4 representative of such Secretary, finds that the violation
5 has not been abated he shall immediately order a cessation
6 of all mineral activities or the portion thereof relevant to
7 the violation.

8 (2) If the Secretary concerned, or the authorized rep-
9 resentative of the Secretary concerned, determines that
10 any condition or practice exists, or that any person is in
11 violation of any surface management or monitoring re-
12 quirement, and such condition, practice or violation is
13 causing, or can reasonably be expected to cause—

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

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

18 such Secretary or authorized representative shall imme-
19 diately order a cessation of mineral activities or the por-
20 tion thereof relevant to the condition, practice, or viola-
21 tion.

22 (3)(A) A cessation order pursuant to paragraphs (1)
23 or (2) shall remain in effect until such Secretary, or au-
24 thorized representative, determines that the condition,
25 practice, or violation has been abated, or until modified,

1 vacated or terminated by the Secretary or authorized rep-
2 resentative. In any such order, the Secretary or authorized
3 representative shall determine the steps necessary to abate
4 the violation in the most expeditious manner possible and
5 shall include the necessary measures in the order. The
6 Secretary concerned shall require appropriate financial as-
7 surances to ensure that the abatement obligations are met.

8 (B) Any notice or order issued pursuant to para-
9 graphs (1) or (2) may be modified, vacated, or terminated
10 by the Secretary concerned or an authorized representa-
11 tive of such Secretary. Any person to whom any such no-
12 tice or order is issued shall be entitled to a hearing on
13 the record.

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

1 retary of Agriculture, from taking alternative enforcement
2 action prior to the expiration of 30 days.

3 (5) If a claim holder or operator (or any person who
4 controls the claim holder or operator) fails to abate a vio-
5 lation or defaults on the terms of the permit, the Sec-
6 retary, or for National Forest System lands the Secretary
7 of Agriculture, shall forfeit the financial assurance for the
8 plan as necessary to ensure abatement and reclamation
9 under this Act. The Secretary concerned may prescribe
10 conditions under which a surety may perform reclamation
11 in accordance with the approved plan in lieu of forfeiture.

12 (6) The Secretary, or for National Forest System
13 lands the Secretary of Agriculture, shall not cause for-
14 feiture of the financial assurance while administrative or
15 judicial review is pending.

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

21 (b) COMPLIANCE.—The Secretary, or for National
22 Forest System lands the Secretary of Agriculture, may re-
23 quest the Attorney General to institute a civil action for
24 relief, including a permanent or temporary injunction or
25 restraining order, or any other appropriate enforcement

1 order, including the imposition of civil penalties, in the dis-
2 trict court of the United States for the district in which
3 the mineral activities are located whenever a person—

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

7 (2) interferes with, hinders, or delays the Sec-
8 retary concerned in carrying out an inspection under
9 section 403.

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

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

20 (d) PENALTIES.—(1) Any person who fails to comply
21 with any surface management requirement shall be liable
22 for a penalty of not more than \$25,000 per violation. Each
23 day of violation may be deemed a separate violation for
24 purposes of penalty assessments.

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

6 (3) Whenever a corporation is in violation of a surface
7 management requirement or fails or refuses to comply
8 with an order issued under subsection (a), any director,
9 officer, or agent of such corporation who knowingly au-
10 thorized, ordered, or carried out such violation, failure, or
11 refusal shall be subject to the same penalties as may be
12 imposed upon the person referred to in paragraph (1).

13 (e) SUSPENSIONS OR REVOCATIONS.—The Secretary,
14 or for National Forest System lands the Secretary of Agri-
15 culture, shall suspend or revoke a permit issued under title
16 II, in whole or in part, if the operator or person con-
17 ducting mineral activities—

18 (1) knowingly made or knowingly makes any
19 false, inaccurate, or misleading material statement
20 in any mining claim, notice of location, application,
21 record, report, plan, or other document filed or re-
22 quired to be maintained under this Act;

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

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

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

5 (5) fails to maintain an adequate financial as-
6 surance under section 205;

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

9 (7) with regard to plans conditionally approved
10 under section 204(c)(2), fails to abate a violation to
11 the satisfaction of the Secretary concerned, or if the
12 validity of the violation is upheld on the appeal
13 which formed the basis for the conditional approval.

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

16 (1) makes any false material statement, rep-
17 resentation, or certification in, or omits or conceals
18 material information from, or unlawfully alters, any
19 mining claim, notice of location, application, record,
20 report, plan, or other documents filed or required to
21 be maintained under this Act; or

22 (2) falsifies, tampers with, renders inaccurate,
23 or fails to install any monitoring device or method
24 required to be maintained under this Act,

1 shall upon conviction, be punished by a fine of not more
2 than \$10,000, or by imprisonment for not more than 2
3 years, or by both. If a conviction of a person is for a viola-
4 tion committed after a first conviction of such person
5 under this paragraph, punishment shall be by a fine of
6 not more than \$20,000 per day of violation, or by impris-
7 onment of not more than 4 years, or both. Each day of
8 continuing violation may be deemed a separate violation
9 for purposes of penalty assessments.

10 (g) KNOWING VIOLATIONS.—Any person who know-
11 ingly—

12 (1) engages in mineral activities without a per-
13 mit required under title II, or

14 (2) violates any other surface management re-
15 quirement of this Act or any provision of a permit
16 issued under this Act (including any exploration or
17 operations plan on which such permit is based), or
18 condition or limitation thereof,

19 shall upon conviction be punished by a fine of not less
20 than \$5,000 nor more than \$50,000 per day of violation,
21 or by imprisonment for not more than 3 years, or both.
22 If a conviction of a person is for a violation committed
23 after the first conviction of such person under this para-
24 graph, punishment shall be a fine of not less than \$10,000

1 per day of violation, or by imprisonment of not more than
2 6 years, or both.

3 (h) **KNOWING AND WILLFUL VIOLATIONS.**—Any per-
4 son who knowingly and willfully commits an act for which
5 a civil penalty is provided in paragraph (1) of subsection
6 (g) shall, upon conviction, be punished by a fine of not
7 more than \$50,000, or by imprisonment for not more than
8 2 years, or both.

9 (i) **DEFINITION.**—For purposes of this section, the
10 term “person” includes a person as defined in section
11 3(a)(19) and any officer, agent, or employee of any such
12 person.

13 **SEC. 407. REGULATIONS; EFFECTIVE DATES.**

14 (a) **EFFECTIVE DATE.**—The provisions of this Act
15 shall take effect on the date of enactment of this Act, ex-
16 cept as otherwise provided in this Act.

17 (b) **REGULATIONS.**—The Secretary and the Secretary
18 of Agriculture may issue such regulations as may be nec-
19 essary under this Act. The regulations implementing title
20 II and the provisions of title IV which affect the United
21 States Forest Service shall be joint regulations issued by
22 both Secretaries.

23 (c) **NOTICE.**—Within 180 days after the date of en-
24 actment of this Act, the Secretary shall give notice to hold-

1 ers of mining claims and millsites maintained under the
2 general mining laws as to the requirements of section 106.

3 **Subtitle B—Miscellaneous** 4 **Provisions**

5 **SEC. 411. TRANSITIONAL RULES; SURFACE MANAGEMENT** 6 **REQUIREMENTS.**

7 (a) NEW CLAIMS.—Notwithstanding any other provi-
8 sion of law, any mining claim for a locatable mineral on
9 lands subject to this Act located after the date of enact-
10 ment of this Act shall be subject to the requirements of
11 title II.

12 (b) PREEXISTING CLAIMS.—(1) Notwithstanding any
13 other provision of law, any unpatented mining claim or
14 millsite located under the general mining laws before the
15 date of enactment of this Act for which a plan of operation
16 has not been approved or a notice filed prior to the date
17 of enactment shall, upon the effective date of this Act,
18 be subject to the requirements of title II, except as pro-
19 vided in paragraphs (2) and (3).

20 (2)(A) If a plan of operations had been approved for
21 mineral activities on any claim or site referred to in para-
22 graph (1) prior to the date of enactment of this Act, for
23 a period of 5 years after the effective date of this Act min-
24 eral activities at such claim or site shall be subject to such
25 plan of operations (or a modification or amendment there-

1 to prepared in accordance with the provisions of law appli-
2 cable prior to the enactment of this Act). During such 5-
3 year period, modifications of, or amendments to, any such
4 plan may be made in accordance with the provisions of
5 law applicable prior to the enactment of this Act if such
6 modifications or amendments are deemed minor by the
7 Secretary concerned. After such 5-year period the require-
8 ments of title II shall apply, subject to the limitations of
9 section 208. In order to meet the requirements of title II,
10 the person conducting mineral activities under such plan
11 of operations (or modified or amended plan) shall apply
12 for a modification under section 203(f) no later than 3
13 years after the date of enactment of this Act. For purposes
14 of this paragraph, any modification or amendment that
15 extends the area covered by the plan (except for incidental
16 boundary revisions) or that increases the risk of adverse
17 effects on the environment shall not be subject to this
18 paragraph and shall be subject to other provisions of this
19 Act.

20 (B) During the 5-year period referred to in subpara-
21 graph (A), the provisions of section 403 (relating to in-
22 spection and monitoring) and section 406 (relating to en-
23 forcement) shall apply on the basis of the surface manage-
24 ment requirements applicable to such plans of operations
25 prior to the effective date of this Act.

1 (C) Where an application for modification or amend-
2 ment of a plan of operations referred to in subparagraph
3 (A) has been timely submitted and an approved plan ex-
4 pires prior to Secretarial action on the application, mineral
5 activities and reclamation may continue in accordance
6 with the terms of the expired plan until the Secretary
7 makes an administrative decision on the application.

8 (3)(A) If a substantially complete application for ap-
9 proval of a plan of operations or for a modification of,
10 or amendment to, a plan of operations had been submitted
11 by the date of enactment of this Act and either a scoping
12 document or an environmental assessment prepared for
13 purposes of compliance with the National Environmental
14 Policy Act of 1969 (42 U.S.C. 4321 and following) had
15 been published with respect to such plan, modification, or
16 amendment before the date of the enactment of this Act
17 but the submitted plan of operations or modification or
18 amendment had not been approved for mineral activities
19 on any claim or site referred to in paragraph (1) prior
20 to such date of enactment, for a period of 5 years after
21 the effective date of this Act mineral activities at such
22 claim or site shall be subject to the provisions of law appli-
23 cable prior to the enactment of this Act. During such 5-
24 year period, subsequent modifications of, or amendments
25 to, any such plan may be made in accordance with the

1 provisions of law applicable prior to the enactment of this
2 Act if such subsequent modifications or amendments are
3 deemed minor by the Secretary concerned. After such 5-
4 year period, the requirements of title II shall apply, sub-
5 ject to the limitations of section 208. For purposes of this
6 paragraph, any subsequent modification or amendment
7 which extends the area covered by the plan (except for
8 incidental boundary revisions) or which significantly in-
9 creases the risk of adverse effects on the environment shall
10 not be subject to this paragraph and shall be subject to
11 other provisions of this Act.

12 (B) In order to meet the requirements of title II, the
13 person conducting mineral activities under a plan of oper-
14 ations (or modified or amended plan referred to in sub-
15 paragraph (A)) shall apply for a modification under sec-
16 tion 203(f) no later than 3 years after the date of enact-
17 ment of this Act. During such 5-year period the provisions
18 of section 403 (relating to inspection and monitoring) and
19 section 406 (relating to enforcement) shall apply on the
20 basis of the surface management requirements applicable
21 to such plans of operations prior to the effective date of
22 this Act.

23 (C) Where an application for modification or amend-
24 ment of a plan of operations referred to in subparagraph
25 (A) has been timely submitted and an approved plan ex-

1 pires prior to Secretarial action on the application, mineral
2 activities and reclamation may continue in accordance
3 with the terms of the expired plan until the Secretary
4 makes an administrative decision on the application.

5 (4) If a notice had been filed with the authorized offi-
6 cer in the applicable office of the Bureau of Land Manage-
7 ment or the United States Forest Service (as provided for
8 in the regulations of the Secretary of the Interior or the
9 Secretary of Agriculture, respectively, in effect prior to the
10 date of enactment of this Act) prior to the date of enact-
11 ment of this Act, mineral activities may continue under
12 such notice or notice of intent for a period of 2 years after
13 the effective date of this Act, after which time the require-
14 ments of title II shall apply, subject to the limitations of
15 section 208(d)(2). In order to meet the requirements of
16 title II, the person conducting mineral activities under
17 such notice shall apply for a permit under section 203 no
18 later than 18 months after the effective date of this Act,
19 unless such mineral activities are conducted pursuant to
20 section 202(b). During such 2-year period the provisions
21 of sections 403 (relating to inspection and monitoring)
22 and 406 (relating to enforcement) shall apply on the basis
23 of the surface management requirements applicable to
24 such notices prior to the effective date of this Act.

1 **SEC. 412. OIL SHALE CLAIMS SUBJECT TO SPECIAL RULES.**

2 (a) The provisions of section 411 shall apply to oil
3 shale claims referred to in section 2511(e)(2) of the En-
4 ergy Policy Act of 1992 (Public Law 102–486).

5 (b) Section 2511(f) of the Energy Policy Act of 1992
6 (Public Law 102–486) is amended as follows:

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

9 (2) By inserting the following before the period:
10 “in the same manner as if such claims were subject
11 to title II of the Mineral Exploration and Develop-
12 ment Act of 2003”.

13 **SEC. 413. PURCHASING POWER ADJUSTMENT.**

14 The Secretary shall adjust all location fees, claim
15 maintenance rates, penalty amounts, and other dollar
16 amounts established in this Act for changes in the pur-
17 chasing power of the dollar every 10 years following the
18 date of enactment of this Act, employing the Consumer
19 Price Index for All-Urban Consumers published by the De-
20 partment of Labor as the basis for adjustment, and round-
21 ing according to the adjustment process of conditions of
22 the Federal Civil Penalties Inflation Adjustment Act of
23 1990 (104 Stat. 890).

24 **SEC. 414. SAVINGS CLAUSE.**

25 (a) SPECIAL APPLICATION OF MINING LAWS.—Noth-
26 ing in this Act shall be construed as repealing or modi-

1 fying any Federal law, regulation, order, or land use plan,
2 in effect prior to the date of enactment of this Act that
3 prohibits or restricts the application of the general mining
4 laws, including laws that provide for special management
5 criteria for operations under the general mining laws as
6 in effect prior to the date of enactment of this Act, to
7 the extent such laws provide environmental protection
8 greater than required under this Act, and any such prior
9 law shall remain in force and effect with respect to claims
10 located (or proposed to be located) or converted under this
11 Act. Nothing in this Act shall be construed as applying
12 to or limiting mineral investigations, studies, or other min-
13 eral activities conducted by any Federal or State agency
14 acting in its governmental capacity pursuant to other au-
15 thority. Nothing in this Act shall affect or limit any as-
16 sessment, investigation, evaluation, or listing pursuant to
17 the Comprehensive Environmental Response, Compensa-
18 tion, and Liability Act of 1980 (42 U.S.C. 9601 and fol-
19 lowing), or the Solid Waste Disposal Act (42 U.S.C. 3251
20 and following).

21 (b) EFFECT ON OTHER FEDERAL LAWS.—The provi-
22 sions of this Act shall supersede the general mining laws,
23 but, except for the general mining laws, nothing in this
24 Act shall be construed as superseding, modifying, amend-
25 ing, or repealing any provision of Federal law not ex-

1 pressly superseded, modified, amended, or repealed by this
2 Act. Nothing in this Act shall be construed as altering,
3 affecting, amending, modifying, or changing, directly or
4 indirectly, any law which refers to and provides authorities
5 or responsibilities for, or is administered by, the Environ-
6 mental Protection Agency or the Administrator of the En-
7 vironmental Protection Agency, including the Federal
8 Water Pollution Control Act, title XIV of the Public
9 Health Service Act (the Safe Drinking Water Act), the
10 Clean Air Act, the Pollution Prevention Act of 1990, the
11 Toxic Substances Control Act, the Federal Insecticide,
12 Fungicide, and Rodenticide Act, the Federal Food, Drug,
13 and Cosmetic Act, the Motor Vehicle Information and
14 Cost Savings Act, the Federal Hazardous Substances Act,
15 the Endangered Species Act of 1973, the Atomic Energy
16 Act, the Noise Control Act of 1972, the Solid Waste Dis-
17 posal Act, the Comprehensive Environmental Response,
18 Compensation, and Liability Act of 1980, the Superfund
19 Amendments and Reauthorization Act of 1986, the Ocean
20 Dumping Act, the Environmental Research, Development,
21 and Demonstration Authorization Act, the Pollution Pros-
22 ecution Act of 1990, and the Federal Facilities Compli-
23 ance Act of 1992, or any statute containing an amend-
24 ment to any of such Acts. Nothing in this Act shall be
25 construed as modifying or affecting any provision of the

1 Native American Graves Protection and Repatriation Act
2 (Public Law 101–601) or any provision of the American
3 Indian Religious Freedom Act (42 U.S.C. 1996).

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

12 **SEC. 415. AVAILABILITY OF PUBLIC RECORDS.**

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

22 **SEC. 416. MISCELLANEOUS POWERS.**

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

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

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

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

16 (2) Administer oaths.

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

21 (4) Order testimony to be taken by deposition
22 before any person who is designated by such Sec-
23 retary and who has the power to administer oaths,
24 and to compel testimony and the production of evi-

1 dence in the same manner as authorized under para-
2 graph (3) of this subsection.

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

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

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

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

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

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

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

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

1 products derived therefrom from a claim site on
2 Federal lands or allocated to such claim site. Such
3 inspection shall be for the purpose of determining
4 whether the operator of such vehicle has the docu-
5 mentation required by law, if such documentation is
6 required under this Act.

7 **SEC. 417. MULTIPLE MINERAL DEVELOPMENT AND SUR-**
8 **FACE RESOURCES.**

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

15 **SEC. 418. MINERAL MATERIALS.**

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

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

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

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

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

1 “(b)(1) Subject to valid existing rights, after the date
2 of enactment of the Mineral Exploration and Development
3 Act of 2003, notwithstanding the reference to common va-
4 rieties in subsection (a) and to the exception to such term
5 relating to a deposit of materials with some property giv-
6 ing it distinct and special value, all deposits of mineral
7 materials referred to in such subsection, including the
8 block pumice referred to in such subsection, shall be sub-
9 ject to disposal only under the terms and conditions of
10 the Materials Act of 1947.

11 “(2) For purposes of paragraph (1), the term ‘valid
12 existing rights’ means that a mining claim located for any
13 such mineral material had some property giving it the dis-
14 tinct and special value referred to in subsection (a), or
15 as the case may be, met the definition of block pumice
16 referred to in such subsection, was properly located and
17 maintained under the general mining laws prior to the
18 date of enactment of the Mineral Exploration and Devel-
19 opment Act of 2003, and was supported by a discovery
20 of a valuable mineral deposit within the meaning of the
21 general mining laws as in effect immediately prior to the
22 date of enactment of the Mineral Exploration and Devel-
23 opment Act of 2003 and that such claim continues to be
24 valid under this Act.”.

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

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

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

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

13 (d) SHORT TITLES.—

14 (1) SURFACE RESOURCES.—The Act of July
15 23, 1955, is amended by inserting after section 7
16 the following new section:

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

19 (2) MINERAL MATERIALS.—The Act of July 31,
20 1947, entitled “An Act to provide for the disposal of
21 materials on the public lands of the United States”
22 (30 U.S.C. 601 and following) is amended by insert-
23 ing after section 4 the following new section:

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

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

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

8 **SEC. 419. APPLICATION OF ACT TO BENEFICIATION AND**
9 **PROCESSING OF NONFEDERAL MINERALS ON**
10 **FEDERAL LANDS.**

11 The provisions of this Act (including the surface
12 management requirements of title II) shall apply in the
13 same manner and to the same extent to Federal lands
14 used for beneficiation or processing activities for any min-
15 eral without regard to whether or not the legal and bene-
16 ficial title to the mineral is held by the United States. This
17 section applies only to minerals that are locatable minerals
18 or minerals that would be locatable minerals if the legal
19 and beneficial title to such minerals were held by the
20 United States.

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