

109TH CONGRESS
1ST SESSION

H. R. 3968

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

OCTOBER 6, 2005

Mr. RAHALL (for himself, Mr. INSLEE, Mr. SHAYS, Mr. GEORGE MILLER of California, Mr. HINCHEY, Mr. KUCINICH, Mr. BLUMENAUER, Mr. GRIJALVA, and Mr. ANDREWS) 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 “Federal Mineral Development and Land Protection Eq-
6 uity Act of 2005”.

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

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

TITLE I—MINERAL EXPLORATION AND DEVELOPMENT

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

TITLE II—PROTECTION OF SPECIAL PLACES

- Sec. 201. Lands open to location.
 Sec. 202. Unsuitability review.

TITLE III—ENVIRONMENTAL CONSIDERATIONS OF MINERAL
 EXPLORATION AND DEVELOPMENT

- Sec. 301. Environmental protection standards.
 Sec. 302. Permits.
 Sec. 303. Operations permit.
 Sec. 304. Persons ineligible for permits.
 Sec. 305. Financial assurance.
 Sec. 306. Operation and reclamation.
 Sec. 307. State law and regulation.
 Sec. 308. Certain mineral activities covered by other law.

TITLE IV—ABANDONED LOCATABLE MINERALS MINE
 RECLAMATION FUND

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

TITLE V—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

Subtitle A—Administrative Provisions

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

Sec. 507. Regulations; effective dates.

Subtitle B—Miscellaneous Provisions

Sec. 511. Transitional rules; surface management and environmental protection requirements.

Sec. 512. Oil shale claims subject to special rules.

Sec. 513. Purchasing power adjustment.

Sec. 514. Savings clause.

Sec. 515. Availability of public records.

Sec. 516. Miscellaneous powers.

Sec. 517. Multiple mineral development and surface resources.

Sec. 518. Mineral materials.

Sec. 519. Application of Act to beneficiation and processing of non-Federal minerals on Federal lands.

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

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

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

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

8 (B) Any partner of such person.

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

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

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

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

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

14 (6) The term “environmental protection re-
15 quirements” means the requirements and standards
16 of title II, and such other standards as are estab-
17 lished by the Secretary governing mineral activities
18 pursuant to this Act.

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

1 (8) The term “Indian lands” means lands held
2 in trust for the benefit of an Indian tribe or indi-
3 vidual or held by an Indian tribe or individual sub-
4 ject to a restriction by the United States against
5 alienation.

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

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

23 (11) The term “legal subdivisions” means an
24 aliquot quarter quarter section of land as established
25 by the official records of the public land survey sys-

1 tem, or a single lot as established by the official
2 records of the public land survey system if the perti-
3 nent section is irregular and contains fractional lots,
4 as the case may be.

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

9 (i) The Mineral Leasing Act (30 U.S.C.
10 181 and following).

11 (ii) The Geothermal Steam Act of 1970
12 (30 U.S.C. 1001 and following).

13 (iii) The Act of July 31, 1947, commonly
14 known as the Materials Act of 1947 (30 U.S.C.
15 601 and following).

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

18 (B) The term “locatable mineral” does not in-
19 clude any mineral held in trust by the United States
20 for any Indian or Indian tribe, as defined in section
21 2 of the Indian Mineral Development Act of 1982
22 (25 U.S.C. 2101), or any mineral owned by any In-
23 dian or Indian tribe, as defined in that section, that
24 is subject to a restriction against alienation imposed
25 by the United States.

1 (13) The term “millsite claim” means a claim
2 to public land that—

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

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

6 and

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

11 (14) The term “mineral activities” means any
12 activity on Federal lands for, related to, or inci-
13 dental to, mineral exploration, mining, beneficiation,
14 processing, or reclamation activities for any locatable
15 mineral.

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

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

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

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

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

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

18 (21) The term “temporary cessation” means a
19 halt in mine-related production activities for a period
20 no longer than 5 year.

21 (b) TITLE II.—

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

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

4 (B)(i) was properly located and maintained
5 under the general mining laws prior to the ap-
6 plicable date;

7 (ii) was supported by a discovery of a valu-
8 able mineral deposit within the meaning of the
9 general mining laws on the applicable date, or
10 satisfies the limitations under existing law for
11 millsite claims; and

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

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

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

21 (B) For lands described in paragraph (1)
22 of section 201(b), if the recommendation re-
23 ferred to in paragraph (1) of that section is
24 made before the date of the enactment of this
25 Act, the earlier of—

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

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

5 (C) For lands described in paragraph
6 (3)(B) of section 201(b), the date of the enact-
7 ment of this Act.

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

13 (E) For lands described in paragraph
14 (3)(B) of section 201(b), the date of the deter-
15 mination of eligibility of such lands for inclu-
16 sion in the Wild and Scenic River System.

17 (F) For lands described in paragraph (4)
18 of section 201(b), the date of the withdrawal
19 under other law.

20 (c) REFERENCES TO OTHER LAWS.—(1) Any ref-
21 erence in this Act to the term general mining laws is a
22 reference to those Acts that generally comprise chapters
23 2, 12A, and 16, and sections 161 and 162, of title 30,
24 United States Code.

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

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

9 **SEC. 101. RIGHTS UNDER THIS ACT.**

10 The holder of a mining claim located under the gen-
11 eral mining laws and maintained in compliance with this
12 Act shall have the exclusive right of possession and use
13 of the claimed land for mineral activities, including the
14 right of ingress and egress to such claimed lands for such
15 activities, subject to the rights of the United States under
16 this Act and other applicable Federal law. Such rights of
17 the claim holder shall terminate upon completion of min-
18 eral activities of lands to the satisfaction of the Secretary.
19 In cases where an area is determined unsuitable under
20 section 202, holders of claims located under the general
21 mining laws shall be entitled to receive a refund of claim
22 maintenance fees.

23 **SEC. 102. CLAIM MAINTENANCE REQUIREMENTS.**

24 (a) CLAIM MAINTENANCE FEE.—Except as provided
25 in subsections (c), (d), and (e), the holder of each

1 unpatented mining claim, mill, or tunnel site located pur-
2 suant to the general mining laws, whether located before
3 or after the enactment of this Act, shall pay to the Sec-
4 retary, on or before August 31 of each year, a claim main-
5 tenance fee of \$100 per claim. Such claim maintenance
6 fee shall be in lieu of the assessment work requirement
7 contained in the general mining laws and the related filing
8 requirements contained in section 314(a) of the Federal
9 Land Policy and Management Act of 1976 (43 U.S.C.
10 1744(a)).

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

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

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

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

3 (2) had fully complied with all requirements es-
4 tablished under sections 2325 and 2326 of the Re-
5 vised Statutes (30 U.S.C. 29 and 30) for vein or
6 lode claims and sections 2329, 2330, 2331, and
7 2333 of the Revised Statutes (30 U.S.C. 35, 36, and
8 37) for placer claims, and section 2337 of the Re-
9 vised Statutes (30 U.S.C. 42) for millsite claims, by
10 that date.

11 (e) EXCEPTIONS FOR CLAIMANTS HOLDING 10 OR
12 FEWER MINING CLAIMS.—

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

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

1 (B) are performing exploration work to
2 disclose, expose, or otherwise make known pos-
3 sible valuable mineralization on a total of 10 or
4 fewer claims under a valid notice or plan of op-
5 eration; and

6 (C) have less than 10 acres of unreclaimed
7 surface disturbance from such mining activity
8 or such exploration work.

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

20 (f) CO-OWNERSHIP.—Upon the failure of any one or
21 more of several co-claimants to contribute such co-claim-
22 ant or claimants' portion of the fee under this section, any
23 co-claimant who has paid such fee may, after the payment
24 due date, give the delinquent co-claimant or claimants no-
25 tice of such failure in writing or by publication in the

1 newspaper nearest the claim for at least once a week for
2 at least 90 days. If at the expiration of 90 days after such
3 notice in writing or by publication, any delinquent co-
4 claimant fails or refuses to contribute the co-claimant's
5 portion, the co-claimant's interest in the claim shall be-
6 come the property of the co-claimants who have paid the
7 required fee. The co-claimants who take over interest in
8 a claim in such a manner shall assume the duty to pay
9 the additional fees associated with such claim.

10 (g) FUND.—All moneys received by the United States
11 under this section shall be deposited in the Abandoned
12 Locatable Minerals Mine Reclamation Fund established
13 under title IV.

14 (h) CREDIT AGAINST ROYALTY.—The amount of the
15 annual claim maintenance fee required to be paid under
16 this section for any claim for any period shall be credited
17 against the amount of royalty required to be paid under
18 section 111 for the same period with respect to that claim.

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

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

22 (A) the spouse and dependent children (as
23 defined in section 152 of the Internal Revenue
24 Code of 1986), of the claimant; and

1 (B) any affiliate of the claimant, including
2 a person who controls, is controlled by, or is
3 under common control with the claimant.

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

9 **SEC. 103. LOCATION FEE.**

10 (a) IN GENERAL.—Notwithstanding any other provi-
11 sion of law, for every unpatented mining claim, mill, or
12 tunnel site located after the date of enactment of this Act,
13 pursuant to the general mining laws, the locator shall, at
14 the time the location notice is recorded with the Bureau
15 of Land Management, pay to the Secretary a location fee,
16 in addition to the claim maintenance fee required by sec-
17 tion 102, of \$25 per claim.

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

21 **SEC. 104. CO-OWNERSHIP.**

22 The co-ownership provisions of the general mining
23 laws shall remain in effect, except that in applying such
24 provisions, the annual claim maintenance fee required

1 under this title shall, where applicable, replace applicable
2 assessment requirements and expenditures.

3 **SEC. 105. OTHER REQUIREMENTS.**

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

11 **SEC. 106. FEE ADJUSTMENTS.**

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

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

22 (c) APPLICATION OF ADJUSTMENT.—A fee adjust-
23 ment under this section shall begin to apply during the
24 first assessment year (as defined under the general mining

1 laws) that begins at noon on the first day of September
2 after the adjustment is made.

3 **SEC. 107. USE OF FEES.**

4 All moneys received by the United States under this
5 title shall be deposited in the Abandoned Locatable Min-
6 erals Mine Reclamation Fund established under title IV.

7 **SEC. 108. PROHIBITION.**

8 If the Secretary prohibits the use of a mining claim
9 for mineral activities pursuant to section 202 of this Act
10 (relating to unsuitability), the provisions of sections 101
11 through 107 shall no longer apply with respect to that
12 claim.

13 **SEC. 109. FAILURE TO COMPLY.**

14 (a) FORFEITURE.—The failure of the claim holder to
15 file the notice of location, to pay the location fee, or to
16 comply with the claim maintenance provisions of section
17 102 for a mining claim as required by this title shall be
18 deemed conclusively to constitute forfeiture of the mining
19 claim by operation of law. Forfeiture shall not relieve any
20 person of any obligation created under this Act, including
21 reclamation.

22 (b) PROHIBITION.—A claim holder who has forfeited
23 a claim, except as provided in subsection (c) of this sec-
24 tion, may not locate a new claim for a period of 5 years
25 from the date such claim is deemed forfeited.

1 (c) RELINQUISHMENT.—A claim holder deciding not
2 to pursue mineral activities on a claim may relinquish such
3 claim by notifying the Secretary. A claim holder relin-
4 quishing a claim is responsible for reclamation as required
5 by section 306 of this Act and all other applicable require-
6 ments. A claim holder who relinquishes a claim shall not
7 be subject to the prohibition of subsection (b) of this sec-
8 tion unless the Secretary determines that the claim is
9 being relinquished and relocated for the purpose of avoid-
10 ing compliance with any provision of this Act, including
11 payment of the claim maintenance fee.

12 **SEC. 110. LIMITATION ON PATENTS.**

13 (a) MINING CLAIMS.—

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

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

22 (B) all requirements established under sec-
23 tions 2325 and 2326 of the Revised Statutes
24 (30 U.S.C. 29 and 30) for vein or lode claims
25 and sections 2329, 2330, 2331, and 2333 of

1 the Revised Statutes (30 U.S.C. 35, 36, and
2 37) for placer claims were fully complied with
3 by that date, including the parameters set forth
4 in section 2(a)(12) of this Act.

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

14 (b) MILLSITE CLAIMS.—

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

20 (A) a patent application for such land was
21 filed with the Secretary on or before September
22 30, 1994; and

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

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

10 **SEC. 111. ROYALTY.**

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

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

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

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

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

22 (3) A person conducting mineral activities shall—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (a) LANDS OPEN TO LOCATION.—Except as provided
11 in subsection (b), mining claims may be located under 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.—Notwith-
22 standing any other provision of law and subject to valid
23 existing rights, each of the following shall not be open to
24 the location of mining claims under this Act on or after
25 the date of enactment of this Act:

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

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

15 (3) Lands that are—

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

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

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

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

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

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

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

12 (7) Lands within 10 miles of a National Con-
13 servation System unit.

14 (8) Lands identified in the Roadless Area Con-
15 servation Rule of January 2001.

16 **SEC. 202. UNSUITABILITY REVIEW.**

17 (a) **AUTHORITY.**—(1) As provided for in this section,
18 the Secretary of the Interior, in carrying out that Sec-
19 retary’s responsibilities under the Federal Land Policy
20 and Management Act of 1976, and the Secretary of Agri-
21 culture, in carrying out that Secretary’s responsibilities
22 under the Forest and Rangeland Renewable Resources
23 Planning Act of 1974, shall each review lands that are
24 subject to this Act in order to determine, in accordance
25 with the provisions of subsection (b), whether there are

1 any areas on such lands that are either unsuitable for all
2 types of mineral activities or conditionally suitable for cer-
3 tain types of mineral activities.

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

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

15 (4) In areas with any special characteristics described
16 in subsection (b)(3), the Secretary, or for National Forest
17 System lands the Secretary of Agriculture, shall undertake
18 a validity examination on any claims within those areas.

19 (b) SPECIAL CHARACTERISTICS.—(1) The Secretary,
20 or for National Forest System lands the Secretary of Agri-
21 culture, shall determine that an area open to location is
22 unsuitable for all or certain mineral activities if such Sec-
23 retary finds that such activities would result in significant,
24 permanent, and irreparable damage to special characteris-
25 ties as described in paragraph (3) that cannot be pre-

1 vented by the imposition of conditions in the operations
2 permit required under section 303(b).

3 (2) The Secretary, or for National Forest System
4 lands, the Secretary of Agriculture, may determine, after
5 notice and opportunity for public comment, that an area
6 is conditionally suitable for all or certain types of mineral
7 activities, if the Secretary concerned determines that any
8 of the special characteristics of such area, as listed in
9 paragraph (3), require protection from the effects of min-
10 eral activities.

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

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

17 (B) The presence in such area of publicly
18 owned places which are listed on or are determined
19 eligible for listing on the National Register of His-
20 toric Places.

21 (C) The designation of all or any portion of
22 such area or any adjacent area as a National Con-
23 servation System unit.

24 (D) The designation of all or any portion of
25 such area or any adjacent area as critical habitat for

1 threatened or endangered species under the Endan-
2 gered Species Act of 1973 (16 U.S.C. 1531 and fol-
3 lowing).

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

7 (F) The presence of such other resource values
8 as the Secretary, or for National Forest System
9 lands, the Secretary of Agriculture, may, by joint
10 rule, specify based upon field testing that verifies
11 such criteria.

12 (G) Areas that are designated as or adjacent to
13 Research Natural Areas.

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

17 (I) The presence of sole source aquifers, as de-
18 fined or designated by the Environmental Protection
19 Agency.

20 (J) The presence of waters designated as Out-
21 standing National Resource Waters as defined under
22 the Federal Water Pollution Control Act (33 U.S.C.
23 1251 note).

24 (c) EFFECT OF DETERMINATION.—(1) In any in-
25 stance in which a determination of unsuitability is made

1 for any area in accordance with subsection (b)(1), all min-
2 eral activities shall be prohibited in such area, and the
3 Secretary shall (with the consent of the Secretary of Agri-
4 culture for National Forest System lands) withdraw such
5 area pursuant to section 204 of the Federal Land Policy
6 and Management Act of 1976 (43 U.S.C. 1714). The Sec-
7 retary's determination under this section shall constitute
8 the documentation required to be provided under section
9 204(c)(12) of the Federal Land Policy and Management
10 Act of 1976 (43 U.S.C. 1714).

11 (2) In any instance where the Secretary, or for Na-
12 tional Forest System lands, the Secretary of Agriculture,
13 determines in accordance with subsection (b)(2) that, by
14 reason of any of the special characteristics listed in sub-
15 section (b)(3), an area is conditionally suitable for all or
16 certain mineral activities, the Secretary concerned shall in-
17 clude such additional conditions in each permit for mineral
18 activities in such area as necessary to limit or control min-
19 eral activities to the extent necessary to protect the special
20 characteristics concerned.

21 (3) Nothing in this section shall be construed as af-
22 fecting lands where mineral activities were being con-
23 ducted on the date of enactment of this Act under ap-
24 proved plans of operations or under notice (as provided
25 for in the regulations of the Secretary of the Interior in

1 effect prior to the date of enactment of this Act relating
2 to operations that cause a cumulative disturbance of 5
3 acres or less).

4 (4) Nothing in this section shall be construed as pro-
5 hibiting mineral activities at a specific site, where substan-
6 tial legal and financial commitments in such mineral ac-
7 tivities were in existence on the date of enactment of this
8 Act, but nothing in this section shall be construed as pro-
9 hibiting either Secretary from regulating such activities in
10 accordance with other authority of law. As used in this
11 paragraph, the term “substantial legal and financial com-
12 mitments” means, with respect to a specific site, signifi-
13 cant investments, expenditures, or undertakings that have
14 been made to explore or develop any mining claim and
15 or millsite located at such site under the general mining
16 laws, such as but not limited to: contracts for minerals
17 produced; construction; contracts for the construction; or
18 commitment to raise capital for the construction of proc-
19 essing, beneficiation, extraction, or refining facilities, or
20 transportation or utility infrastructure; exploration activi-
21 ties conducted to delineate proven or probable ore re-
22 serves; acquisition of mining claims (but only if such ac-
23 quisition is part of other significant investments specified
24 in this paragraph); and such other costs or expenditures
25 related to mineral activities at such site as are similar to

1 the foregoing itemized costs or expenditures and as may
2 be specified by the Secretaries by joint rule.

3 (d) WITHDRAWAL REVIEW.—(1) In carrying out the
4 responsibilities referred to in subsection (a), the Secretary
5 or, for National Forest System lands, the Secretary of Ag-
6 riculture, shall review all administrative withdrawals of
7 land under such Secretary’s jurisdiction (other than wil-
8 derness study areas) to determine whether the modifica-
9 tion of such withdrawal for the purpose of allowing sur-
10 rounding lands to be withdrawn from the location of min-
11 ing claims under this Act is appropriate as a result of any
12 of the following:

13 (A) The imposition of any conditions imposed
14 as part of the land use planning process or the im-
15 position of any conditions as a result of the review
16 process under subsection (a).

17 (B) The limitation of section 110 (relating to
18 limitation on patent issuance).

19 (C) The criteria for special places set forth in
20 this section or section 201.

21 (2) The Secretary concerned shall publish the review
22 referred to in paragraph (1) in the Federal Register no
23 later than 1 year after the date of enactment of this Act.
24 After providing notice and opportunity for comment, the
25 Secretary may issue a modification of such administrative

1 withdrawals as he deems appropriate by reason of the cri-
2 teria listed in subparagraph (A) or (B) of paragraph (1).

3 (e) PETITIONS FOR DESIGNATION AS UNSUITABLE
4 OR CONDITIONALLY SUITABLE.—Any State, county, or
5 local government, and any Indian tribe or Native Hawai-
6 ian organization, may petition the Secretary or, in the case
7 of National Forest System lands, the Secretary of Agri-
8 culture, to designate any portion of land that is within
9 the secretaries jurisdictions that is open to mining as un-
10 suitable or conditionally suitable for mining pursuant to
11 the special places criteria set forth in this section or sec-
12 tion 201. The Secretary concerned shall publish the peti-
13 tion in the Federal Register no later than 30 days after
14 the date the petition is filed. After providing notice and
15 opportunity for comment, the Secretary shall respond to
16 the petitioner within 180 days after the end of the public
17 comment period.

18 (f) LIMITATION ON EXCHANGE OF WITHDRAWN
19 LAND.—Any lands withdrawn from mining under this Act
20 shall not be eligible for land disposal in any land exchange
21 under any other law.

1 **TITLE III—ENVIRONMENTAL**
2 **CONSIDERATIONS OF MIN-**
3 **ERAL EXPLORATION AND DE-**
4 **VELOPMENT**

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

6 Notwithstanding any other provision of law, and in
7 accordance with this title and applicable law, the Sec-
8 retary—

9 (1) shall require that mineral activities on Fed-
10 eral lands conducted by any person shall protect the
11 environment, public health, and public safety; and

12 (2) shall assure that mining activities on Fed-
13 eral lands are conducted in a manner that recognizes
14 the value of the mineral resources and the value of
15 Federal lands for other uses, including but not lim-
16 ited to recreation, wildlife habitat, and water supply.

17 **SEC. 302. PERMITS.**

18 (a) PERMITS REQUIRED.—No person may engage in
19 mineral activities on Federal lands that may cause a dis-
20 turbance of surface resources, including but not limited
21 to land, air, ground water and surface water, and fish and
22 wildlife, unless—

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

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

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

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

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

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

15 **SEC. 303. OPERATIONS PERMIT.**

16 (a) **OPERATIONS PERMIT.**—Any claim holder that is
17 in compliance with section 102 may apply to the Sec-
18 retary, or for National Forest System lands, the Secretary
19 of Agriculture, for an operations permit authorizing the
20 claim holder to carry out mineral activities on Federal
21 lands that are subject to the claim for any activity greater
22 than casual use (as that term is used in section 302(b)).
23 If the Secretary decides to issue such permit, the permit
24 shall include such terms and conditions as prescribed by
25 such Secretary to carry out this title.

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

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

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

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

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

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

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

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

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

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

20 (C) The Surface Mining Control and Rec-
21 lamation Act of 1977 (30 U.S.C. 1201 and fol-
22 lowing) or the Mineral Leasing Act (30 U.S.C.
23 181 and following) or any regulation under
24 those Acts at any site where mining operations
25 have occurred or are occurring.

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

9 (5) A statement of any current or previous per-
10 mits or plans of operations issued under the Surface
11 Mining Control and Reclamation Act of 1977 (30
12 U.S.C. 1201 and following) or the Federal Land
13 Policy and Management Act of 1976 (43 U.S.C.
14 1701 and following).

15 (6) A description of the type and method of
16 mineral activities proposed, the engineering tech-
17 niques proposed to be used, and the equipment pro-
18 posed to be used.

19 (7) The anticipated starting and termination
20 dates of each phase of the mineral activities pro-
21 posed, including any planned temporary cessation of
22 operations.

23 (8) Accurate maps, to an appropriate scale,
24 clearly showing the lands, watersheds, and surface
25 waters, to be affected by the proposed mineral activi-

1 ties; surface and mineral ownership; facilities, in-
2 cluding roads and other man-made structures; pro-
3 posed disturbances; soils and vegetation; topography;
4 and water supply intakes and surface water bodies.

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

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

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

21 (12) An analysis of the potential hydrologic
22 consequences of the mineral activities, both on and
23 off the area subject to mineral activities, with re-
24 spect to the hydrologic regime, quantity and quality
25 of water in surface and ground water systems in-

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

19 (13) A description of the monitoring and re-
20 porting systems to be used to detect and determine
21 whether compliance has and is occurring consistent
22 with the environmental protection requirements and
23 with predicted outcomes, including the type and lo-
24 cation of monitoring devices, sampling parameters
25 and frequency, detection limits, analytical methods,

1 reporting procedures, and procedures to respond to
2 reporting results, that will monitor the effects of
3 mineral activities on the site and surrounding envi-
4 ronment, including but not limited to, ground water,
5 surface water, wetlands, air, soils, and fish and wild-
6 life resources.

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

12 (15) Any measures to comply with any condi-
13 tions on minerals activities that are required in the
14 applicable land use plan or any condition stipulated
15 pursuant to section 202.

16 (16) Information determined necessary by the
17 Secretary to assess the cumulative impacts of min-
18 eral activities, as required to comply with the Na-
19 tional Environmental Policy Act of 1969, if impacts
20 of the proposed mineral activities are additions to
21 the impacts associated with other mineral activities.

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

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

3 (19) 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 (20) A full characterization of soils and geology
8 in the area to be affected by mineral activities.

9 (21) 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 (22) A copy of the applicant's advertisement to
14 be published as required by subsection (k).

15 (c) OPERATION AND RECLAMATION PLANS APPLICA-
16 TION REQUIREMENTS.—The operation and reclamation
17 plans 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 discussion of the applicable land use plan
2 and how the proposed reclamation activities will
3 render the post-mining and reclamation condition of
4 the land and resources consistent with that plan.

5 (3) A description of operation and reclamation
6 measures proposed pursuant to the requirements of
7 section 306.

8 (4) The engineering techniques to be used in
9 operation and reclamation and the equipment pro-
10 posed to be used.

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

13 (6) A description of the proposed condition of
14 the land, including the fish and wildlife resources
15 and habitat contained thereon, following the comple-
16 tion of reclamation.

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

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

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

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

21 (C) The condition of the land, including the fish
22 and wildlife resources and habitat contained thereon,
23 after the completion of mineral activities and final
24 reclamation, will conform to the land use plan appli-

1 cable to the area subject to mineral activities and
2 are returned to a productive use.

3 (D) The area subject to the proposed plan is
4 not included within an area designated unsuitable or
5 not open to location for the types of mineral activi-
6 ties proposed.

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

15 (F) The assessment of the probable cumulative
16 impact of all anticipated mining in the area on the
17 hydrologic balance specified in subsections (b)(11)
18 and (b)(12) demonstrates that impacts to human
19 health, water resources, wildlife habitat, and other
20 natural resources will not cause undue or unneces-
21 sary degradation, and the proposed operation has
22 been designed and will operate to minimize disturb-
23 ances to the prevailing hydrologic balance of the per-
24 mit area.

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

4 (H) The Secretary has determined that there
5 will be no undue or unnecessary degradation of nat-
6 ural resources.

7 (I) Neither the applicant nor operator, nor any
8 subsidiary, affiliate, or person controlled by or under
9 common control with the applicant or operator, is in-
10 eligible to receive a permit under section 304.

11 (J) The reclamation plan conclusively dem-
12 onstrates that 10 years following mine closure, no
13 treatment of surface or ground water for carcino-
14 gens or toxins will be required to meet water quality
15 standards at the point of discharge.

16 (2) Issuance of an operations permit under this sec-
17 tion shall be based on information supplied by the appli-
18 cant or other interested parties and the applicant shall
19 have the burden of establishing that the application meets
20 the environmental standards of this Act as established in
21 this title.

22 (3) With respect to any activities specified in the rec-
23 lamation plan referred to in subsection (b) that constitutes
24 a removal or remedial action under section 101 of the
25 Comprehensive Environmental Response, Compensation,

1 and Liability Act of 1980 (42 U.S.C. 9601 and following),
2 the Secretary shall consult with the Administrator of the
3 Environmental Protection Agency prior to the issuance of
4 an operations permit. The Administrator shall ensure that
5 the reclamation plan does not require activities which
6 would increase the costs or likelihood of removal or reme-
7 dial actions under the Comprehensive Environmental Re-
8 sponse, Compensation and Liability Act of 1980 (42
9 U.S.C. 9601 and following) or corrective actions under the
10 Solid Waste Disposal Act (42 U.S.C. 6901 and following).

11 (e) TERM OF PERMIT; RENEWAL.—

12 (1) An operations permit shall be for a stated
13 term. The term shall be no longer than that nec-
14 essary to accomplish the proposed mineral activities
15 subject to the permit, and in no case for more than
16 10 years.

17 (2) Failure by the operator to commence min-
18 eral activities within two years of the date scheduled
19 in an operations permit shall require a modification
20 of the permit if the Secretary concerned determines
21 that modifications are necessary to comply with sec-
22 tion 201.

23 (3) An operations permit shall carry with it the
24 right of successive renewal upon expiration only with
25 respect to operations on areas within the boundaries

1 of the existing permit as issued. A renewal of such
2 permit shall not be issued if such Secretary deter-
3 mines, in writing, any of the following:

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

6 (B) The operator has not demonstrated
7 that the financial assurance would continue to
8 apply in full force and effect for the renewal
9 term.

10 (C) Any additional revised or updated in-
11 formation required by the Secretary concerned
12 has not been provided.

13 (D) The applicant has not demonstrated
14 that the mineral activities will be in compliance
15 with the requirements of this Act, all other ap-
16 plicable Federal requirements, and any State
17 requirements agreed to by the Secretary con-
18 cerned pursuant to cooperative agreements
19 under section 307.

20 (4) A renewal of an operations permit shall be
21 for a term of 10 years or for such shorter term as
22 the Secretary concerned deems appropriate. Applica-
23 tion for renewal shall be made at least 18 months
24 prior to the expiration of the existing permit. If a
25 renewal application has been timely submitted and a

1 permit expires prior to Secretarial action on the re-
2 newal application, reclamation shall and other min-
3 eral activities may continue in accordance with the
4 terms of the expired permit until the Secretary con-
5 cerned makes a decision on the renewal application
6 but in no case longer than 2 years.

7 (f) PERMIT MODIFICATION.—

8 (1) During the term of an operations permit
9 the operator may submit an application to modify
10 the permit (including the operations plan or rec-
11 lamation plan, or both). To approve a proposed
12 modification, the Secretary, or for National Forest
13 System lands the Secretary of Agriculture, shall
14 make the same determinations as are required in the
15 case of an original operations permit, except that the
16 Secretaries may establish joint rules regarding the
17 extent to which requirements for original permits
18 under this section shall apply to applications to mod-
19 ify a permit based on whether such modifications are
20 deemed significant or minor.

21 (2) The Secretary, or for National Forest Sys-
22 tem lands the Secretary of Agriculture, may, at any
23 time, require reasonable modification to any oper-
24 ations plan or reclamation plan upon a determina-
25 tion that the requirements of this Act cannot be met

1 if the plan is followed as approved. Such determina-
2 tion shall be based on a written finding and subject
3 to public notice and hearing requirements estab-
4 lished by the Secretary concerned.

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

9 (A) development of acid or toxic drainage;

10 (B) loss of springs or water supplies;

11 (C) water quantity, water quality, or other
12 resulting water impacts that are significantly
13 different than those predicted in the applica-
14 tion;

15 (D) the need for long-term water treat-
16 ment;

17 (E) significant reclamation difficulties or
18 reclamation failure;

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

22 (G) the discovery of hazards to public safe-
23 ty.

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

25 An operator conducting mineral activities under an oper-

1 ations permit in effect under this title may not temporarily
2 cease mineral activities for a period greater than 180 days
3 unless the Secretary concerned has approved such tem-
4 porary cessation or unless the temporary cessation is per-
5 mitted under the original permit. Any operator tempo-
6 rarily ceasing mineral activities for a period greater than
7 90 days under an operations permit issued before the date
8 of the enactment of this Act shall submit, before the expi-
9 ration of such 90-day period, a complete application for
10 temporary cessation of operations to the Secretary con-
11 cerned for approval unless the temporary cessation is per-
12 mitted under the original permit.

13 (2) An application for approval of temporary ces-
14 sation of operations shall include such information re-
15 quired under subsection (b) and any other provisions pre-
16 scribed by the Secretary concerned to minimize impacts
17 on the environment. After receipt of a complete applica-
18 tion for temporary cessation of operations such Secretary
19 shall conduct an inspection of the area for which tem-
20 porary cessation of operations has been requested.

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

24 (A) A determination that the methods for se-
25 curing surface facilities and restricting access to the

1 permit area, or relevant portions thereof, will effec-
2 tively ensure against hazards to the health and safe-
3 ty of the public and fish and wildlife.

4 (B) A determination that reclamation is in com-
5 pliance with the approved reclamation plan, except
6 in those areas specifically designated in the applica-
7 tion for temporary cessation of operations for which
8 a delay in meeting such standards is necessary to fa-
9 cilitate the resumption of operations.

10 (C) A determination that the amount of finan-
11 cial assurance filed with the permit application is
12 sufficient to assure completion of the reclamation ac-
13 tivities identified in the approved reclamation plan in
14 the event of forfeiture.

15 (D) A determination that any outstanding no-
16 tices of violation and cessation orders incurred in
17 connection with the plan for which temporary ces-
18 sation is being requested are either stayed pursuant
19 to an administrative or judicial appeal proceeding or
20 are in the process of being abated to the satisfaction
21 of the Secretary concerned.

22 (h) PERMIT REVIEWS.—The Secretary, or for Na-
23 tional Forest System lands the Secretary of Agriculture,
24 shall review each permit issued under this section every
25 3 years during the term of such permit, shall provide pub-

1 lic notice of the permit review, and, based upon a written
2 finding, such Secretary shall require the operator to take
3 such actions as the Secretary deems necessary to assure
4 that mineral activities conform to the permit, including
5 adjustment of financial assurance requirements.

6 (i) FEES.—Each application for a permit pursuant
7 to this section shall be accompanied by a fee payable to
8 the Secretary or for the National Forest System, the Sec-
9 retary of Agriculture, in such amount as may be estab-
10 lished by such Secretary, or for National Forest System
11 lands by the Secretary of Agriculture. Such amount shall
12 be equal to the actual or anticipated cost to the Secretary,
13 or for National Forest System lands the Secretary of Agri-
14 culture, of reviewing, administering, and enforcing such
15 permit, as determined by such Secretary. All moneys re-
16 ceived under this subsection shall be deposited in the
17 Abandoned Locatable Minerals Mine Reclamation Fund
18 established under title III.

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

24 (2) The Secretary, or for National Forest System
25 lands, the Secretary of Agriculture, may allow a person

1 holding a permit to transfer, assign, or sell rights under
2 the permit to a successor, if such Secretary finds, in writ-
3 ing, that the successor—

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

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

9 (C) meets any other requirements specified by
10 such Secretary.

11 (3) The successor in interest shall assume the liability
12 and reclamation responsibilities established by the existing
13 permit and shall conduct the mineral activities in full com-
14 pliance with this Act, and the terms and conditions of the
15 permit as in effect at the time of transfer, assignment,
16 or sale.

17 (4) Each application for approval of a permit trans-
18 fer, assignment, or sale pursuant to this subsection shall
19 be accompanied by a fee payable to the Secretary of the
20 Interior, or for National Forest System lands, the Sec-
21 retary of Agriculture, in such amount as may be estab-
22 lished by such Secretary, or for National Forest System
23 lands, by the Secretary of Agriculture. Such amount shall
24 be equal to the actual or anticipated cost to the Secretary
25 or, for National Forest System lands, to the Secretary of

1 Agriculture, of reviewing and approving or disapproving
2 such transfer, assignment, or sale, as determined by such
3 Secretary. All moneys received under this subsection shall
4 be deposited in the Abandoned Locatable Minerals Mine
5 Reclamation Fund established under title III.

6 (k) PUBLIC PARTICIPATION.—(1) Concurrent with
7 submittal of an application for a permit under this section
8 or a renewal or significant modification thereof, the appli-
9 cant shall publish a notice in a newspaper of local circula-
10 tion at least once a week for 4 consecutive weeks. In addi-
11 tion, the Secretary shall place a notice of the receipt of
12 the application in the Federal Register. Such notices by
13 the applicant and the Secretary shall include the name of
14 the applicant, the location of the proposed mineral activi-
15 ties, the type and expected duration of the proposed min-
16 eral activities, the proposed use of the land after the com-
17 pletion of mineral activities, and identification of a loca-
18 tion where such plans are publicly available. The notice
19 by the Secretary shall provide contact names and informa-
20 tion for members of the public wishing to obtain further
21 information, and shall specifically allow for commenters
22 to request a public hearing. The applicant shall also notify
23 in writing other Federal, State, and local government
24 agencies and Indian tribes that regulate mineral activities
25 or land planning decisions in the area subject to mineral

1 activities or that manage lands adjacent to the area sub-
2 ject to mineral activities. The applicant shall provide proof
3 of such notification to the Secretary, or for National For-
4 est System lands, the Secretary of Agriculture.

5 (2) The applicant for a permit under this section
6 shall make paper and digital copies of the complete permit
7 application, permit modifications, or permit renewals
8 available for public review at the office of the responsible
9 Federal agency located nearest to the location of the pro-
10 posed mineral activities, on the appropriate Internet
11 Websites of the appropriate Federal agencies and at such
12 other readily accessible public locations deemed appro-
13 priate by the State or local government for the county in
14 which the proposed mineral activities will occur prior to
15 final decision by the Secretary, or for National Forest Sys-
16 tem lands, the Secretary of Agriculture. Any person, and
17 the authorized representative of a Federal, State, or local
18 governmental agency or Indian tribe, shall have the right
19 to file written comments relating to the approval or dis-
20 approval of the permit application for a period of at least
21 45 days after the last day of newspaper publication. Such
22 comment period may be extended by the Secretary for an
23 additional 90-day period and shall be extended for a period
24 no less than 30 days following a public hearing carried
25 out in accordance with subsection (3). The Secretary con-

1 cerned shall also create a public docket of all materials
2 related to the application and all comments received.

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 comment period. If
10 a hearing is requested by any person who is, or may be,
11 adversely affected by the proposed mineral activities, the
12 Secretary concerned shall consider such request and may
13 conduct such hearing. The Secretary shall grant such re-
14 quest and whenever the Secretary determines that there
15 is significant public interest. When a hearing is to be held,
16 the Secretary shall notify all those who have provided com-
17 ments regarding the permit and notice of such hearing
18 shall be published in a newspaper of local circulation at
19 least once a week for 2 weeks prior to the hearing date.

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

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

24 (a) CURRENT VIOLATIONS.—Unless corrective action
25 has been taken in accordance with subsection (c), no per-

1 mit under this title shall be issued or transferred to an
2 applicant if the applicant or any agent of the applicant,
3 the operator (if different than the applicant) of the claim
4 concerned, any claim holder (if different than the appli-
5 cant) of the claim concerned, or any affiliate or officer
6 or director of the applicant is currently in violation of any
7 of the following:

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

10 (2) An applicable State or Federal toxic sub-
11 stance, solid waste, air, water quality, or fish and
12 wildlife conservation law or regulation at any site
13 where mining, beneficiation, or processing activities
14 are occurring or have occurred.

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

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

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

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

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

1 **SEC. 305. 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 all affected waters that may
15 require restoration, treatment, or other management as a
16 result of mineral activities, and shall be extended to cover
17 all lands and waters added pursuant to any permit modi-
18 fication made under section 303(f) (relating to operations
19 permits), or affected by mineral activities.

20 (b) AMOUNT.—The amount of the financial assur-
21 ance required under this section shall be sufficient to as-
22 sure the completion of reclamation and restoration satis-
23 fying the requirements of this Act if the work were to be
24 performed by the Secretary concerned in the event of for-
25 feiture, including the construction and maintenance costs
26 for any treatment facilities necessary to meet Federal and

1 State environmental requirements. The calculation of such
2 amount shall take into account the maximum level of fi-
3 nancial exposure which shall arise during the mineral ac-
4 tivity and administrative costs associated with a govern-
5 ment agency reclaiming the site.

6 (c) DURATION.—The financial assurance required
7 under this section shall be held for the duration of the
8 mineral activities and for an additional period to cover the
9 operator's responsibility for reclamation, restoration, and
10 long-term maintenance as specified under section
11 306(b)(6)(B), and effluent treatment as specified in sub-
12 section (g).

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

23 (e) RELEASE.—Upon request, and after notice and
24 opportunity for public comment, and after inspection by
25 the Secretary, or for National Forest System lands, the

1 Secretary of Agriculture, such Secretary may, after con-
2 sultation with the Administrator of the Environmental
3 Protection Agency, release in whole or in part the financial
4 assurance required under this section if the Secretary
5 makes both of the following determinations:

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

9 (2) A determination that the terms and condi-
10 tions of any other applicable Federal requirements,
11 and State requirements applicable pursuant to coop-
12 erative agreements under section 307, have been ful-
13 filled.

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

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

1 other required reclamation and restoration needs
2 and to assure the long-term success of the revegeta-
3 tion.

4 (2) After the operator has completed success-
5 fully all remaining mineral activities and reclamation
6 activities and all requirements of the operations plan
7 and the reclamation plan (including the provisions of
8 section 306(b)(6)(B) relating to revegetation, res-
9 toration, and effluent treatment required by sub-
10 section (g)), and all other requirements of this Act
11 have been fully met, the remaining portion of the fi-
12 nancial assurance may be released.

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

18 (g) EFFLUENT.—Notwithstanding section 306(b)(4),
19 where any discharge or other water-related condition re-
20 sulting from the mineral activities requires treatment in
21 order to meet the applicable effluent limitations and water
22 quality standards, the financial assurance shall include the
23 estimated cost of maintaining such treatment for the pro-
24 jected period that will be needed after the cessation of
25 mineral activities. The portion of the financial assurance

1 attributable to such estimated cost of treatment shall not
2 be released until the discharge has ceased for a period of
3 5 years, as determined by ongoing monitoring and testing,
4 or, if the discharge continues, until the operator has met
5 all applicable effluent limitations and water quality stand-
6 ards for 5 full years without treatment.

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

19 **SEC. 306. OPERATION AND RECLAMATION.**

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

1 (A) the uses which such lands were capable of
2 supporting prior to surface disturbance by the oper-
3 ator, or

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

8 (2) Reclamation shall proceed as contemporaneously
9 as practicable with the conduct of mineral activities. In
10 the case of a cessation of mineral activities beyond that
11 provided for as a temporary cessation under this Act, rec-
12 lamation activities shall begin immediately.

13 (b) OPERATION AND RECLAMATION STANDARDS.—
14 Mineral activities shall be conducted in accordance with
15 the following standards, and any additional standards the
16 Secretaries may jointly promulgate under section 301 and
17 subsection (a) of this section to address specific environ-
18 mental impacts of selected methods of mining and to as-
19 sure that the direct and indirect impacts of mining are
20 consistent with applicable land use plans and with other
21 desirable uses of Federal lands:

22 (1) SOILS.—(A) Soils, including top soils and
23 subsoils removed from lands subject to mineral ac-
24 tivities, shall be segregated from waste material and
25 protected to minimize erosion and sustain revegeta-

1 tion when reclamation begins. If such soil is not re-
2 placed on a backfill area within a time-frame short
3 enough to avoid deterioration of the topsoil, vegeta-
4 tive cover or other means shall be used so that the
5 soil is preserved from wind and water erosion, re-
6 mains free of contamination by acid or other toxic
7 material, and is in a usable condition for sustaining
8 vegetation when restored during reclamation.

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

18 (C) In the event the soil (other than topsoil)
19 from lands subject to mineral activities is of insuffi-
20 cient quantity or of inferior quality for sustaining
21 vegetation, and other suitable growth media removed
22 from the lands subject to the mineral activities are
23 available that support revegetation, these substitute
24 materials shall be removed, segregated, or preserved

1 in a like manner as under subparagraph (A) for
2 later use in reclamation.

3 (D) Mineral activities shall be conducted to pre-
4 vent contamination of soils to the extent possible
5 using the best technology currently available. If con-
6 tamination occurs, the operator shall decontaminate
7 or dispose of any contaminated soils which have re-
8 sulted from the mineral activities.

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

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

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

17 (B) Mineral activities shall be conducted to pre-
18 vent to the fullest extent possible the formation of
19 acidic, toxic, or other contaminated water. Where
20 the formation of acidic, toxic, or other contaminated
21 water occurs, mineral activities shall be conducted so
22 as to minimize the formation of acidic, toxic, or
23 other contaminated water and to control the spread
24 of any such contamination.

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

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

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

19 (5) SURFACE RESTORATION.—(A) The surface
20 area disturbed by mineral activities shall be shaped,
21 graded, and contoured to its natural topography.
22 Backfilling of an open pit mine shall be required if
23 it is determined by the Secretary to be the most ap-
24 propriate means of controlling long-term adverse im-
25 pacts on public health or the environment.

1 (B) In instances where complete backfilling of
2 an open pit is not required, the pit shall be graded
3 to blend with the surrounding topography as much
4 as practicable to minimize disturbance to the hydro-
5 logic balance, and revegetated in accordance with
6 paragraph (6), and the water quality in the pit and
7 other water impoundments and wells adjacent or
8 hydrologically connected by groundwater shall com-
9 ply with applicable Federal, State, and, where appro-
10 prium, local government water quality standards.

11 (6) VEGETATION.—(A) The area subject to
12 mineral activities shall be vegetated in order to es-
13 tablish a diverse, effective, and permanent vegetative
14 cover of the same seasonal variety native to the area
15 subject to mineral activities, capable of self-regen-
16 eration and plant succession and at least equal in
17 extent of cover to the natural revegetation of the
18 surrounding area, except that introduced species
19 may be used at the discretion of the Secretary, or
20 for National Forest System lands the Secretary of
21 Agriculture, in consultation with the Director of the
22 United States Fish and Wildlife Service, if such in-
23 troduction of such species is necessary as an interim
24 step in, and is part of a program to restore a native
25 plant community. In such instances where the com-

1 plete backfill of an open mine pit is not required
2 under paragraph (5), such Secretary shall prescribe
3 such vegetation requirements as conform to the ap-
4 plicable land use plan.

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

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

1 (B) Excess waste material piles shall be graded
2 and contoured to blend with the surrounding topog-
3 raphy as much as practicable and revegetated in ac-
4 cordance with paragraph (6).

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

20 (9) STRUCTURES.—All buildings, structures, or
21 equipment constructed, used, or improved during
22 mineral activities shall be removed, unless the Sec-
23 retary concerned, in consultation with the affected
24 land managing agency, determines that use of the
25 buildings, structures, or equipment would be con-

1 sistent with subsection (a) or for environmental
2 monitoring and the Secretary concerned takes own-
3 ership of such structures.

4 (10) CULTURAL, PALEONTOLOGICAL, AND CAVE
5 RESOURCES.—The operator shall make reasonable
6 efforts to identify and shall not knowingly disturb,
7 alter, injure, or destroy any scientifically important
8 paleontologic remains or any historic, archaeologic,
9 or cave-related sites, structure, building, resource, or
10 object without including in the plan of operations a
11 proposed action to preserve the resource that is ap-
12 proved by the Secretary prior to the disturbance tak-
13 ing place.

14 (11) ROADS AND STRUCTURES.—All buildings,
15 structures, roads, and equipment constructed, used,
16 or improved during mineral activities shall be de-
17 signed, constructed, and maintained to minimize ero-
18 sion, siltation, and air pollution and then removed
19 after mining, unless the Secretary concerned in con-
20 sultation with the affected land managing agency,
21 determines that use of the buildings, structures,
22 roads, or equipment would be consistent with sub-
23 section (a) or for environmental monitoring, and the
24 Secretary concerned takes ownership of such struc-
25 tures, buildings, or equipment, or roads.

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

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

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

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

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

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

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

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

1 the Solid Waste Disposal Act (42 U.S.C. 3251 and
2 following) or the Uranium Mill Tailings Radiation
3 Control Act of 1978 (42 U.S.C. 7901 and following).

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

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

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

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

18 (a) STATE LAW.—(1) Any reclamation, land use, en-
19 vironmental, or public health protection standard or re-
20 quirement in State or local law or regulation that meets
21 or exceeds the requirements of section 206 shall not be
22 construed to be inconsistent with any such standard.

23 (2) Any bonding standard or requirement in State or
24 local law or regulation that meets or exceeds the require-

1 ments of section 305 shall not be construed to be incon-
2 sistent with such requirements.

3 (3) Any inspection standard or requirement in State
4 or local law or regulation that meets or exceeds the re-
5 quirements of section 503 shall not be construed to be in-
6 consistent 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 envi-
7 ronmental protection requirements of this Act for the pur-
8 poses of 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 and hearing.

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 management of mineral activities on lands
17 subject to this Act that was in existence on the date of
18 enactment of this Act may only continue in force until one
19 year after the date of enactment of this Act. During such
20 one-year period, the State and the Secretary shall review
21 the terms of the agreement and make changes that are
22 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 514(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. 308. CERTAIN MINERAL ACTIVITIES COVERED BY**
9 **OTHER LAW.**

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

13 **TITLE IV—ABANDONED**
14 **LOCATABLE MINERALS MINE**
15 **RECLAMATION FUND**

16 **SEC. 401. ABANDONED LOCATABLE MINERALS MINE REC-**
17 **LAMATION.**

18 (a) ESTABLISHMENT.—(1) There is established on
19 the books of the Treasury of the United States a trust
20 fund to be known as the Abandoned Locatable Minerals
21 Mine Reclamation Fund (hereinafter in this title referred
22 to as the “Fund”). The Fund shall be administered by
23 the Secretary acting through the Director of the Office
24 of Surface Mining Reclamation and Enforcement.

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

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

14 (1) All moneys received from the collection of
15 claim maintenance fees under section 102.

16 (2) All moneys collected pursuant to section
17 109 (relating to failure to comply), section 506 (re-
18 lating to enforcement) and section 504 (relating to
19 citizens suits).

20 (3) All permit fees and transfer fees received
21 under section 303.

22 (4) All donations by persons, corporations, as-
23 sociations, and foundations for the purposes of this
24 title.

1 (5) All amounts referred to in section 111 (re-
2 relating to royalties and penalties for underreporting).

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

5 (7) All moneys received pursuant to section 110
6 from issuance of patents.

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

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

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

19 (a) IN GENERAL.—The Secretary is authorized, sub-
20 ject to appropriations, to use moneys in the Fund for the
21 reclamation and restoration of land and water resources
22 adversely affected by past mineral activities on lands the
23 legal and beneficial title to which resides in the United
24 States, land within the exterior boundary of any national

1 forest system unit, or other lands described in subsection
2 (d) or section 403, including any of the following:

3 (1) Protecting public health and safety

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

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

9 (4) Reclaiming and restoring abandoned milling
10 and processing areas.

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

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

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

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

22 (1) The protection of public health, safety, gen-
23 eral welfare, and property from extreme danger from
24 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, that pro-
14 vide assurances that reclamation or restoration activities
15 under this title shall not be conducted in a manner that
16 increases the costs or likelihood of removal or remedial
17 actions under the Comprehensive Environmental Re-
18 sponse, Compensation, and Liability Act of 1980 (42
19 U.S.C. 9601 and following), and that avoid oversight by
20 multiple agencies to the maximum extent practicable.

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

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

1 lands or water resources have been affected by past min-
2 eral activities, including any of the following:

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

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

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

19 (b) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—
20 The provisions of section 411(d) of the Surface Mining
21 Control and Reclamation Act of 1977 (30 U.S.C.
22 1240a(d)) shall apply to expenditures made from the
23 Fund established under this title.

24 (c) INVENTORY.—The Secretary shall prepare and
25 maintain a publicly available inventory of abandoned

1 locatable minerals mines on Federal lands and any aban-
2 doned mine on Indian lands that may be eligible for ex-
3 penditures under this title, and shall deliver a yearly re-
4 port to the Congress on the progress in cleanup of such
5 sites.

6 **SEC. 404. FUND EXPENDITURES.**

7 Moneys available from the Fund may be expended for
8 the purposes specified in section 402 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. 405. 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 V—ADMINISTRATIVE AND**
2 **MISCELLANEOUS PROVISIONS**
3 **Subtitle A—Administrative**
4 **Provisions**

5 **SEC. 501. 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. 502. 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. 503. 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 environmental protection require-
11 ments of title III.

12 (2) The Secretary concerned shall establish a fre-
13 quency of inspections for mineral activities conducted
14 under a permit issued under title III, 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 303(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 environmental protection re-
6 quirements may request an inspection. The Secretary, or
7 for 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 environmental protection requirements. The
16 Secretary concerned may require additional monitoring to
17 be conducted as necessary to assure compliance with the
18 reclamation and other environmental standards of this
19 Act. Such plan must be reviewed and approved by the Sec-
20 retary and shall become a part of the operations permit.

21 (2) Monitoring shall be conducted as close as tech-
22 nically feasible to the mineral activity involved, and in all
23 cases such monitoring shall be conducted within the per-
24 mit area.

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

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

20 (5) 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 506.

3 **SEC. 504. 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, or to be in violation of, any of the provisions
10 of this Act or any regulation promulgated pursuant
11 to title III or any term or condition of any permit
12 issued under title III; or

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

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

1 viewable under section 505 may only be filed in a United
2 States district court within the circuit in which such action
3 would be reviewable under section 505.

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

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

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

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

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

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

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

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

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

13 (B) Any person who is subject to a penalty assessed
14 under section 109 (relating to failure to comply), or sec-
15 tion 506 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 506) 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 506.

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 506 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 506
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 504 (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 504 (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. 506. 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 environmental pro-
19 tection requirement under title III or any regulation
20 issued by the Secretaries to implement this Act, such Sec-
21 retary or authorized representative shall issue to such per-
22 son a notice of violation describing the violation and the
23 corrective measures to be taken. The Secretary concerned,
24 or the authorized representative of such Secretary, shall
25 provide such person with a period of time not to exceed

1 30 days to abate the violation. Such period of time may
2 be extended by the Secretary concerned upon a showing
3 of good cause by such person. If, upon the expiration of
4 time provided for such abatement, the Secretary con-
5 cerned, or the authorized representative of such Secretary,
6 finds that the violation has not been abated he shall imme-
7 diately order a cessation of all mineral activities or the
8 portion thereof relevant to the violation.

9 (2) If the Secretary concerned, or the authorized rep-
10 resentative of the Secretary concerned, determines that
11 any condition or practice exists, or that any person is in
12 violation of any environmental protection requirement
13 under title III or any regulation issued by the Secretaries
14 to implement this Act, and such condition, practice or vio-
15 lation is causing, or can reasonably be expected to cause—

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

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

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

24 (3)(A) A cessation order pursuant to paragraphs (1)
25 or (2) shall remain in effect until such Secretary, or au-

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

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

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

1 Secretary, or for National Forest System lands the Sec-
2 retary of Agriculture, from taking alternative enforcement
3 action prior to the expiration of 30 days.

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

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

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

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

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

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

8 (2) interferes with, hinders, or delays the Sec-
9 retary concerned in carrying out an inspection under
10 section 503.

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

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

21 (d) PENALTIES.—(1) Any person who fails to comply
22 with any environmental protection requirement under title
23 III or any regulation issued by the Secretaries to imple-
24 ment this Act shall be liable for a penalty of not more
25 than \$25,000 per violation. Each day of violation may be

1 deemed a separate violation for purposes of penalty assess-
2 ments.

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

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

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

22 (1) knowingly made or knowingly makes any
23 false, inaccurate, or misleading material statement
24 in any mining claim, notice of location, application,

1 record, report, plan, or other document filed or re-
2 quired to be maintained under this Act;

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

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

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

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

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

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

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

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

1 (2) falsifies, tampers with, renders inaccurate,
2 or fails to install any monitoring device or method
3 required to be maintained under this Act,
4 shall upon conviction, be punished by a fine of not more
5 than \$10,000, or by imprisonment for not more than 2
6 years, or by both. If a conviction of a person is for a viola-
7 tion committed after a first conviction of such person
8 under this subsection, punishment shall be by a fine of
9 not more than \$20,000 per day of violation, or by impris-
10 onment of not more than 4 years, or both. Each day of
11 continuing violation may be deemed a separate violation
12 for purposes of penalty assessments.

13 (g) KNOWING VIOLATIONS.—Any person who know-
14 ingly—

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

17 (2) violates any other environmental protection
18 requirement set forth in title III or any regulation
19 issued by the Secretaries to implement this Act, any
20 provision of a permit issued under this Act (includ-
21 ing any exploration or operations plan on which such
22 permit is based), or any condition or limitation
23 thereof,

24 shall upon conviction be punished by a fine of not less
25 than \$5,000 nor more than \$50,000 per day of violation,

1 or by imprisonment for not more than 3 years, or both.
2 If a conviction of a person is for a violation committed
3 after the first conviction of such person under this sub-
4 section, punishment shall be a fine of not less than
5 \$10,000 per day of violation, or by imprisonment of not
6 more than 6 years, or both.

7 (h) KNOWING AND WILLFUL VIOLATIONS.—Any per-
8 son who knowingly and willfully commits an act for which
9 a civil penalty is provided in paragraph (1) of subsection
10 (g) shall, upon conviction, be punished by a fine of not
11 more than \$50,000, or by imprisonment for not more than
12 2 years, or both.

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

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

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

20 (b) REGULATIONS.—The Secretary and the Secretary
21 of Agriculture may issue such regulations as may be nec-
22 essary under this Act. The regulations implementing title
23 II, title III, title IV, and title V that affect the United
24 States Forest Service shall be joint regulations issued by
25 both Secretaries.

1 (c) NOTICE.—Within 180 days after the date of en-
2 actment of this Act, the Secretary shall give notice to hold-
3 ers of mining claims and millsites maintained under the
4 general mining laws as to the requirements of section 106.

5 **Subtitle B—Miscellaneous**
6 **Provisions**

7 **SEC. 511. TRANSITIONAL RULES; SURFACE MANAGEMENT**
8 **AND ENVIRONMENTAL PROTECTION RE-**
9 **QUIREMENTS.**

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

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

23 (2)(A) If a plan of operations had been approved for
24 mineral activities on any claim or site referred to in para-
25 graph (1) prior to the date of enactment of this Act, for

1 a period of 5 years after the effective date of this Act min-
2 eral activities at such claim or site shall be subject to such
3 plan of operations (or a modification or amendment there-
4 to prepared in accordance with the provisions of law appli-
5 cable prior to the enactment of this Act). During such 5-
6 year period, modifications of, or amendments to, any such
7 plan may be made in accordance with the provisions of
8 law applicable prior to the enactment of this Act if such
9 modifications or amendments are deemed minor by the
10 Secretary concerned. After such 5-year period the require-
11 ments of title II and title III shall apply, subject to the
12 limitations of section 308. In order to meet the require-
13 ments of title II and title III, the person conducting min-
14 eral activities under such plan of operations (or modified
15 or amended plan) shall apply for a modification under sec-
16 tion 303(f) no later than 3 years after the date of enact-
17 ment of this Act. For purposes of this paragraph, any
18 modification or amendment that extends the area covered
19 by the plan (except for incidental boundary revisions) or
20 that increases the risk of adverse effects on the environ-
21 ment shall not be subject to this paragraph and shall be
22 subject to other provisions of this Act.

23 (B) During the 5-year period referred to in subpara-
24 graph (A), the provisions of section 305 (relating to finan-
25 cial assurance), section 503 (relating to inspection and

1 monitoring) and section 506 (relating to enforcement)
2 shall apply on the basis of the surface management re-
3 quirements applicable to such plans of operations prior to
4 the effective date of this Act.

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

12 **SEC. 512. OIL SHALE CLAIMS SUBJECT TO SPECIAL RULES.**

13 (a) APPLICATION OF SECTION 511.—Section 511
14 shall apply to oil shale claims referred to in section
15 2511(e)(2) of the Energy Policy Act of 1992 (Public Law
16 102–486).

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

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

21 (2) By inserting before the period the following:
22 “in the same manner as if such claim was subject
23 to title II and title III of the Federal Mineral Devel-
24 opment and Land Protection Equity Act of 2005”.

1 **SEC. 513. PURCHASING POWER ADJUSTMENT.**

2 The Secretary shall adjust all location fees, claim
3 maintenance rates, penalty amounts, and other dollar
4 amounts established in this Act for changes in the pur-
5 chasing power of the dollar no less frequently than every
6 5 years following the date of enactment of this Act, em-
7 ploying the Consumer Price Index for All-Urban Con-
8 sumers published by the Department of Labor as the basis
9 for adjustment, and rounding according to the adjustment
10 process of conditions of the Federal Civil Penalties Infla-
11 tion Adjustment Act of 1990 (104 Stat. 890).

12 **SEC. 514. SAVINGS CLAUSE.**

13 (a) SPECIAL APPLICATION OF MINING LAWS.—Noth-
14 ing in this Act shall be construed as repealing or modi-
15 fying any Federal law, regulation, order, or land use plan,
16 in effect prior to the date of enactment of this Act that
17 prohibits or restricts the application of the general mining
18 laws, including laws that provide for special management
19 criteria for operations under the general mining laws as
20 in effect prior to the date of enactment of this Act, to
21 the extent such laws provide environmental protection
22 greater than required under this Act, and any such prior
23 law shall remain in force and effect with respect to claims
24 located (or proposed to be located) or converted under this
25 Act. Nothing in this Act shall be construed as applying
26 to or limiting mineral investigations, studies, or other min-

1 eral activities conducted by any Federal or State agency
2 acting in its governmental capacity pursuant to other au-
3 thority. Nothing in this Act shall affect or limit any as-
4 sessment, investigation, evaluation, or listing pursuant to
5 the Comprehensive Environmental Response, Compensa-
6 tion, and Liability Act of 1980 (42 U.S.C. 9601 and fol-
7 lowing), or the Solid Waste Disposal Act (42 U.S.C. 3251
8 and following).

9 (b) EFFECT ON OTHER FEDERAL LAWS.—The provi-
10 sions of this Act shall supersede the general mining laws,
11 but, except for the general mining laws, nothing in this
12 Act shall be construed as superseding, modifying, amend-
13 ing, or repealing any provision of Federal law not ex-
14 pressly superseded, modified, amended, or repealed by this
15 Act. Nothing in this Act shall be construed as altering,
16 affecting, amending, modifying, or changing, directly or
17 indirectly, any law which refers to and provides authorities
18 or responsibilities for, or is administered by, the Environ-
19 mental Protection Agency or the Administrator of the En-
20 vironmental Protection Agency, including the Federal
21 Water Pollution Control Act, title XIV of the Public
22 Health Service Act (the Safe Drinking Water Act), the
23 Clean Air Act, the Pollution Prevention Act of 1990, the
24 Toxic Substances Control Act, the Federal Insecticide,
25 Fungicide, and Rodenticide Act, the Federal Food, Drug,

1 and Cosmetic Act, the Motor Vehicle Information and
2 Cost Savings Act, the Federal Hazardous Substances Act,
3 the Endangered Species Act of 1973, the Atomic Energy
4 Act, the Noise Control Act of 1972, the Solid Waste Dis-
5 posal Act, the Comprehensive Environmental Response,
6 Compensation, and Liability Act of 1980, the Superfund
7 Amendments and Reauthorization Act of 1986, the Ocean
8 Dumping Act, the Environmental Research, Development,
9 and Demonstration Authorization Act, the Pollution Pro-
10 tection Act of 1990, and the Federal Facilities Compli-
11 ance Act of 1992, or any statute containing an amend-
12 ment to any of such Acts. Nothing in this Act shall be
13 construed as modifying or affecting any provision of the
14 Native American Graves Protection and Repatriation Act
15 (Public Law 101–601) or any provision of the American
16 Indian Religious Freedom Act (42 U.S.C. 1996).

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

1 **SEC. 515. AVAILABILITY OF PUBLIC RECORDS.**

2 Copies of records, reports, inspection materials, or in-
3 formation obtained by the Secretary or the Secretary of
4 Agriculture under this Act shall be made immediately
5 available to the public, consistent with section 552 of title
6 5, United States Code, in central and sufficient locations
7 in the county, multicounty, and State area of mineral ac-
8 tivity or reclamation so that such items are conveniently
9 available to residents in the area proposed or approved for
10 mineral activities and on the Internet.

11 **SEC. 516. MISCELLANEOUS POWERS.**

12 (a) IN GENERAL.—In carrying out his or her duties
13 under this Act, the Secretary, or for National Forest Sys-
14 tem lands the Secretary of Agriculture, may conduct any
15 investigation, inspection, or other inquiry necessary and
16 appropriate and may conduct, after notice, any hearing
17 or audit, necessary and appropriate to carrying out his
18 or her duties.

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

24 (1) Require, by special or general order, any
25 person to submit in writing such affidavits and an-
26 swers to questions as the Secretary concerned may

1 reasonably prescribe, which submission shall be
2 made within such reasonable period and under oath
3 or otherwise, as may be necessary.

4 (2) Administer oaths.

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

9 (4) Order testimony to be taken by deposition
10 before any person who is designated by such Sec-
11 retary and who has the power to administer oaths,
12 and to compel testimony and the production of evi-
13 dence in the same manner as authorized under para-
14 graph (3) of this subsection.

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

18 (c) ENFORCEMENT.—In cases of refusal to obey a
19 subpoena served upon any person under this section, the
20 district court of the United States for any district in which
21 such person is found, resides, or transacts business, upon
22 application by the Attorney General at the request of the
23 Secretary concerned and after notice to such person, shall
24 have jurisdiction to issue an order requiring such person
25 to appear and produce documents before the Secretary

1 concerned. Any failure to obey such order of the court may
2 be punished by such court as contempt thereof and subject
3 to a penalty of up to \$10,000 a day.

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

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

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

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

19 (4) may, on any mining claim located under the
20 general mining laws and maintained in compliance
21 with this Act, and without advance notice, stop and
22 inspect any motorized form of transportation that
23 such Secretary has probable cause to believe is car-
24 rying locatable minerals, concentrates, or products
25 derived therefrom from a claim site for the purpose

1 of determining whether the operator of such vehicle
2 has documentation related to such locatable min-
3 erals, concentrates, or products derived therefrom as
4 required by law, if such documentation is required
5 under this Act; and

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

18 **SEC. 517. MULTIPLE MINERAL DEVELOPMENT AND SUR-**
19 **FACE RESOURCES.**

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

1 **SEC. 518. MINERAL MATERIALS.**

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

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

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

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

10 (4) By adding the following new subsection at
11 the end thereof:

12 “(b)(1) Subject to valid existing rights, after the date
13 of enactment of the Federal Mineral Development and
14 Land Protection Equity Act of 2005, notwithstanding the
15 reference to common varieties in subsection (a) and to the
16 exception to such term relating to a deposit of materials
17 with some property giving it distinct and special value, all
18 deposits of mineral materials referred to in such sub-
19 section, including the block pumice referred to in such
20 subsection, shall be subject to disposal only under the
21 terms and conditions of the Materials Act of 1947.

22 “(2) For purposes of paragraph (1), the term ‘valid
23 existing rights’ means that a mining claim located for any
24 such mineral material had some property giving it the dis-
25 tinct and special value referred to in subsection (a), or
26 as the case may be, met the definition of block pumice

1 referred to in such subsection, was properly located and
2 maintained under the general mining laws prior to the
3 date of enactment of the Federal Mineral Development
4 and Land Protection Equity Act of 2005, and was sup-
5 ported by a discovery of a valuable mineral deposit within
6 the meaning of the general mining laws as in effect imme-
7 diately prior to the date of enactment of the Federal Min-
8 eral Development and Land Protection Equity Act of
9 2005 and that such claim continues to be valid under this
10 Act.”.

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

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

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

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

23 (d) SHORT TITLES.—

1 (1) SURFACE RESOURCES.—The Act of July
2 23, 1955, is amended by inserting after section 7
3 the following new section:

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

6 (2) MINERAL MATERIALS.—The Act of July 31,
7 1947, entitled “An Act to provide for the disposal of
8 materials on the public lands of the United States”
9 (30 U.S.C. 601 and following) is amended by insert-
10 ing after section 4 the following new section:

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

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

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

20 **SEC. 519. APPLICATION OF ACT TO BENEFICIATION AND**
21 **PROCESSING OF NON-FEDERAL MINERALS**
22 **ON FEDERAL LANDS.**

23 The provisions of this Act (including the environ-
24 mental protection requirements of title III) shall apply in
25 the same manner and to the same extent to Federal lands

1 used for beneficiation or processing activities for any min-
2 eral without regard to whether or not the legal and bene-
3 ficial title to the mineral is held by the United States. This
4 section applies only to minerals that are locatable minerals
5 or minerals that would be locatable minerals if the legal
6 and beneficial title to such minerals were held by the
7 United States.

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