

116TH CONGRESS
1ST SESSION

H. R. 2579

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

IN THE HOUSE OF REPRESENTATIVES

MAY 8, 2019

Mr. GRIJALVA (for himself, Mr. BEYER, Mr. BLUMENAUER, Mr. CARTWRIGHT, Mr. DEFazio, Ms. DEGETTE, Mr. GARAMENDI, Ms. HAALAND, Mr. HUFFMAN, Mr. LEVIN of California, Mr. LOWENTHAL, Mr. MCGOVERN, Mrs. NAPOLITANO, Ms. NORTON, Mr. POCAN, and Mr. SOTO) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

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

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Hardrock Leasing and Reclamation Act of 2019”.

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.
- Sec. 3. Application rules.

TITLE I—MINERAL LEASING, EXPLORATION, AND DEVELOPMENT

- Sec. 101. Closure to entry and location.
- Sec. 102. Limitation on patents.
- Sec. 103. Prospecting license and hardrock leases.
- Sec. 104. Competitive leasing.
- Sec. 105. Small miners leases.
- Sec. 106. Lands containing nonhardrock minerals; other uses.
- Sec. 107. Royalty.
- Sec. 108. Existing production.
- Sec. 109. Hardrock mining claim maintenance fee.
- Sec. 110. Effect of payments for use and occupancy of claims.
- Sec. 111. Protection of special places.
- Sec. 112. Suitability determination.

TITLE II—CONSULTATION PROCEDURE

- Sec. 201. Requirement for consultation.
- Sec. 202. Timing.
- Sec. 203. Scoping stage consultation.
- Sec. 204. Decision stage procedures.
- Sec. 205. Documentation and reporting.
- Sec. 206. Implementation.
- Sec. 207. Sensitive Tribal information.

TITLE III—ENVIRONMENTAL CONSIDERATIONS OF MINERAL
 EXPLORATION AND DEVELOPMENT

- Sec. 301. General standard for hardrock mining on Federal land.
- Sec. 302. Permits.
- Sec. 303. Exploration permit.
- Sec. 304. Operations permit.
- Sec. 305. Persons ineligible for permits.
- Sec. 306. Financial assurance.
- Sec. 307. Operation and reclamation.
- Sec. 308. State law and regulation.

TITLE IV—ABANDONED HARDROCK MINE RECLAMATION

- Sec. 401. Establishment of Fund.
- Sec. 402. Contents of Fund.
- Sec. 403. Displaced material reclamation fee.
- Sec. 404. Use and objectives of the Fund.
- Sec. 405. Eligible lands and waters.
- Sec. 406. Authorization of appropriations.

TITLE V—ADDITIONAL PROVISIONS

- Sec. 501. Policy functions.

Sec. 502. User fees and inflation adjustment.
Sec. 503. Inspection and monitoring.
Sec. 504. Citizens suits.
Sec. 505. Administrative and judicial review.
Sec. 506. Reporting requirements.
Sec. 507. Enforcement.
Sec. 508. Regulations.
Sec. 509. Oil shale claims.
Sec. 510. Savings clause.
Sec. 511. Availability of public records.
Sec. 512. Miscellaneous powers.
Sec. 513. Mineral materials.
Sec. 514. Effective date.

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 “agency” means any authority of
12 the United States that is an “agency” under section
13 3502(1) of title 44, United States Code.

14 (3) The term “applicant” means any person ap-
15 plying for a permit, license, or lease under this Act
16 or a modification to or a renewal of a permit, li-
17 cense, or lease under this Act.

18 (4) The term “beneficiation” means the crush-
19 ing and grinding of hardrock mineral ore and such

1 processes as are employed to free the mineral from
2 other constituents, including physical and chemical
3 separation techniques.

4 (5) The term “casual use”—

5 (A) subject to subparagraphs (B) and (C),
6 means mineral activities that do not ordinarily
7 result in any disturbance of public lands and re-
8 sources;

9 (B) includes collection of geochemical,
10 rock, soil, or mineral specimens using
11 handtools, hand panning, or nonmotorized sluic-
12 ing; and

13 (C) does not include—

14 (i) the use of mechanized earth-mov-
15 ing equipment, suction dredging, or explo-
16 sives;

17 (ii) the use of motor vehicles in areas
18 closed to off-road vehicles;

19 (iii) the construction of roads or drill
20 pads; and

21 (iv) the use of toxic or hazardous ma-
22 terials.

23 (6) The term “claim holder” means a person
24 holding a mining claim, millsite claim, or tunnel site
25 claim located under the general mining laws and

1 maintained in compliance with such laws. Such term
2 may include an agent of a claim holder.

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

12 (8) The term “crude ore” means ore in its un-
13 processed form, containing profitable amounts of the
14 target mineral.

15 (9) The term “displaced material” means any
16 crude ore and waste dislodged from its location at
17 the time hardrock mineral activities begin at a sur-
18 face, underground, or in-situ mine.

19 (10) The term “exploration”—

20 (A) subject to subparagraphs (B) and (C),
21 means creating surface disturbance other than
22 casual use, to evaluate the type, extent, quan-
23 tity, or quality of minerals present;

1 (B) includes mineral activities associated
2 with sampling, drilling, and analyzing hardrock
3 mineral values; and

4 (C) does not include extraction of mineral
5 material for commercial use or sale.

6 (11) The term “Federal land” means any land,
7 and any interest in land, that is owned by the
8 United States, except lands in the National Park
9 System, lands held in trust for an Indian or Indian
10 Tribe, and lands on the Outer Continental Shelf.

11 (12) The term “Fund” means the Hardrock
12 Minerals Reclamation Fund established by this Act.

13 (13) The term “Indian lands” means lands held
14 in trust for the benefit of an Indian Tribe or indi-
15 vidual or held by an Indian Tribe or individual sub-
16 ject to a restriction by the United States against
17 alienation.

18 (14) The term “Indian Tribe” means any In-
19 dian Tribe, band, nation, pueblo, or other organized
20 group or community, including any Alaska Native
21 village or regional corporation as defined in or estab-
22 lished pursuant to the Alaska Native Claims Settle-
23 ment Act (43 U.S.C. 1601 et seq.), that is recog-
24 nized as eligible for the special programs and serv-

1 ices provided by the United States to Indians be-
2 cause of their status as Indians.

3 (15) The term “hardrock mineral”—

4 (A) subject to subparagraph (B), means
5 any mineral that was subject to location under
6 the general mining laws as of the date of enact-
7 ment of this Act, and that is not subject to dis-
8 position under—

9 (i) the Mineral Leasing Act (30
10 U.S.C. 181 et seq.);

11 (ii) the Geothermal Steam Act of
12 1970 (30 U.S.C. 1001 et seq.);

13 (iii) the Act of July 31, 1947, com-
14 monly known as the Materials Act of 1947
15 (30 U.S.C. 601 et seq.); or

16 (iv) the Mineral Leasing for Acquired
17 Lands Act (30 U.S.C. 351 et seq.); and

18 (B) does not include any mineral that is
19 subject to a restriction against alienation im-
20 posed by the United States and is—

21 (i) held in trust by the United States
22 for any Indian or Indian Tribe, as defined
23 in section 2 of the Indian Mineral Develop-
24 ment Act of 1982 (25 U.S.C. 2101); or

1 (ii) owned by any Indian or Indian
2 Tribe, as defined in that section.

3 (16) The term “mineral activities” means any
4 activity on a mining claim, millsite claim, or tunnel
5 site claim, or a lease, license, or permit issued under
6 this Act, for, related to, or incidental to, mineral ex-
7 ploration, mining, beneficiation, processing, or rec-
8 lamation activities for any hardrock mineral.

9 (17) The term “memorandum of agreement”
10 means a document that records the terms and condi-
11 tions agreed upon by an agency and an Indian Tribe
12 through the consultation process regarding an activ-
13 ity, including any measures to be taken to resolve or
14 mitigate adverse impacts on the Indian Tribe.

15 (18) The term “National Conservation System
16 unit” means any unit of the National Park System,
17 National Wildlife Refuge System, National Wild and
18 Scenic Rivers System, National Wilderness Preserva-
19 tion System, National Landscape Conservation Sys-
20 tem, or National Trails System, or a National Con-
21 servation Area, a National Recreation Area, a Na-
22 tional Monument, or any unit of the National Wil-
23 derness Preservation System or lands within the Na-
24 tional Forest System, including any of the following:

25 (A) National Scenic Research Area.

1 (B) National Scenic Area.

2 (C) National Game Refuge and Wildlife
3 Preserve.

4 (D) National Volcanic Monument.

5 (E) National Historic Area.

6 (F) National Protection Area.

7 (G) Special Management Area.

8 (H) National Botanical Area.

9 (I) Recreation Management Area.

10 (J) Scenic Recreation Area.

11 (19) The term “operator” means any person
12 proposing or authorized by a permit issued under
13 this Act to conduct mineral activities and any agent
14 of such person.

15 (20) The term “person” means an individual,
16 Indian Tribe, partnership, association, society, joint
17 venture, joint stock company, firm, company, cor-
18 poration, cooperative, or other organization and any
19 instrumentality of State or local government includ-
20 ing any publicly owned utility or publicly owned cor-
21 poration of State or local government.

22 (21) The term “processing” means processes
23 downstream of beneficiation employed to prepare
24 locatable mineral ore into the final marketable prod-
25 uct, including smelting and electrolytic refining.

1 (22) The term “sacred site” means any specific,
2 discrete, narrowly delineated location on Federal
3 land that is identified by an Indian Tribe—

4 (A) as sacred by virtue of its established
5 religious significance to, or ceremonial use by,
6 an Indian religion; or

7 (B) to be of established cultural signifi-
8 cance.

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

11 (24) The term “Secretary concerned” means—

12 (A) the Secretary of Agriculture (acting
13 through the Chief of the Forest Service) with
14 respect to National Forest System land; and

15 (B) the Secretary of the Interior (acting
16 through the Director of the Bureau of Land
17 Management) with respect to other Federal
18 land.

19 (25)(A) The term “small miner” means a per-
20 son (including all related parties thereto) that—

21 (i) holds not more than 10 mining claims,
22 mill sites, or tunnel sites, or any combination
23 thereof, on public lands;

1 (ii) holds leases and permits under this Act
2 with respect to not more than 200 acres of Fed-
3 eral land;

4 (iii) certifies to the Secretary in writing
5 that the person had annual gross income in the
6 preceding calendar year from mineral produc-
7 tion in an amount less than \$50,000 (indexed
8 for inflation); and

9 (iv) has performed assessment work re-
10 quired under the Mining Law of 1872 (30
11 U.S.C. 28 et seq.) to maintain any mining
12 claims held by the person (including such re-
13 lated parties) for the assessment year ending on
14 noon of September 1 of the calendar year in
15 which payment of the claim maintenance fee
16 was due.

17 (B) For purposes of subparagraph (A), with re-
18 spect to any person, the term “all related parties”
19 means—

20 (i) the spouse and dependent children (as
21 defined in section 152 of the Internal Revenue
22 Code of 1986), of the person concerned; or

23 (ii) a person affiliated with the person con-
24 cerned, including—

1 (I) another person controlled by, con-
2 trolling, or under common control with the
3 person concerned; or

4 (II) a subsidiary or parent company
5 or corporation of the person concerned.

6 (C) For purposes of subparagraph (A)(iii), the
7 dollar amount shall be applied, for a person, to the
8 aggregate of all annual gross income from mineral
9 production under all mining claims held by or as-
10 signed to such person or all related parties with re-
11 spect to such person, including mining claims lo-
12 cated or for which a patent was issued before the
13 date of the enactment of this Act.

14 (26) The term “temporary cessation” means a
15 halt in mine-related production activities for a con-
16 tinuous period of no longer than 5 years.

17 (27) The term “ton” means 2,000 pounds av-
18 oirdupois (.90718 metric ton).

19 (28) The term “undue degradation” means ir-
20 reparable harm to significant scientific, cultural, or
21 environmental resources on public lands.

22 (29) The term “valuable mineral deposit”
23 means a deposit of hardrock minerals that is of suf-
24 ficient value for a reasonable miner to economically
25 mine.

1 (30) The term “waste” means rock that must
2 be fractured and removed in order to gain access to
3 crude ore.

4 (b) REFERENCES TO OTHER LAWS.—

5 (1) GENERAL MINING LAWS.—Any reference in
6 this Act to the term “general mining laws” is a ref-
7 erence to those Acts that generally comprise chap-
8 ters 2, 12A, and 16, and sections 161 and 162, of
9 title 30, United States Code.

10 (2) ACT OF JULY 23, 1955.—Any reference in
11 this Act to the Act of July 23, 1955, is a reference
12 to the Act entitled “An Act to amend the Act of
13 July 31, 1947 (61 Stat. 681) and the mining laws
14 to provide for multiple use of the surface of the
15 same tracts of the public lands, and for other pur-
16 poses” (30 U.S.C. 601 et seq.).

17 **SEC. 3. APPLICATION RULES.**

18 (a) IN GENERAL.—This Act applies to any mining
19 claim, millsite claim, or tunnel site claim located under
20 the general mining laws, before or on the date of enact-
21 ment of this Act.

22 (b) APPLICATION OF ACT TO BENEFICIATION AND
23 PROCESSING OF NON-FEDERAL MINERALS ON FEDERAL
24 LANDS.—The provisions of this Act shall apply in the
25 same manner and to the same extent to mining claims,

1 millsite claims, tunnel site claims, and any land included
2 in a lease or license issued under this Act, used for
3 beneficiation or processing activities for any hardrock min-
4 eral.

5 **TITLE I—MINERAL LEASING, EX-**
6 **PLORATION, AND DEVELOP-**
7 **MENT**

8 **SEC. 101. CLOSURE TO ENTRY AND LOCATION.**

9 (a) CLOSURE.—Except as otherwise provided in this
10 section, as of the effective date of this Act all Federal
11 lands are closed to entry and location under the general
12 mining laws, and no new rights under the general mining
13 laws may be acquired.

14 (b) EXISTING NONPRODUCING CLAIMS.—

15 (1) CLAIMS WITHOUT PLAN OF OPERATIONS.—

16 Any claim under the general mining laws existing on
17 the effective date of this Act for which a plan of op-
18 erations is not approved, or a notice of operations is
19 not filed, before such date shall be subject to the re-
20 quirements of this Act, and may remain in effect
21 until not later than the end of the 10-year period be-
22 ginning on the date of enactment of this Act if the
23 claimholder remains in compliance with section 109,
24 unless the claim holder—

25 (A) relinquishes the claim; or

1 (B) demonstrates eligibility for a lease and
2 requests conversion under the regulations
3 issued under subsection (d).

4 (2) SHORTENING OF PERIOD.—The 10-year pe-
5 riod referred to in paragraph (1) shall be shortened
6 to 3 years if—

7 (A) the claim is for an area that is located
8 in an area withdrawn or temporarily segregated
9 from location under the general mining laws as
10 of the effective date of this Act; or

11 (B) the claim belongs to a small miner.

12 (3) CONVERSION.—Upon showing to the satis-
13 faction of the Secretary of a valuable mineral deposit
14 on lands subject to such a claim, the Secretary may
15 convert the claim to a noncompetitive lease under
16 the regulations issued under subsection (d).

17 (4) CLAIMS NOT CONVERTED.—Any such claims
18 not converted to leases at the end of the applicable
19 period under paragraph (1) or (2) shall be consid-
20 ered invalid and void.

21 (c) EXISTING CLAIMS WITH PLAN OF OPERATION.—

22 (1) IN GENERAL.—In the case of any claim
23 under the general mining laws for which a plan of
24 operations has been approved but for which oper-

1 ations have not commenced before the date of enact-
2 ment of this Act—

3 (A) during the 10-year period beginning on
4 the date of enactment of this Act—

5 (i) mineral activities on lands subject
6 to such claim shall be subject to such plan
7 of operations; and

8 (ii) modification of such plan may be
9 made in accordance with the provisions of
10 law applicable before the date of the enact-
11 ment of this Act if such modifications are
12 considered minor by the Secretary con-
13 cerned; and

14 (B) the operator shall bring such mineral
15 activities into compliance with this Act by the
16 end of such 10-year period.

17 (2) ACTIVITIES PENDING DECISION ON MODI-
18 FICATION TO PLAN OF OPERATIONS.—If an applica-
19 tion for modification of a plan of operations referred
20 to in paragraph (1)(A)(ii) has been timely submitted
21 and an approved plan expires before the Secretary
22 concerned takes action on the application, mineral
23 activities and reclamation may continue in accord-
24 ance with the terms of the expired plan until such

1 Secretary makes an administrative decision on the
2 application.

3 (3) CONVERSION REQUIREMENT.—Any claims
4 referred to in paragraph (1) may remain in effect
5 for a period of up to 10 years. Any claim not con-
6 verted to a lease under subsection (d) before the end
7 of that period shall be subject to a fee of \$100 per
8 acre per day until the claim is converted to a lease.

9 (d) CONVERSION REGULATIONS.—

10 (1) IN GENERAL.—The Secretary shall issue
11 regulations not later than one year after the date of
12 the enactment of this Act to provide for the conver-
13 sion of mining claims to noncompetitive mining
14 leases.

15 (2) CONTENT.—The regulations issued under
16 paragraph (1) shall—

17 (A) prohibit the conversion of a mining
18 claim to a mining lease by a claimholder who is
19 in violation of this Act or other State or Fed-
20 eral environmental, health, or worker safety
21 law;

22 (B) allow the Secretary to exercise discre-
23 tion to include nonmineral lands within the
24 boundaries of any mill site associated with the

1 mining claim to be converted to a noncompeti-
2 tive lease;

3 (C) prohibit the area in any noncompetitive
4 mining lease issued under this subsection to ex-
5 ceed the maximum area authorized by this Act
6 to be leased to any person;

7 (D) require the consent of the surface
8 managing agency for conversion of a mining
9 claim to a noncompetitive mining lease;

10 (E) require the fiscal terms of the con-
11 verted noncompetitive mining lease to be the
12 same as provided in this Act for other hardrock
13 mining leases;

14 (F) require compliance with all provisions
15 of this Act; and

16 (G) include any other terms the Secretary
17 considers appropriate.

18 (e) NEPA.—The Secretary is not required to conduct
19 an environmental analysis under the National Environ-
20 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for
21 the issuance of a noncompetitive lease under this section,
22 unless the noncompetitive lease modifies or extends the
23 surface disturbance already authorized under a mine plan
24 of operations covering the mining claim that is converted.

1 **SEC. 102. LIMITATION ON PATENTS.**

2 (a) MINING CLAIMS.—

3 (1) DETERMINATIONS REQUIRED.—After the
4 date of enactment of this Act, no patent shall be
5 issued by the United States for any mining claim lo-
6 cated under the general mining laws unless the Sec-
7 retary determines that, for the claim concerned—

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

11 (B) all requirements established under sec-
12 tions 2325 and 2326 of the Revised Statutes
13 (30 U.S.C. 29 and 30), in the case of a vein or
14 lode claim, or sections 2329, 2330, 2331, and
15 2333 of the Revised Statutes (30 U.S.C. 35,
16 36, and 37), in the case of a placer claim, were
17 fully complied with by that date.

18 (2) RIGHT TO PATENT.—If the Secretary makes
19 the determinations referred to in subparagraphs (A)
20 and (B) of paragraph (1) for any mining claim, the
21 holder of the claim shall be entitled to the issuance
22 of a patent in the same manner and degree to which
23 such claim holder would have been entitled to prior
24 to the enactment of this Act, unless such determina-
25 tions are withdrawn or invalidated by the Secretary
26 or by a court of the United States.

1 (b) MILLSITE CLAIMS.—

2 (1) DETERMINATIONS REQUIRED.—After the
3 date of enactment of this Act, no patent shall be
4 issued by the United States for any millsite claim lo-
5 cated under the general mining laws unless the Sec-
6 retary determines that for such millsite—

7 (A) a patent application for the land sub-
8 ject to such claim was filed with the Secretary
9 on or before September 30, 1994; and

10 (B) all requirements applicable to such
11 patent application were fully complied with be-
12 fore that date.

13 (2) RIGHT TO PATENT.—If the Secretary makes
14 the determinations described in subparagraphs (A)
15 and (B) of paragraph (1) for any millsite claim, the
16 holder of the claim shall be entitled to the issuance
17 of a patent in the same manner and degree to which
18 such claim holder would have been entitled to prior
19 to the enactment of this Act, unless such determina-
20 tions are withdrawn or invalidated by the Secretary
21 or by a court of the United States.

22 **SEC. 103. PROSPECTING LICENSE AND HARDROCK LEASES.**

23 (a) IN GENERAL.—No person may conduct mineral
24 prospecting for commercial purposes for any hardrock

1 mineral on Federal lands without a prospecting license or
2 a small miners lease.

3 (b) PROSPECTING LICENSES.—

4 (1) IN GENERAL.—The Secretary may, under
5 such rules and regulations as the Secretary may pre-
6 scribe and with the concurrence of the relevant sur-
7 face management agency, grant an applicant a
8 prospecting license that shall give the exclusive right
9 to prospect for specified hardrock minerals on Fed-
10 eral lands for a period of not exceeding two years.

11 (2) MAXIMUM AREA.—The area subject to such
12 a license shall not exceed 2,560 acres of land, in rea-
13 sonably compact form.

14 (3) LICENSE APPLICATION FEE.—The Sec-
15 retary shall charge a fee for each license application
16 to cover the costs of processing the license, and the
17 license shall be subject to annual rentals equal to
18 \$10 per acre per year.

19 (4) TERMS AND CONDITIONS.—A prospecting li-
20 cense must conform with the terms and conditions
21 of a comprehensive land use plan approved under
22 the Federal Land Policy and Management Act of
23 1976 (43 U.S.C. 1701 et seq.) or the Forest and
24 Rangeland Renewable Resources Planning Act of
25 1974 (16 U.S.C. 1600 et seq.). For areas where a

1 comprehensive land use plan treating hardrock min-
2 ing as a multiple-use activity has not been com-
3 pleted, the Secretary concerned shall ensure that the
4 land to be covered by the license is suitable for min-
5 eral activities.

6 (5) EXTENSION.—A prospecting license may be
7 extended for up to an additional four years upon a
8 showing by the licensee that the licensee explored
9 with reasonable diligence and was unable to deter-
10 mine the existence and workability of a valuable de-
11 posit covered by the license, or that the failure to
12 perform diligent prospecting activities was due to
13 conditions beyond the licensee's control.

14 (c) NONCOMPETITIVE LEASES.—

15 (1) IN GENERAL.—Upon a showing to the satis-
16 faction of the Secretary by a prospecting licensee
17 under subsection (a) that a valuable deposit of a
18 hardrock mineral has been discovered by the licensee
19 within an area covered by the prospecting license
20 and with the consent of the surface agency, the li-
21 censee shall be entitled to a lease for any or all of
22 the land included in the prospecting license, as well
23 as any nonmineral lands necessary for processing or
24 milling operations, at a royalty of no less than 12.5
25 percent of the gross value of production of hardrock

1 minerals or mineral concentrates or products derived
2 from hardrock minerals under the lease. Rentals for
3 such lease shall be set by the Secretary at no less
4 than \$10 per acre per year, with rentals paid in any
5 one year credited against royalties accruing for that
6 year. The recipient of such lease is not entitled to
7 an operations permit.

8 (2) LEASE PERIOD.—

9 (A) IN GENERAL.—A lease under this sec-
10 tion shall be for a period of 20 years, with the
11 right to renew for successive periods of 10 years
12 if hardrock minerals are being produced in com-
13 mercial quantities under the lease.

14 (B) EXTENSION DURING NONPRODUC-
15 TION.—If hardrock minerals are not being pro-
16 duced in commercial quantities at the end of
17 the primary term or any subsequent term of
18 such a lease, the Secretary may issue a 10-year
19 extension of the lease in the interest of con-
20 servation or upon a successful showing by the
21 lessee that the lease cannot be successfully op-
22 erated at a profit or for other reasons. No more
23 than one extension under this subparagraph
24 may be issued.

1 (d) CUMULATIVE ACREAGE LIMITATION.—No person
2 may take, hold, own, or control at one time, whether ac-
3 quired directly from the Secretary under this Act or other-
4 wise, hardrock mining leases or licenses for an aggregate
5 of more than 20,480 acres in any one State.

6 (e) REDUCTION OF ROYALTY RATE.—The Sec-
7 retary—

8 (1) may reduce the royalty rate for a lease upon
9 a showing by clear and convincing evidence by the
10 person conducting mineral activities under the lease
11 that production would not occur without the reduc-
12 tion in royalty; and

13 (2) may reduce royalty and rental rates for a
14 lease to encourage exploration for and development
15 of hardrock minerals classified as strategic and crit-
16 ical by the Department of Energy.

17 (f) PROTECTION OF LAND AND OTHER RE-
18 SOURCES.—The Secretary may include in any lease or li-
19 cense issued under this Act such provisions as are nec-
20 essary to adequately protect the lands and other resources
21 in the vicinity of the area subject to the lease or license.
22 For land not managed by the Department of the Interior,
23 the Secretary shall consult with the appropriate surface
24 management agency in formulating such provisions.

1 **SEC. 104. COMPETITIVE LEASING.**

2 (a) IN GENERAL.—Subject to sections 111 and 112,
3 Federal lands known to contain valuable deposits of
4 hardrock minerals that are not covered by claims, licenses,
5 or leases may only be open to hardrock mineral exploration
6 or development through competitive leasing by the Sec-
7 retary by such methods the Secretary may adopt by regu-
8 lation and in such areas as the Secretary may determine,
9 including nonmineral lands the Secretary considers nec-
10 essary for processing or milling operations. The total area
11 of land subject to any such lease shall not exceed 2,560
12 acres.

13 (b) TERMS AND REQUIREMENTS.—All terms and re-
14 quirements for competitive leases under this section shall
15 be the same as if the leases were issued noncompetitively
16 under section 103(c).

17 **SEC. 105. SMALL MINERS LEASES.**

18 (a) IN GENERAL.—The Secretary may issue small
19 miners leases to qualified small miners that apply, under
20 such rules and regulations as the Secretary may prescribe,
21 including conditions to require diligent development of the
22 lease and to ensure protection of surface resources and
23 groundwater.

24 (b) EXCLUSIVE RIGHT.—A small miners lease shall
25 give the leaseholder the exclusive right to prospect for

1 hardrock minerals for 3 years on up to 200 acres of con-
2 tiguous or non-contiguous Federal land.

3 (c) APPLICATION FEE.—The Secretary shall charge
4 a reasonable application fee for such a lease.

5 (d) RENTALS.—Rentals for such a lease shall be \$5
6 per acre per year for the first 3 years.

7 (e) RENEWAL.—Such leases may be renewed for ad-
8 ditional 3-year periods, with no limit, with a \$10 per acre
9 per year rental charged for renewed leases.

10 (f) CHALLENGE.—Any individual may file a challenge
11 with the Secretary that a leaseholder is in violation of the
12 diligence terms of a small miners lease or does not qualify
13 as a small miner. A small miners lease that is under such
14 a challenge may not be renewed unless the Secretary has
15 determined that the leaseholder is a small miner and is
16 in compliance with all the terms of the lease.

17 (g) NO ROYALTIES.—No royalties shall be charged
18 for commercial production under a small miners lease.

19 (h) CONVERSION OF EXISTING CLAIMS.—An existing
20 claim, as of January 1, 2017, that belongs to an individual
21 that qualifies as a small miner may be converted to a small
22 miners lease under the same terms and conditions that
23 apply to other small miners leases, except that such
24 lease—

1 (1) shall not be subject to rental during the pri-
2 mary term of the lease;

3 (2) shall be subject to a rental of \$5 per acre
4 per year for the first 3-year renewal of the lease;
5 and

6 (3) shall be subject to a rental of \$10 per acre
7 per year for any subsequent 3-year renewal of the
8 lease.

9 (i) LIMITATIONS.—A small miners lease—

10 (1) may only be held by the primary lease-
11 holder, a spouse thereof, or a direct descendent
12 thereof;

13 (2) may not be sold or transferred, other than
14 to a spouse or direct descendent of the primary
15 leaseholder; and

16 (3) is subject to all permitting requirements
17 under this Act.

18 (j) CONVERSION TO HARDROCK MINERAL LEASE.—

19 If, with regards to a lease, the leaseholder no longer quali-
20 fies as a small miner at the time such leaseholder applies
21 for a renewal of such lease, such leaseholder shall not be
22 eligible to renew the small miners lease, but shall be eligi-
23 ble for a noncompetitive hardrock mineral lease issued
24 under section 103(c). Notwithstanding section 103(c)(1),
25 royalties under such a lease shall only be due on the gross

1 income that exceeds the amount of gross income specified
2 in such definition as of the time the hardrock mineral
3 lease is issued.

4 **SEC. 106. LANDS CONTAINING NONHARDROCK MINERALS;**
5 **OTHER USES.**

6 (a) IN GENERAL.—In issuing licenses and leases
7 under this Act for lands that contain deposits of coal or
8 other nonhardrock minerals, the Secretary shall reserve to
9 the United States such nonhardrock minerals for disposal
10 under applicable laws.

11 (b) OTHER USES OF LICENSED AND LEASED
12 LANDS.—

13 (1) IN GENERAL.—The Secretary shall promul-
14 gate regulations to allow for other uses of the lands
15 covered by a prospecting license under this Act, in-
16 cluding leases for other minerals, if such other uses
17 would not unreasonably interfere with operations
18 under the prospecting license.

19 (2) PROSPECTING LICENSES.—The Secretary
20 shall include in such prospecting licenses such terms
21 and conditions as the Secretary finds necessary to
22 avoid unreasonable interference with other uses oc-
23 ccurring on, or other leases of, the licensed lands.

24 (3) LEASES.—The Secretary shall include in
25 leases under this Act stipulations to allow for simul-

1 taneous operations under other leases for the same
2 lands.

3 **SEC. 107. ROYALTY.**

4 (a) **EXISTING PRODUCTION.**—Production of hardrock
5 minerals on Federal land under an operations permit from
6 which valuable hardrock minerals were produced in com-
7 mercial quantities before the date of the enactment of this
8 Act, other than production under a small miners lease,
9 shall be subject to a royalty established by the Secretary
10 at no less than 8 percent of the gross value of such produc-
11 tion, or of mineral concentrates or products derived from
12 hardrock minerals. Any Federal land added through a
13 plan modification to an operations permit on Federal land
14 that is submitted after the date of enactment of this Act
15 shall be subject to a royalty established by the Secretary
16 for such lease of no less than 12.5 percent of the gross
17 value of production of hardrock minerals, or mineral con-
18 centrates or products derived from hardrock minerals.

19 (b) **LIABILITY.**—The claim or leaseholder, or any op-
20 erator to whom the claim or lease holder has assigned the
21 obligation to make royalty payments under the claim or
22 lease and any person who controls such claim or lease
23 holder or operator, shall be liable for payment of such roy-
24 alties.

1 (c) DISPOSITION.—Of the revenues collected under
2 this title, including rents, royalties, claim maintenance
3 fees, interest charges, fines, and penalties—

4 (1) 25 percent shall be paid to the State within
5 the boundaries of which the leased, licensed, or
6 claimed lands, or operations subject to such interest
7 charges, fines, or penalties are or were located; and

8 (2) the remainder shall be deposited in the ac-
9 count established under section 501.

10 (d) DUTIES OF CLAIM OR LEASE HOLDERS, OPERA-
11 TORS, AND TRANSPORTERS.—

12 (1) REGULATION.—The Secretary shall pre-
13 scribe by rule the time and manner in which—

14 (A) a person who is required to make a
15 royalty payment under this section shall make
16 such payment; and

17 (B) shall notify the Secretary of any as-
18 signment that such person may have made of
19 the obligation to make any royalty or other pay-
20 ment under a mining claim or lease under this
21 title.

22 (2) WRITTEN INSTRUMENT.—Any person pay-
23 ing royalties under this section shall file a written
24 instrument, together with the first royalty payment,
25 affirming that such person is responsible for making

1 proper payments for all amounts due for all time pe-
2 riods for which such person has a payment responsi-
3 bility.

4 (3) ADDITIONAL AMOUNTS.—Such responsi-
5 bility for the periods referred to in paragraph (2)
6 shall include any and all additional amounts billed
7 by the Secretary and determined to be due by final
8 agency or judicial action.

9 (4) JOINT AND SEVERAL LIABILITY.—Any per-
10 son liable for royalty payments under this section
11 who assigns any payment obligation shall remain
12 jointly and severally liable for all royalty payments
13 due for the period.

14 (5) OBLIGATIONS.—A person conducting min-
15 eral activities shall—

16 (A) develop and comply with the site secu-
17 rity provisions in the operations permit de-
18 signed to protect from theft the hardrock min-
19 erals, concentrates, or products derived there-
20 from that are produced or stored on the area
21 subject to a mining claim or lease, and such
22 provisions shall conform with such minimum
23 standards as the Secretary may prescribe by
24 rule, taking into account the variety of cir-

1 cumstances on areas subject to mining claims
2 and leases; and

3 (B) not later than the 5th business day
4 after production begins anywhere on an area
5 subject to a mining claim or lease, or produc-
6 tion resumes after more than 90 days after pro-
7 duction was suspended, notify the Secretary, in
8 the manner prescribed by the Secretary, of the
9 date on which such production has begun or re-
10 sumed.

11 (6) REQUIRED DOCUMENTATION.—The Sec-
12 retary may by rule require any person engaged in
13 transporting a hardrock mineral, concentrate, or
14 product derived therefrom to carry on his or her per-
15 son, in his or her vehicle, or in his or her immediate
16 control, documentation showing, at a minimum, the
17 amount, origin, and intended destination of the
18 hardrock mineral, concentrate, or product derived
19 therefrom in such circumstances as the Secretary
20 determines is appropriate.

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

23 (1) IN GENERAL.—A claim or lease holder, op-
24 erator, or other person directly involved in devel-
25 oping, producing, processing, transporting, pur-

1 chasing, or selling hardrock minerals, concentrates,
2 or products derived therefrom, subject to this Act,
3 through the point of royalty computation shall estab-
4 lish and maintain any records, make any reports,
5 and provide any information that the Secretary may
6 reasonably require for the purposes of implementing
7 this section or determining compliance with rules or
8 orders under this section. Such records shall include
9 periodic reports, records, documents, and other data.
10 Such reports may also include pertinent technical
11 and financial data relating to the quantity, quality,
12 composition volume, weight, and assay of all min-
13 erals extracted from the mining claim or lease.

14 (2) AVAILABILITY FOR INSPECTION.—Upon the
15 request of any officer or employee duly designated
16 by the Secretary conducting an audit or investiga-
17 tion pursuant to this section, the appropriate
18 records, reports, or information that may be re-
19 quired by this section shall be made available for in-
20 spection and duplication by such officer or employee.

21 (3) FORFEITURE.—Failure by a claim or lease
22 holder, operator, or other person referred to in the
23 first sentence to cooperate with such an audit, pro-
24 vide data required by the Secretary, or grant access
25 to information may, at the discretion of the Sec-

1 retary, result in involuntary forfeiture of the claim
2 or lease.

3 (4) MAINTENANCE OF RECORDS.—Records re-
4 quired by the Secretary under this section shall be
5 maintained for 7 years after release of financial as-
6 surance under section 306 unless the Secretary noti-
7 fies the operator that the Secretary has initiated an
8 audit or investigation involving such records and
9 that such records must be maintained for a longer
10 period. In any case when an audit or investigation
11 is underway, records shall be maintained until the
12 Secretary releases the operator of the obligation to
13 maintain such records.

14 (f) AUDITS.—The Secretary is authorized to conduct
15 such audits of all claim or lease holders, operators, trans-
16 porters, purchasers, processors, or other persons directly
17 or indirectly involved in the production or sale of minerals
18 covered by this Act, as the Secretary deems necessary for
19 the purposes of ensuring compliance with the require-
20 ments of this section. For purposes of performing such
21 audits, the Secretary shall, at reasonable times and upon
22 request, have access to, and may copy, all books, papers
23 and other documents that relate to compliance with any
24 provision of this section by any person.

25 (g) COOPERATIVE AGREEMENTS.—

1 (1) IN GENERAL.—The Secretary is authorized
2 to enter into cooperative agreements with the Sec-
3 retary of Agriculture to share information con-
4 cerning the royalty management of hardrock min-
5 erals, concentrates, or products derived therefrom, to
6 carry out inspection, auditing, investigation, or en-
7 forcement (not including the collection of royalties,
8 civil or criminal penalties, or other payments) activi-
9 ties under this section in cooperation with the Sec-
10 retary, and to carry out any other activity described
11 in this section.

12 (2) SECRETARY OF AGRICULTURE.—Except as
13 provided in paragraph (3), and pursuant to a coop-
14 erative agreement, the Secretary of Agriculture
15 shall, upon request, have access to all royalty ac-
16 counting information in the possession of the Sec-
17 retary respecting the production, removal, or sale of
18 hardrock minerals, concentrates, or products derived
19 therefrom from claims or leases on lands open to lo-
20 cation under this Act.

21 (3) TRADE SECRETS.—Trade secrets, propri-
22 etary, and other confidential information protected
23 from disclosure under section 552 of title 5, United
24 States Code, shall be made available by the Sec-
25 retary to other Federal agencies as necessary to as-

1 sure compliance with this Act and other Federal
2 laws. The Secretary, the Secretary of Agriculture,
3 the Administrator of the Environmental Protection
4 Agency, and other Federal officials shall ensure that
5 such information is provided protection in accord-
6 ance with the requirements of that section.

7 (h) INTEREST AND SUBSTANTIAL UNDERREPORTING
8 ASSESSMENTS.—

9 (1) PAYMENTS NOT RECEIVED.—In the case of
10 mining claims or leases where royalty payments are
11 not received by the Secretary on the date that such
12 payments are due, the Secretary shall charge inter-
13 est on such underpayments at the same interest rate
14 as the rate applicable under section 6621(a)(2) of
15 the Internal Revenue Code of 1986. In the case of
16 an underpayment, interest shall be computed and
17 charged only on the amount of the deficiency and
18 not on the total amount.

19 (2) UNDERREPORTING.—If there is any under-
20 reporting of royalty owed on production from a
21 claim or lease for any production month by any per-
22 son liable for royalty payments under this section,
23 the Secretary shall assess a penalty of not greater
24 than 25 percent of the amount of that under-
25 reporting.

1 (3) SELF-REPORTING.—The Secretary may
2 waive or reduce the assessment provided in para-
3 graph (2) of this subsection if the person liable for
4 royalty payments under this section corrects the
5 underreporting before the date such person receives
6 notice from the Secretary that an underreporting
7 may have occurred, or before 90 days after the date
8 of the enactment of this section, whichever is later.

9 (4) WAIVER.—The Secretary shall waive any
10 portion of an assessment under paragraph (2) of
11 this subsection attributable to that portion of the
12 underreporting for which the person responsible for
13 paying the royalty demonstrates that—

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

18 (B) such person had substantial authority
19 for reporting royalty on the value of the produc-
20 tion on the basis on which it was reported;

21 (C) such person previously had notified the
22 Secretary, in such manner as the Secretary may
23 by rule prescribe, of relevant reasons or facts
24 affecting the royalty treatment of specific pro-
25 duction which led to the underreporting; or

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

3 (5) DEFINITION.—For the purposes of this sub-
4 section, the term “underreporting” means the dif-
5 ference between the royalty on the value of the pro-
6 duction that should have been reported and the roy-
7 alty on the value of the production which was re-
8 ported, if the value that should have been reported
9 is greater than the value that was reported.

10 (6) HARDROCK MINERALS RECLAMATION
11 FUND.—All penalties collected under this subsection
12 shall be deposited in the Hardrock Minerals Rec-
13 lamation Fund established by this Act.

14 (i) EXPANDED ROYALTY OBLIGATIONS.—Each per-
15 son liable for royalty payments under this section shall
16 be jointly and severally liable for royalty on all hardrock
17 minerals, concentrates, or products derived therefrom lost
18 or wasted from a mining claim or lease when such loss
19 or waste is due to negligence on the part of any person
20 or due to the failure to comply with any rule, regulation,
21 or order issued under this section.

22 (j) GROSS INCOME FROM MINING DEFINED.—For
23 the purposes of this section, for any hardrock mineral, the
24 term “gross income from mining” has the same meaning

1 as the term “gross income” in section 613(c) of the Inter-
2 nal Revenue Code of 1986.

3 (k) EFFECTIVE DATE.—Royalties under this Act
4 shall take effect with respect to the production of hardrock
5 minerals after the enactment of this Act, but any royalty
6 payments attributable to production during the first 12
7 calendar months after the enactment of this Act shall be
8 payable at the expiration of such 12-month period.

9 (l) FAILURE TO COMPLY WITH ROYALTY REQUIRE-
10 MENTS.—Any person who fails to comply with the require-
11 ments of this section or any regulation or order issued to
12 implement this section shall be liable for a civil penalty
13 under section 109 of the Federal Oil and Gas Royalty
14 Management Act (30 U.S.C. 1719) to the same extent as
15 if the claim or lease maintained in compliance with this
16 Act were a lease under such Act.

17 **SEC. 108. EXISTING PRODUCTION.**

18 The holder of a mining claim located or converted
19 under this Act for which mineral activities have already
20 commenced under an approved plan of operations as of
21 the date of enactment of this Act shall have the exclusive
22 right of possession and use of the claimed land for mineral
23 activities, including the right of ingress and egress to such
24 claimed lands for such activities, subject to the rights of
25 the United States under this Act and other applicable

1 Federal law. Such rights of the claim holder shall termi-
2 nate upon completion of mineral activities on such lands
3 to the satisfaction of the Secretary.

4 **SEC. 109. HARDROCK MINING CLAIM MAINTENANCE FEE.**

5 (a) FEE.—

6 (1) IN GENERAL.—

7 (A) REQUIRED FEES.—Except as provided
8 in section 2511(e)(2) of the Energy Policy Act
9 of 1992 (30 U.S.C. 242), or as otherwise pro-
10 vided in this Act, for each unpatented mining
11 claim, mill, or tunnel site on federally owned
12 lands, whether located before or on the date of
13 enactment of this Act, each claimant shall pay
14 to the Secretary, on or before August 31 of
15 each year, a claim maintenance fee of \$200 per
16 claim to hold such unpatented mining claim,
17 mill or tunnel site for the assessment year be-
18 ginning at noon on the next day, September 1.
19 Such claim maintenance fee shall be in lieu of
20 the assessment work requirement contained in
21 the Mining Law of 1872 (30 U.S.C. 28 et seq.)
22 and the related filing requirements contained in
23 section 314 (a) and (c) of the Federal Land
24 Policy and Management Act of 1976 (43 U.S.C.
25 1744 (a) and (c)).

1 (B) EXCEPTION FOR SMALL MINERS.—
2 Subparagraph (A) and the assessment work re-
3 quirement contained in the Mining Law of 1872
4 (30 U.S.C. 28 et seq.) shall not apply with re-
5 spect to any claim held by a small miner.

6 (2) FEE ADJUSTMENTS.—

7 (A) INFLATION.—The Secretary shall ad-
8 just the fees required by this subsection to re-
9 flect changes in the Consumer Price Index pub-
10 lished by the Bureau of Labor Statistics of the
11 Department of Labor every 3 years after the
12 date of enactment of this Act, or more fre-
13 quently if the Secretary determines an adjust-
14 ment to be reasonable.

15 (B) NOTICE.—The Secretary shall provide
16 claimants notice of any adjustment made under
17 this paragraph not later than July 1 of any
18 year in which the adjustment is made.

19 (C) APPLICATION.—A fee adjustment
20 under this paragraph shall begin to apply the
21 calendar year following the calendar year in
22 which it is made.

23 (3) Moneys received under this subsection that
24 are not otherwise allocated for the administration of
25 the mining laws by the Department of the Interior

1 shall be deposited in the Hardrock Minerals Rec-
2 lamation Fund established by section 501.

3 (b) CO-OWNERSHIP.—The co-ownership provisions of
4 the Mining Law of 1872 (30 U.S.C. 28 et seq.) shall re-
5 main in effect except that the annual claim maintenance
6 fee, where applicable, shall replace applicable assessment
7 requirements and expenditures.

8 (c) FAILURE TO PAY.—Failure to pay the claim
9 maintenance fee as required by subsection (a) shall conclu-
10 sively constitute a forfeiture of the unpatented mining
11 claim, mill or tunnel site by the claimant and the claim
12 shall be deemed null and void by operation of law.

13 (d) OTHER REQUIREMENTS.—

14 (1) REQUIRED FILINGS.—Nothing in this sec-
15 tion shall change or modify the requirements of sec-
16 tion 314(b) of the Federal Land Policy and Manage-
17 ment Act of 1976 (43 U.S.C. 1744(b)), or the re-
18 quirements of section 314(c) of the Federal Land
19 Policy and Management Act of 1976 (43 U.S.C.
20 1744(c)) related to filings required by section
21 314(b), which remain in effect.

22 (2) MINING LAW OF 1872.—Section 2324 of the
23 Revised Statutes of the United States (30 U.S.C.
24 28) is amended by inserting “or section 103(a) of

1 the Hardrock Leasing and Reclamation Act of
2 2019” after “Act of 1993”.

3 **SEC. 110. EFFECT OF PAYMENTS FOR USE AND OCCUPANCY**
4 **OF CLAIMS.**

5 Except as otherwise provided in section 101, timely
6 payment of the claim maintenance fee required by section
7 109 or any related law relating to the use of Federal land,
8 asserts the claimant’s authority to use and occupy the
9 Federal land concerned for prospecting and exploration,
10 consistent with the requirements of this Act and other ap-
11 plicable law.

12 **SEC. 111. PROTECTION OF SPECIAL PLACES.**

13 (a) PROTECTION OF NATIONAL PARK SYSTEM UNITS
14 AND NATIONAL MONUMENTS.—No permit shall be issued
15 under this Act that authorizes mineral activities that
16 would impair the land or resources of a unit of the Na-
17 tional Park System or a national monument. For purposes
18 of this subsection, the term “impair” includes any diminu-
19 tion of the affected land including wildlife, scenic assets,
20 water resources, air quality, and acoustic qualities, or
21 other changes that would impair a citizen’s experience at
22 the National Park System unit or a national monument.

23 (b) PROTECTION OF CONSERVATION AREAS.—In
24 order to protect the resources and values of National Con-
25 servation System units, the Secretary, as appropriate,

1 shall utilize authority under this Act and other applicable
2 law to the fullest extent necessary to prevent mineral ac-
3 tivities that could have an adverse impact on the resources
4 or values for which such units were established.

5 (c) LANDS NOT OPEN TO MINING.—Notwithstanding
6 any other provision of law and subject to valid existing
7 rights, no hardrock mining activity shall be allowed in any
8 of the following:

9 (1) Sacred sites.

10 (2) Wilderness study areas.

11 (3) Areas of critical environmental concern.

12 (4) Units of the National Conservation System.

13 (5) Areas designated for inclusion in the Na-
14 tional Wild and Scenic Rivers System pursuant to
15 the Wild and Scenic Rivers Act (16 U.S.C. 1271 et
16 seq.), areas designated for potential addition to such
17 system pursuant to section 5(a) of that Act (16
18 U.S.C. 1276(a)), and areas determined to be eligible
19 for inclusion in such system pursuant to section 5(d)
20 of such Act (16 U.S.C. 1276(d)).

21 (6) Any area identified in the set of inventoried
22 roadless areas maps contained in the Forest Service
23 Roadless Area Conservation Final Environmental
24 Impact Statement, Volume 2, dated November 2000.

1 **SEC. 112. SUITABILITY DETERMINATION.**

2 (a) IN GENERAL.—The Secretary concerned shall
3 make each determination of whether lands are suitable for
4 mineral activities that is otherwise required by this Act,
5 in accordance with subsection (b).

6 (b) SUITABILITY.—

7 (1) IN GENERAL.—The Secretary concerned
8 shall consider lands suitable for mineral activities if
9 the Secretary concerned finds that such activities
10 would not result in undue degradation to a special
11 characteristic described in paragraph (2) that cannot
12 be prevented by the imposition of conditions in the
13 permit required for such activities under title III.

14 (2) SPECIAL CHARACTERISTICS.—For purposes
15 of paragraph (1) the Secretary concerned shall con-
16 sider each of the following to be a special char-
17 acteristic:

18 (A) The existence of a significant water re-
19 source or supply in or associated with such
20 lands, including any aquifer or aquifer recharge
21 area.

22 (B) The presence on such lands, or any
23 adjacent lands, of a publicly owned place that
24 is listed on, or determined by the Secretary of
25 the Interior to be eligible for listing on, the Na-
26 tional Register of Historic Places.

1 (C) The designation of all or any portion
2 of such lands, or any adjacent lands, as a Na-
3 tional Conservation System unit.

4 (D) The designation of all or any portion
5 of such lands, or any adjacent lands, as critical
6 habitat under the Endangered Species Act of
7 1973 (16 U.S.C. 1531 et seq.).

8 (E) The designation of all or any portion
9 of such lands, or any adjacent lands, as a class
10 I area under section 162 of the Clean Air Act
11 (42 U.S.C. 7472).

12 (F) The presence of such other resource
13 values as the Secretary concerned may by rule
14 specify, determined based upon field testing,
15 evaluation, or credible information that verifies
16 such values.

17 (G) The designation of such lands, or adja-
18 cent lands, as a Research Natural Area.

19 (H) The presence on such lands, or any
20 adjacent lands, of a sacred site.

21 (I) The presence or designation of such
22 lands adjacent to lands not open to mining pur-
23 suant to section 111.

24 (3) A determination under this subsection of
25 suitability for mineral activities shall be made after

1 publication of notice and an opportunity for submis-
2 sion of public comment for a period of not less than
3 60 days.

4 (4) Any determination made in accordance with
5 this subsection with respect to lands shall be incor-
6 porated into each Federal land use plan applicable
7 to such lands, at the time such plan is adopted, re-
8 vised, or significantly amended pursuant to any Fed-
9 eral law other than this Act.

10 (c) CHANGE REQUEST.—The Secretary concerned
11 shall, by rule, provide for an opportunity for any person
12 to request a change in determination for any Federal land
13 found suitable under subsection (a).

14 (d) EXISTING OPERATIONS.—Nothing in this section
15 shall be construed as affecting lands on which mineral ac-
16 tivities were being conducted on the date of enactment of
17 this Act under an approved plan of operations or under
18 notice.

19 **TITLE II—CONSULTATION** 20 **PROCEDURE**

21 **SEC. 201. REQUIREMENT FOR CONSULTATION.**

22 (a) SCOPE.—Agencies shall have an accountable
23 process to ensure meaningful and timely input by Indian
24 Tribes and Tribal officials prior to undertaking any min-
25 eral activities that may have substantial direct impacts on

1 the lands or interests of one or more Indian Tribes, on
2 the relationship between the Federal Government and In-
3 dian Tribes, or on the distribution of power and respon-
4 sibilities between the Federal Government and Indian
5 Tribes. Consultation with Indian Tribes shall occur for all
6 mineral activities that would affect any part of any Fed-
7 eral land that shares a border with Indian country as de-
8 fined in section 1151 of title 18, United States Code, but
9 is not limited to mineral activities on such lands.

10 (b) MULTIAGENCY MINERAL ACTIVITIES.—In the
11 case of agency-drafted proposed legislation, the drafting
12 agency, and any other agency that will be implementing
13 the legislation, shall each be considered involved in the
14 mineral activity. If more than one agency is involved in
15 a mineral activity, some or all of the agencies may des-
16 ignate a lead agency, which shall fulfill their collective con-
17 sultation responsibilities. Those agencies that do not des-
18 ignate a lead agency shall remain individually responsible
19 for their consultation responsibilities under this Act.

20 (c) LIMITATION.—Nothing in this Act shall exempt
21 an agency from additional consultation required under any
22 other law or from taking any other consultative actions
23 as required by any other law or agency prerogative in addi-
24 tion to those required by this Act. Nor does it preclude
25 an agency from additional consultation that complies with

1 agency regulations for consultation, advances agency con-
2 sultation practices, or supports agency efforts to build or
3 strengthen government-to-government relationships with
4 Indian Tribes.

5 (d) TEMPORARY WAIVER.—

6 (1) IN GENERAL.—The agency may temporarily
7 waive the requirements of this title in all or any por-
8 tion of any emergency area during all or any portion
9 of an emergency period.

10 (2) DURATION OF WAIVER.—A temporary waiv-
11 er under this subsection shall end upon the termi-
12 nation of the applicable emergency period.

13 (3) DEFINITIONS.—For the purposes of this
14 subsection—

15 (A) the term “emergency area” means a
16 geographical area in which there exists an
17 emergency or disaster declared by the President
18 pursuant to the National Emergencies Act (50
19 U.S.C. 1601 et seq.) or the Robert T. Stafford
20 Disaster Relief and Emergency Assistance Act
21 (42 U.S.C. 5121 et seq.); and

22 (B) the term “emergency period” means
23 the period during which there exists an emer-
24 gency or disaster declared by the President pur-
25 suant to the National Emergencies Act (50

1 U.S.C. 1601 et seq.) or the Robert T. Stafford
2 Disaster Relief and Emergency Assistance Act
3 (42 U.S.C. 5121 et seq.).

4 **SEC. 202. TIMING.**

5 Consultation under sections 203 and 204 shall be
6 completed before any Federal funds are expended for the
7 mineral activity and before the issuance of any license
8 other than for funding nondestructive project planning
9 mineral activities.

10 **SEC. 203. SCOPING STAGE CONSULTATION.**

11 (a) **PLANNING DOCUMENT.**—As early as possible in
12 the planning stage of a mineral activity, the agency shall
13 compile a draft of the scope of the project, including any
14 geographic areas important to Indian Tribes that might
15 be affected and any other anticipated Tribal impacts. The
16 agency shall make a good faith effort to include areas that
17 contain sites important to Indian Tribes whether or not
18 such sites are explicitly known to the agency.

19 (b) **INITIAL CONSULTATION CONTACT.**—The agen-
20 cy—

21 (1) shall send, via United States mail and, if
22 possible, email, a copy of the planning document and
23 a letter requesting consultation meetings to the rel-
24 evant Tribal Government officials, including the
25 Tribal leader and all members of any elected Tribal

1 governing body, relevant Tribal governmental agen-
2 cies (including the Tribal Historic Preservation Offi-
3 cer or cultural resource manager), and relevant non-
4 Tribal stakeholders (including the State Historic
5 Preservation Officer and local governments that
6 have jurisdiction on any affected land via agreement
7 with the agency);

8 (2) at the request of an affected Indian Tribe,
9 shall send, via United States mail and, if possible,
10 email, a copy of the planning document and a letter
11 requesting consultation meetings to nongovern-
12 mental Tribal stakeholders, such as elders councils
13 and religious leaders;

14 (3) shall not request consultation with non-
15 governmental Tribal stakeholders without the writ-
16 ten consent of the affected Indian Tribe; and

17 (4) shall follow up with phone calls to confirm
18 receipt of the documents by all intended recipients.

19 (c) CONSULTATION MEETING ARRANGEMENTS.—The
20 agency shall negotiate with the affected Indian Tribes to
21 determine the time, place, agenda, travel funds, facilitator,
22 format, and goals of a consultation meeting. The agency
23 shall keep thorough documentation of all steps taken to
24 contact and engage the affected Indian Tribes in consulta-
25 tion. If, after a good faith effort, the agency fails to en-

1 gage the affected Indian Tribes, it may terminate its
2 scoping stage consultation efforts by providing all con-
3 sultation partners with a written notification and expla-
4 nation for its decision, signed by the head of the agency,
5 and proceed to the decision stage procedures described in
6 section 204.

7 (d) SCOPING STAGE CONSULTATION MEETING.—A
8 scoping stage consultation meeting shall begin with con-
9 firmation of the format, facilitator, and agenda, with ade-
10 quate time scheduled for introductions and for interaction
11 throughout the meeting among participants. Whenever
12 possible, Tribal stakeholders shall be brought into the on-
13 going planning process directly by forming ad hoc
14 workgroups (including Tribal leaders or their designees)
15 and, if appropriate, initiating a process for consensual de-
16 velopment of regulations, such as negotiated rulemaking.
17 A scoping stage consultation meeting shall conclude with
18 planning for the next meeting, if necessary.

19 (e) TERMINATION OF SCOPING STAGE CONSULTA-
20 TION WITH A MEMORANDUM OF AGREEMENT.—

21 (1) TERMINATION.—Except as provided by sub-
22 section (c), scoping stage consultation shall termi-
23 nate upon the execution of a memorandum of agree-
24 ment signed by the head of the agency and the af-
25 fected Indian Tribal Governments.

1 (2) SIGNATORIES.—The affected Indian Tribal
2 Governments and the agency may jointly invite addi-
3 tional parties to be signatories of the memorandum
4 of agreement. The signatories have sole authority to
5 execute, amend, or terminate the memorandum of
6 agreement. If any signatory determines that the
7 terms of the memorandum of agreement cannot be
8 or are not being carried out, the signatories shall
9 consult to seek amendment of the memorandum of
10 agreement. If the memorandum of agreement is not
11 amended, any signatory may terminate the agree-
12 ment, with the option to return to scoping stage con-
13 sultation. The agency shall provide all nonsignatory
14 consulting partners with the opportunity to submit
15 a written statement, explanation, or comment on the
16 consultation proceedings that shall become part of
17 the agency’s official consultation record.

18 (3) MEMORANDUM OF AGREEMENT.—The
19 memorandum of agreement—

20 (A) may address multiple activities if the
21 activities are similar and repetitive or are
22 multistate or regional in scope, or where routine
23 management activities are undertaken at Fed-
24 eral installations, facilities, or other land man-
25 agement units;

1 (B) may establish standard processes for
2 certain categories of activities determined
3 through consultation and defined in the memo-
4 randum of agreement;

5 (C) shall include a provision for monitoring
6 and reporting on its implementation;

7 (D) shall include provisions for termination
8 or reconsideration if the activity has not been
9 completed within a specified time; and

10 (E) shall include provisions to address new
11 discoveries, which may include halting the activ-
12 ity and returning to scoping stage consultation.

13 (f) TERMINATION OF SCOPING STAGE CONSULTA-
14 TION WITHOUT A MEMORANDUM OF AGREEMENT.—The
15 agency shall make a good faith effort through sustained
16 interaction and collaboration to reach a consensus result-
17 ing in a memorandum of agreement. If, after a good faith
18 effort, the agency determines that further consultation will
19 not be productive, it may terminate consultation by pro-
20 viding all consultation partners with a written notification
21 and explanation for its decision, signed by the head of the
22 agency, and proceed to the decision stage procedures de-
23 scribed in section 204. The affected Indian Tribal Govern-
24 ments may at any point decide to terminate consultation.
25 In such case, the agency shall provide the affected Indian

1 Tribal Governments with the opportunity to submit a writ-
2 ten statement, explanation, or comment on the consulta-
3 tion proceedings that will become part of the agency's offi-
4 cial consultation record.

5 **SEC. 204. DECISION STAGE PROCEDURES.**

6 (a) PROPOSAL DOCUMENT.—The agency shall com-
7 pile a document consisting of the plan for the activity, its
8 anticipated Tribal impacts, any memorandum of agree-
9 ment, and any written statements made by consulting
10 partners during the scoping stage as described in section
11 203. The agency shall include sufficient supporting docu-
12 mentation to the extent permitted by law and within avail-
13 able funds to enable any reviewing parties to understand
14 its basis. The agency may use documentation prepared to
15 comply with other laws to fulfill the requirements of this
16 provision to the extent that such documentation is suffi-
17 ciently pertinent to and focused on the relevant issues as
18 to allow reasonable ease of review. The agency shall mail
19 and, if possible, email a copy of the Proposal Document
20 to all affected Indian Tribal Governments, including those
21 that withdrew from the process. At a minimum, the docu-
22 ment shall go to the Tribal leader and all members of any
23 elected Tribal governing body. The agency shall follow up
24 to confirm receipt of the document. After these steps have
25 been completed, the Proposal Document shall be published

1 in the Federal Register, subject to the provisions of section
2 207.

3 (b) PUBLIC COMMENT PERIOD.—The agency shall
4 provide a period of not less than 90 days after publication
5 in the Federal Register for comments on the Proposal
6 Document. A 30-day extension shall be granted upon re-
7 quest by any member of any of the affected Indian Tribal
8 governing bodies.

9 (c) PRELIMINARY DECISION.—After expiration of the
10 comment period, the agency shall prepare a preliminary
11 decision letter, signed by the head of the agency. The let-
12 ter shall state the decision to proceed or not proceed with
13 the mineral activity, the decision’s rationale, any changes
14 in the proposal made in response to comments, and any
15 points where the decision conflicts with the expressed re-
16 quests of any of the affected Indian Tribes. It shall par-
17 ticularly address why the decision was made to disregard
18 any such requests. The agency shall mail and, if possible,
19 email a copy of the letter to all affected Indian Tribal Gov-
20 ernments, including those that withdrew from the process.
21 At a minimum, the letter shall go to the Tribal leader and
22 all members of the Tribal governing body. The agency
23 shall follow up to confirm receipt of the letter.

24 (d) FINAL DECISION.—The agency shall provide a
25 60-day period following the issuance of the preliminary de-

1 cision letter for response by the affected Indian Tribes.
2 Thereafter, the agency shall notify in writing, signed by
3 the head of the agency, the affected Indian Tribal Govern-
4 ments, including those that withdrew from the process, of
5 the agency's final decision.

6 **SEC. 205. DOCUMENTATION AND REPORTING.**

7 (a) **OFFICIAL CONSULTATION RECORD.**—The agency
8 shall keep an official consultation record that allows accu-
9 rate tracking of the process so that agencies and con-
10 sulting parties can correct any errors or omissions, and
11 provides an official record of the process that can be re-
12 ferred to in any litigation that may arise. The agency shall
13 document all efforts to initiate consultation as well as doc-
14 umenting the process once it has begun. Such documenta-
15 tion, including correspondence, telephone logs, and emails,
16 shall be included in the agency's official consultation
17 record. The agency shall also keep notes so that the con-
18 sultation record documents the content of consultation
19 meetings, site visits, and phone calls in addition to infor-
20 mation about dates and who participated.

21 (b) **PAYMENT FOR TRIBAL DOCUMENTATION**
22 **WORK.**—If the agency asks an Indian Tribe for specific
23 information or documentation regarding the location, na-
24 ture, and condition of individual sites, to conduct a survey,
25 or in any way fulfill the duties of the agency in a role

1 similar to that of a consultant or contractor, then the
2 agency must pay for such services, if so requested by the
3 Indian Tribe, as it would for any private consultant or
4 contractor.

5 (c) REPORT TO CONGRESS.—Each agency shall on a
6 biennial basis submit to Congress a report on its consulta-
7 tion activities.

8 **SEC. 206. IMPLEMENTATION.**

9 Not later than 30 days after the date of the enact-
10 ment of this Act, the head of each agency shall designate
11 an official with principal responsibility for the agency's re-
12 view of existing consultation and coordination policies and
13 procedures, and implementation of this Act. Not later than
14 60 days after the effective date of this order, the des-
15 ignated official shall submit to the Office of Management
16 and Budget a description of the agency's revised consulta-
17 tion process in conformity with this Act.

18 **SEC. 207. SENSITIVE TRIBAL INFORMATION.**

19 Notwithstanding any provision of the Administrative
20 Procedures Act, consultation meetings shall be closed to
21 the public at the request of the Indian Tribal Government.
22 Notwithstanding any provision of the Freedom of Infor-
23 mation Act, all information designated by the Indian Tribe
24 as sensitive, such as the location of sacred sites or other
25 details of cultural or religious practices, shall be deleted

1 from any public publication made as part of the consulta-
2 tion process or in the process of carrying out the activity.
3 Once information has been designated as sensitive, the
4 agency will determine in consultation with the Indian
5 Tribe who may have access to the information for the pur-
6 poses of carrying out the mineral activity.

7 **TITLE III—ENVIRONMENTAL**
8 **CONSIDERATIONS OF MIN-**
9 **ERAL EXPLORATION AND DE-**
10 **VELOPMENT**

11 **SEC. 301. GENERAL STANDARD FOR HARDROCK MINING ON**
12 **FEDERAL LAND.**

13 Notwithstanding section 302(b) of the Federal Land
14 Policy and Management Act of 1976 (43 U.S.C. 1732(b)),
15 the first section of the Act of June 4, 1897 (chapter 2;
16 30 Stat. 36; 16 U.S.C. 478), and the National Forest
17 Management Act of 1976 (16 U.S.C. 1600 et seq.), and
18 in accordance with this title and applicable law, unless ex-
19 pressly stated otherwise in this Act, the Secretary shall
20 ensure that mineral activities on any Federal land that
21 is subject to a mining claim, millsite claim, tunnel site
22 claim, or any authorization issued under title I of this Act
23 are carefully controlled to prevent undue degradation of
24 public lands and resources.

1 **SEC. 302. PERMITS.**

2 (a) PERMITS REQUIRED.—No person may engage in
3 mineral activities on Federal land that may cause a dis-
4 turbance of surface resources, including land, air, ground
5 water and surface water, and fish and wildlife, unless a
6 permit was issued to such person under this title author-
7 izing such activities.

8 (b) NEGLIGIBLE DISTURBANCE.—Notwithstanding
9 subsection (a), a permit under this title shall not be re-
10 quired for mineral activities that are a casual use of the
11 Federal land.

12 (c) COORDINATION WITH NEPA PROCESS.—To the
13 extent practicable, the Secretary and the Secretary of Ag-
14 riculture shall conduct the permit processes under this Act
15 in coordination with the timing and other requirements
16 under section 102 of the National Environmental Policy
17 Act of 1969 (42 U.S.C. 4332).

18 **SEC. 303. EXPLORATION PERMIT.**

19 (a) AUTHORIZED EXPLORATION ACTIVITY.—Any ap-
20 plicant may apply for an exploration permit for any min-
21 ing claim, license, or lease authorizing the applicant to re-
22 move a reasonable amount of the hardrock minerals, as
23 defined in the license or lease or established in such regu-
24 lations as the Secretary shall promulgate, from the area
25 that is subject to the claim, license, or lease, respectively,
26 for analysis, study, and testing. Such permit shall not au-

1 thorize the applicant to remove any mineral for sale nor
2 to conduct any activities other than those required for ex-
3 ploration for hardrock minerals and reclamation.

4 (b) PERMIT APPLICATION REQUIREMENTS.—An ap-
5 plication for an exploration permit under this section shall
6 be submitted in a manner satisfactory to the Secretary
7 concerned, and shall contain an exploration plan, a rec-
8 lamation plan for the proposed exploration, and such docu-
9 mentation as necessary to ensure compliance with applica-
10 ble Federal and State environmental laws and regulations.

11 (c) RECLAMATION PLAN REQUIREMENTS.—The rec-
12 lamation plan required to be included in a permit applica-
13 tion under subsection (b) shall include such provisions as
14 may be jointly prescribed by the Secretary and the Sec-
15 retary of Agriculture by regulations. Such regulations
16 shall, at a minimum, require the following:

17 (1) The applicant has demonstrated that pro-
18 posed reclamation can be accomplished.

19 (2) The proposed exploration activities and con-
20 dition of the land after the completion of exploration
21 activities and final reclamation will conform with the
22 land use plan applicable to the area subject to min-
23 eral activities.

24 (3) The area subject to the proposed permit is
25 not included within an area listed in section 111.

1 (4) The applicant has demonstrated that the
2 exploration plan and reclamation plan will be in
3 compliance with the requirements of this Act and all
4 other applicable Federal requirements, and any
5 State requirements agreed to by the Secretary con-
6 cerned.

7 (5) The applicant has demonstrated that the re-
8 quirements of section 306 will be met.

9 (6) The applicant is eligible to receive a permit
10 under section 305.

11 (d) **TERM OF PERMIT.**—An exploration permit shall
12 be for a stated term. The term shall be no greater than
13 that necessary to accomplish the proposed exploration,
14 and in no case for more than 10 years.

15 (e) **PERMIT MODIFICATION.**—During the term of an
16 exploration permit the permit holder may submit an appli-
17 cation to modify the permit. To approve a proposed modi-
18 fication to the permit, the Secretary concerned shall make
19 the same determinations as are required in the case of
20 an original permit, except that the Secretary and the Sec-
21 retary of Agriculture may specify by joint rule the extent
22 to which requirements for initial exploration permits under
23 this section shall apply to applications to modify an explo-
24 ration permit based on whether such modifications are
25 deemed significant or minor.

1 (f) TRANSFER, ASSIGNMENT, OR SALE OF RIGHTS.—

2 (1) PRIOR WRITTEN APPROVAL.—No transfer,
3 assignment, or sale of rights granted by a permit
4 issued under this section shall be made without the
5 prior written approval of the Secretary concerned.

6 (2) APPROVAL.—Such Secretary shall allow a
7 person holding a permit to transfer, assign, or sell
8 rights under the permit to a successor, if the Sec-
9 retary finds in writing that the successor—

10 (A) is eligible to receive a permit under
11 section 304;

12 (B) has submitted evidence of financial as-
13 surance satisfactory under section 306; and

14 (C) meets any other requirements specified
15 by the Secretary.

16 (3) ASSUMED LIABILITY.—The successor in in-
17 terest shall assume the liability and reclamation re-
18 sponsibilities established by the existing permit and
19 shall conduct the mineral activities in full compli-
20 ance with this Act, and the terms and conditions of
21 the permit as in effect at the time of transfer, as-
22 signment, or sale.

23 (4) FEE.—Each application for approval of a
24 permit transfer, assignment, or sale pursuant to this
25 subsection shall be accompanied by a fee payable to

1 the Secretary of the Interior in such amount as may
2 be established by such Secretary. Such amount shall
3 be equal to the actual or anticipated cost to the Sec-
4 retary or the Secretary of Agriculture, as appro-
5 priate, of reviewing and approving or disapproving
6 such transfer, assignment, or sale, as determined by
7 the Secretary of the Interior.

8 **SEC. 304. OPERATIONS PERMIT.**

9 (a) OPERATIONS PERMIT.—(1) Any applicant that is
10 in compliance with all provisions of this Act may apply
11 to the Secretary concerned for an operations permit au-
12 thorizing the applicant to carry out mineral activities,
13 other than casual use, on—

14 (A) any valid mining claim, valid millsite claim,
15 valid tunnel site claim, or lease issued under this
16 Act; and

17 (B) such additional Federal land as the Sec-
18 retary may determine is necessary to conduct the
19 proposed mineral activities, if the operator obtains a
20 right-of-way permit for use of such additional lands
21 under title V of the Federal Land Policy and Man-
22 agement Act of 1976 (43 U.S.C. 1761 et seq.) and
23 agrees to pay all fees required under that title for
24 the permit under that title.

1 (2) If the Secretary decides to issue such permit, the
2 permit shall include such terms and conditions as pre-
3 scribed by such Secretary to carry out this title.

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

16 (c) PERMIT ISSUANCE OR DENIAL.—(1) After pro-
17 viding for public participation pursuant to subsection (i),
18 the Secretary concerned shall issue an operations permit
19 if such Secretary makes each of the following determina-
20 tions in writing, and shall deny a permit if such Secretary
21 finds that the application and applicant do not fully meet
22 the following requirements:

23 (A) The permit application, including the site
24 characterization data, operations plan, and reclama-
25 tion plan, are complete and accurate and sufficient

1 for developing a good understanding of the antici-
2 pated impacts of the mineral activities and the effec-
3 tiveness of proposed mitigation and control.

4 (B) The applicant has demonstrated that the
5 proposed reclamation in the operation and reclama-
6 tion plan can be and is likely to be accomplished by
7 the applicant and will not cause undue degradation.

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

14 (D) The area subject to the proposed plan is
15 not listed in section 111 or otherwise ineligible for
16 mineral activities.

17 (E) The proposed operation has been designed
18 to prevent material damage to the hydrologic bal-
19 ance outside the permit area.

20 (F) The applicant will fully comply with the re-
21 quirements of section 306 prior to the initiation of
22 operations.

23 (G) Neither the applicant nor operator, nor any
24 subsidiary, affiliate, or person controlled by or under

1 common control with the applicant or operator, is in-
2 eligible to receive a permit under section 305.

3 (H) The reclamation plan demonstrates that 10
4 years following mine closure, no treatment of surface
5 or ground water for carcinogens or toxins will be re-
6 quired to meet water quality standards at the point
7 of discharge.

8 (2) With respect to any activities specified in the rec-
9 lamation plan referred to in subsection (b) that constitute
10 a removal or remedial action under section 101 of the
11 Comprehensive Environmental Response, Compensation,
12 and Liability Act of 1980 (42 U.S.C. 9601), the Secretary
13 shall consult with the Administrator of the Environmental
14 Protection Agency prior to the issuance of an operations
15 permit. The Administrator of the Environmental Protec-
16 tion Agency shall ensure that the reclamation plan does
17 not require activities that would increase the costs or like-
18 lihood of removal or remedial actions under the Com-
19 prehensive Environmental Response, Compensation, and
20 Liability Act of 1980 (42 U.S.C. 9601 et seq.) or correc-
21 tive actions under the Solid Waste Disposal Act (42
22 U.S.C. 6901 et seq.).

23 (d) TERM OF PERMIT; RENEWAL.—

24 (1) IN GENERAL.—An operations permit—

1 (A) shall be for an initial term not longer
2 than the shorter of—

3 (i) the period necessary to accomplish
4 the proposed mineral activities subject to
5 the permit; and

6 (ii) the length of time remaining on
7 the applicant's hardrock mining lease;

8 (B) shall be renewed for an additional 10-
9 year period if the operation is in compliance
10 with the requirements of this Act and other ap-
11 plicable law; and

12 (C) shall expire 5 years following the com-
13 mencement of a temporary cessation unless,
14 prior to the expiration of the 5 years, the mine
15 operator has filed with the Secretary a request
16 for approval to resume operations.

17 (2) FAILURE TO COMMENCE MINERAL ACTIVI-
18 TIES.—Failure by the operator to commence mineral
19 activities within 2 years of the date scheduled in an
20 operations permit shall require a modification of the
21 permit if the Secretary concerned determines that
22 modifications are necessary to comply with section
23 111.

24 (e) PERMIT MODIFICATION.—

1 (1) APPLICATION.—During the term of an op-
2 erations permit the operator may submit an applica-
3 tion to modify the permit (including the operations
4 plan or reclamation plan).

5 (2) MODIFICATION BY THE SECRETARY CON-
6 CERNED.—The Secretary concerned may, at any
7 time, require reasonable modification to any oper-
8 ations plan or reclamation plan upon a determina-
9 tion that the requirements of this Act cannot be met
10 if the plan is followed as approved. Such determina-
11 tion shall be based on a written finding and subject
12 to public notice and hearing requirements estab-
13 lished by the Secretary concerned.

14 (3) UNANTICIPATED EVENTS OR CONDI-
15 TIONS.—A permit modification is required before
16 changes are made to the approved plan of oper-
17 ations, or if unanticipated events or conditions exist
18 on the mine site, including in the case of—

19 (A) development of acid or toxic drainage;

20 (B) loss of springs or water supplies;

21 (C) water quantity, water quality, or other
22 resulting water impacts that are significantly
23 different than those predicted in the applica-
24 tion;

1 (D) the need for long-term water treat-
2 ment;

3 (E) significant reclamation difficulties or
4 reclamation failure;

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

8 (G) the discovery of hazards to public safe-
9 ty.

10 (f) TEMPORARY CESSATION OF OPERATIONS.—

11 (1) SECRETARIAL APPROVAL REQUIRED.—An
12 operator conducting mineral activities under an op-
13 erations permit in effect under this title may not
14 temporarily cease mineral activities for a period
15 greater than 180 days unless the Secretary con-
16 cerned has approved such temporary cessation or
17 unless the temporary cessation is permitted under
18 the original permit.

19 (2) PREVIOUSLY ISSUED OPERATIONS PER-
20 MITS.—Any operator temporarily ceasing mineral ac-
21 tivities for a period greater than 90 days under an
22 operations permit issued before the date of the en-
23 actment of this Act shall submit, before the expira-
24 tion of such 90-day period, a complete application
25 for temporary cessation of operations to the Sec-

1 retary concerned for approval unless the temporary
2 cessation is permitted under the original permit.

3 (3) REQUIRED INFORMATION.—An application
4 for approval of temporary cessation of operations
5 shall include such information required under sub-
6 section (b) and any other provisions prescribed by
7 the Secretary concerned to minimize impacts on the
8 environment. After receipt of a complete application
9 for temporary cessation of operations such Secretary
10 shall conduct an inspection of the area for which
11 temporary cessation of operations has been re-
12 quested.

13 (4) CONDITIONS FOR APPROVAL.—To approve
14 an application for temporary cessation of operations,
15 the Secretary concerned shall make each of the fol-
16 lowing determinations:

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

23 (B) A determination that reclamation is in
24 compliance with the approved reclamation plan,
25 except in those areas specifically designated in

1 the application for temporary cessation of oper-
2 ations for which a delay in meeting such stand-
3 ards is necessary to facilitate the resumption of
4 operations.

5 (C) A determination that the amount of fi-
6 nancial assurance filed with the permit applica-
7 tion is sufficient to assure completion of the
8 reclamation activities identified in the approved
9 reclamation plan in the event of forfeiture.

10 (D) A determination that any outstanding
11 notices of violation and cessation orders in-
12 curred in connection with the plan for which
13 temporary cessation is being requested are ei-
14 ther stayed pursuant to an administrative or ju-
15 dicial appeal proceeding or are in the process of
16 being abated to the satisfaction of the Secretary
17 concerned.

18 (g) PERMIT REVIEWS.—The Secretary concerned
19 shall review each permit issued under this section every
20 10 years during the term of such permit, and before ap-
21 proving the resumption of operations under subsection (f),
22 such Secretary shall require the operator to take such ac-
23 tions as the Secretary deems necessary to assure that min-
24 eral activities conform to the permit, including adjustment
25 of financial assurance requirements.

1 (h) TRANSFER, ASSIGNMENT, OR SALE OF
2 RIGHTS.—

3 (1) WRITTEN APPROVAL.—No transfer, assign-
4 ment, or sale of rights granted by a permit under
5 this section shall be made without the prior written
6 approval of the Secretary concerned.

7 (2) CONDITIONS OF APPROVAL.—The Secretary
8 concerned may allow a person holding a permit to
9 transfer, assign, or sell rights under the permit to
10 a successor, if such Secretary finds, in writing, that
11 the successor—

12 (A) has submitted all required information
13 and is eligible to receive a permit in accordance
14 with section 305;

15 (B) has submitted evidence of financial as-
16 surance satisfactory under section 306; and

17 (C) meets any other requirements specified
18 by such Secretary.

19 (3) ASSUMED LIABILITY.—The successor in in-
20 terest shall assume the liability and reclamation re-
21 sponsibilities established by the existing permit and
22 shall conduct the mineral activities in full compli-
23 ance with this Act, and the terms and conditions of
24 the permit as in effect at the time of transfer, as-
25 signment, or sale.

1 (4) FEE.—Each application for approval of a
2 permit transfer, assignment, or sale pursuant to this
3 subsection shall be accompanied by a fee payable to
4 the Secretary concerned in such amount as may be
5 established by such Secretary. Such amount shall be
6 equal to the actual or anticipated cost of reviewing
7 and approving or disapproving such transfer, assign-
8 ment, or sale, as determined by such Secretary.

9 (i) PUBLIC PARTICIPATION.—The Secretary of the
10 Interior and the Secretary of Agriculture shall jointly pro-
11 mulgate regulations to ensure transparency and public
12 participation in permit decisions required under this Act,
13 consistent with any requirements that apply to such deci-
14 sions under section 102 of the National Environmental
15 Policy Act of 1969 (42 U.S.C. 4332).

16 **SEC. 305. PERSONS INELIGIBLE FOR PERMITS.**

17 (a) CURRENT VIOLATIONS.—Unless corrective action
18 has been taken in accordance with subsection (c), no per-
19 mit under this title shall be issued or transferred to an
20 applicant if the applicant or any agent of the applicant,
21 the operator (if different than the applicant), any claim,
22 license, or lease holder (if different than the applicant) of
23 the claim, license, or lease concerned, or any affiliate or
24 officer or director of the applicant is currently in violation
25 of any of the following:

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

3 (2) An applicable State or Federal toxic sub-
4 stance, solid waste, air, water quality, or fish and
5 wildlife conservation law or regulation at any site
6 where mining, beneficiation, or processing activities
7 are occurring or have occurred.

8 (3) The Surface Mining Control and Reclama-
9 tion Act of 1977 (30 U.S.C. 1201 et seq.) or any
10 regulation implementing that Act at any site where
11 surface coal mining operations have occurred or are
12 occurring.

13 (b) SUSPENSION.—The Secretary concerned shall
14 suspend an operations permit, in whole or in part, if such
15 Secretary determines that any of the entities described in
16 subsection (a) were in violation of any requirement listed
17 in subsection (a) at the time the permit was issued.

18 (c) CORRECTION.—

19 (1) REINSTATEMENT.—The Secretary con-
20 cerned may issue or reinstate a permit under this
21 title if the applicant submits proof that the violation
22 referred to in subsection (a) or (b) has been cor-
23 rected or is in the process of being corrected to the
24 satisfaction of such Secretary and the regulatory au-
25 thority involved or if the applicant submits proof

1 that the violator has filed and is presently pursuing,
2 a direct administrative or judicial appeal to contest
3 the existence of the violation. For purposes of this
4 section, an appeal of any applicant's relationship to
5 an affiliate shall not constitute a direct administra-
6 tive or judicial appeal to contest the existence of the
7 violation.

8 (2) **CONDITIONAL APPROVAL.**—Any permit
9 which is issued or reinstated based upon proof sub-
10 mitted under this subsection shall be conditionally
11 approved or conditionally reinstated, as the case may
12 be. If the violation is not successfully abated or the
13 violation is upheld on appeal, the permit shall be
14 suspended or revoked.

15 (d) **PATTERN OF WILLFUL VIOLATIONS.**—No permit
16 may be issued under this Act to any applicant if there
17 is a demonstrated pattern of willful violations of the envi-
18 ronmental protection requirements of this Act by the ap-
19 plicant, any affiliate of the applicant, or the operator or
20 claim, license, or lease holder if different than the appli-
21 cant.

22 **SEC. 306. FINANCIAL ASSURANCE.**

23 (a) **FINANCIAL ASSURANCE REQUIRED.**—

24 (1) **FORM OF ASSURANCE.**—After a permit is
25 issued under this title and before any exploration or

1 operations begin under the permit, the operator shall
2 file with the Secretary concerned evidence of finan-
3 cial assurance payable to the United States. The fi-
4 nancial assurance shall be provided in the form of a
5 surety bond, a trust fund, letters of credits, govern-
6 ment securities, certificates of deposit, cash, or an
7 equivalent form approved by such Secretary.

8 (2) COVERED ACTIVITIES.—The financial assur-
9 ance shall cover all lands within the initial permit
10 area and all affected waters that may require res-
11 toration, treatment, or other management as a re-
12 sult of mineral activities, and shall be extended to
13 cover all lands and waters added pursuant to any
14 permit modification made under section 303(e) or
15 section 304(e), or affected by mineral activities.

16 (b) AMOUNT.—The amount of the financial assur-
17 ance required under this section shall be sufficient to as-
18 sure the completion of reclamation and restoration satis-
19 fying the requirements of this Act if the work were to be
20 performed by the Secretary concerned in the event of for-
21 feiture, including the construction and maintenance costs
22 for any treatment facilities necessary to meet Federal and
23 State environmental requirements. The calculation of such
24 amount shall take into account the maximum level of fi-
25 nancial exposure which shall arise during the mineral ac-

1 tivity and administrative costs associated with a govern-
2 ment agency reclaiming the site.

3 (c) DURATION.—The financial assurance required
4 under this section shall be held for the duration of the
5 mineral activities and for an additional period to cover the
6 operator's responsibility for reclamation, restoration, and
7 long-term maintenance, and effluent treatment as speci-
8 fied in subsection (g).

9 (d) ADJUSTMENTS.—The amount of the financial as-
10 surance and the terms of the acceptance of the assurance
11 may be adjusted by the Secretary concerned from time to
12 time as the area requiring coverage is increased or de-
13 creased, or where the costs of reclamation or treatment
14 change, or pursuant to section 304(f), but the financial
15 assurance shall otherwise be in compliance with this sec-
16 tion. The Secretary concerned shall review the financial
17 guarantee every 3 years and as part of the permit applica-
18 tion review under section 304(g).

19 (e) RELEASE.—Upon request, and after notice and
20 opportunity for public comment, and after inspection by
21 the Secretary concerned, such Secretary may, after con-
22 sultation with the Administrator of the Environmental
23 Protection Agency, release in whole or in part the financial
24 assurance required under this section if the Secretary
25 makes both of the following determinations:

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

4 (2) A determination that the terms and condi-
5 tions of any other applicable Federal requirements,
6 and State requirements applicable pursuant to coop-
7 erative agreements under section 308, have been ful-
8 filled.

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

11 (1) After the operator has completed any re-
12 quired backfilling, regrading, and drainage control of
13 an area subject to mineral activities and covered by
14 the financial assurance, and has commenced revege-
15 tation on the regraded areas subject to mineral ac-
16 tivities in accordance with the approved plan, that
17 portion of the total financial assurance secured for
18 the area subject to mineral activities attributable to
19 the completed activities may be released except that
20 sufficient assurance must be retained to address
21 other required reclamation and restoration needs
22 and to assure the long-term success of the revegeta-
23 tion.

24 (2) After the operator has completed success-
25 fully all remaining mineral activities and reclamation

1 activities and all requirements of the operations plan
2 and the reclamation plan, and all other requirements
3 of this Act have been fully met, the remaining por-
4 tion of the financial assurance may be released.

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

10 (g) EFFLUENT.—Notwithstanding section 307(b)(4),
11 where any discharge or other water-related condition re-
12 sulting from the mineral activities requires treatment in
13 order to meet the applicable effluent limitations and water
14 quality standards, the financial assurance shall include the
15 estimated cost of maintaining such treatment for the pro-
16 jected period that will be needed after the cessation of
17 mineral activities. The portion of the financial assurance
18 attributable to such estimated cost of treatment shall not
19 be released until the discharge has ceased for a period of
20 5 years, as determined by ongoing monitoring and testing,
21 or, if the discharge continues, until the operator has met
22 all applicable effluent limitations and water quality stand-
23 ards for 5 full years without treatment.

24 (h) ENVIRONMENTAL HAZARDS.—If the Secretary
25 concerned determines, after final release of financial as-

1 surance, that an environmental hazard resulting from the
2 mineral activities exists, or the terms and conditions of
3 the explorations or operations permit of this Act were not
4 fulfilled in fact at the time of release, such Secretary shall
5 issue an order under section 606 requiring the claim hold-
6 er or operator (or any person who controls the claim hold-
7 er or operator) to correct the condition such that applica-
8 ble laws and regulations and any conditions from the plan
9 of operations are met.

10 **SEC. 307. OPERATION AND RECLAMATION.**

11 (a) GENERAL RULE.—(1) The operator shall restore
12 lands subject to mineral activities carried out under a per-
13 mit issued under this title to a condition capable of sup-
14 porting—

15 (A) the uses which such lands were capable of
16 supporting prior to surface disturbance by the oper-
17 ator; or

18 (B) other beneficial uses which conform to ap-
19 plicable land use plans as determined by the Sec-
20 retary concerned.

21 (2) Reclamation shall proceed as contemporaneously
22 as practicable with the conduct of mineral activities. In
23 the case of a cessation of mineral activities beyond that
24 provided for as a temporary cessation under this Act, rec-
25 lamation activities shall begin immediately.

1 (b) OPERATION AND RECLAMATION STANDARDS.—

2 The Secretary of the Interior and the Secretary of Agri-
3 culture shall jointly promulgate regulations that establish
4 operation and reclamation standards for mineral activities
5 permitted under this Act. The Secretaries may determine
6 whether outcome-based performance standards or tech-
7 nology-based design standards are most appropriate. The
8 regulations shall address the following:

9 (1) Segregation, protection, and replacement of
10 topsoil or other suitable growth medium, and the
11 prevention, where possible, of soil contamination.

12 (2) Maintenance of the stability of all surface
13 areas.

14 (3) Control of sediments to prevent erosion and
15 manage drainage.

16 (4) Minimization of the formation and migra-
17 tion of acidic, alkaline, metal-bearing, or other dele-
18 terious leachate.

19 (5) Reduction of the visual impact of mineral
20 activities to the surrounding topography, including
21 as necessary pit backfill.

22 (6) Establishment of a diverse, effective, and
23 permanent vegetative cover of the same seasonal va-
24 riety native to the area affected by mineral activities,

1 and equal in extent of cover to the natural vegeta-
2 tion of the area.

3 (7) Design and maintenance of leach oper-
4 ations, impoundments, and excess waste according to
5 standard engineering standards to achieve and main-
6 tain stability and reclamation of the site.

7 (8) Removal of structures and roads and seal-
8 ing of drill holes.

9 (9) Restoration of, or mitigation for, fish and
10 wildlife habitat disturbed by mineral activities.

11 (10) Preservation of cultural, paleontological,
12 and cave resources.

13 (11) Prevention and suppression of fire in the
14 area of mineral activities.

15 (c) SURFACE OR GROUND WATER WITHDRAWALS.—

16 The Secretary concerned shall work with State and local
17 governments with authority over the allocation and use of
18 surface and ground water in the area around the mine
19 site as necessary to ensure that any surface or ground
20 water withdrawals made as a result of mining activities
21 approved under this section do not cause undue degrada-
22 tion.

23 (d) SPECIAL RULE.—Reclamation activities for a
24 mining claim, license, or lease that has been forfeited, re-
25 linquished, or lapsed, or a plan that has expired or been

1 revoked or suspended, shall continue subject to review and
2 approval by the Secretary concerned.

3 **SEC. 308. STATE LAW AND REGULATION.**

4 (a) STATE LAW.—

5 (1) RECLAMATION, LAND USE, ENVIRON-
6 MENTAL, AND PUBLIC HEALTH STANDARDS.—Any
7 reclamation, land use, environmental, or public
8 health protection standard or requirement in State
9 law or regulation that meets or exceeds the require-
10 ments of this Act shall not be construed to be incon-
11 sistent with any such standard.

12 (2) BONDING REQUIREMENTS.—Any bonding
13 standard or requirement in State law or regulation
14 that meets or exceeds the requirements of this Act
15 shall not be construed to be inconsistent with such
16 requirements.

17 (3) INSPECTION STANDARDS.—Any inspection
18 standard or requirement in State law or regulation
19 that meets or exceeds the requirements of this Act
20 shall not be construed to be inconsistent with such
21 requirements.

22 (b) APPLICABILITY OF OTHER STATE REQUIRE-
23 MENTS.—

24 (1) ENVIRONMENTAL STANDARDS.—Nothing in
25 this Act shall be construed as affecting any toxic

1 substance, solid waste, or air or water quality,
2 standard or requirement of any State, county, local,
3 or Tribal law or regulation, which may be applicable
4 to mineral activities on lands subject to this Act.

5 (2) WATER RESOURCES.—Nothing in this Act
6 shall be construed as affecting in any way the right
7 of any person to enforce or protect, under applicable
8 law, such person’s interest in water resources af-
9 fected by mineral activities on lands subject to this
10 Act.

11 (c) COOPERATIVE AGREEMENTS.—

12 (1) IN GENERAL.—Any State may enter into a
13 cooperative agreement with the Secretary concerned
14 for the purposes of such Secretary applying such
15 standards and requirements referred to in subsection
16 (a) and subsection (b) to mineral activities or rec-
17 lamation on lands subject to this Act.

18 (2) COMMON REGULATORY FRAMEWORK.—In
19 such instances where the proposed mineral activities
20 would affect lands not subject to this Act in addition
21 to lands subject to this Act, in order to approve a
22 plan of operations the Secretary concerned shall
23 enter into a cooperative agreement with the State
24 that sets forth a common regulatory framework con-
25 sistent with the requirements of this Act for the pur-

1 poses of such plan of operations. Any such common
2 regulatory framework shall not negate the authority
3 of the Federal Government to independently inspect
4 mines and operations and bring enforcement actions
5 for violations.

6 (3) NOTICE AND PUBLIC COMMENT.—The Sec-
7 retary concerned shall not enter into a cooperative
8 agreement with any State under this section until
9 after notice in the Federal Register and opportunity
10 for public comment and hearing.

11 (d) PRIOR AGREEMENTS.—Any cooperative agree-
12 ment or such other understanding between the Secretary
13 concerned and any State, or political subdivision thereof,
14 relating to the management of mineral activities on lands
15 subject to this Act that was in existence on the date of
16 enactment of this Act may only continue in force until 1
17 year after the date of enactment of this Act. During such
18 1-year period, the State and the Secretary shall review the
19 terms of the agreement and make changes that are nec-
20 essary to be consistent with this Act.

1 **TITLE IV—ABANDONED**
2 **HARDROCK MINE RECLAMATION**

3 **SEC. 401. ESTABLISHMENT OF FUND.**

4 (a) ESTABLISHMENT.—There is established in the
5 Department of the Treasury a separate account to be
6 known as the Hardrock Minerals Reclamation Fund.

7 (b) INVESTMENT.—The Secretary shall notify the
8 Secretary of the Treasury as to what portion of the Fund
9 is not, in the Secretary’s judgment, required to meet cur-
10 rent withdrawals. The Secretary of the Treasury shall in-
11 vest such portion of the Fund in public debt securities
12 with maturities suitable for the needs of such Fund and
13 bearing interest at rates determined by the Secretary of
14 the Treasury, taking into consideration current market
15 yields on outstanding marketplace obligations of the
16 United States of comparable maturities.

17 (c) ADMINISTRATION.—In addition to other uses au-
18 thorized by this title, the Secretary may use amounts in
19 the Fund as necessary for the administrative expenses of
20 the United States, Indian Tribes, and the States to imple-
21 ment this title.

22 **SEC. 402. CONTENTS OF FUND.**

23 The following amounts shall be credited to the Fund:

24 (1) All moneys collected pursuant to section
25 502 and section 506.

1 (2) All fees received under section
2 304(a)(1)(B).

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

6 (4) All amounts deposited in the Fund under
7 title I.

8 (5) All income on investments under section
9 401(b).

10 (6) All amounts deposited in the Fund under
11 section 403.

12 **SEC. 403. DISPLACED MATERIAL RECLAMATION FEE.**

13 (a) IMPOSITION OF FEE.—Except as provided in sub-
14 section (g), each operator conducting hardrock mineral ac-
15 tivities shall pay to the Secretary, for deposit in the
16 Hardrock Minerals Fund established by section 502, a dis-
17 placed material reclamation fee of 7 cents per ton of dis-
18 placed material.

19 (b) PAYMENT DEADLINE.—Such reclamation fee
20 shall be paid not later than 60 days after the end of each
21 calendar year beginning with the first calendar year occur-
22 ring after the date of enactment of this Act.

23 (c) SUBMISSION OF STATEMENT.—Together with
24 such reclamation fee, all operators conducting hardrock
25 mineral activities shall submit to the Secretary a state-

1 ment of the amount of displaced material produced during
2 mineral activities during the previous calendar year, the
3 accuracy of which shall be sworn to by the operator and
4 notarized.

5 (d) PENALTY.—Any corporate officer, agent, or di-
6 rector of a person conducting hardrock mineral activities,
7 and any other person acting on behalf of such a person,
8 who knowingly makes any false statement, representation,
9 or certification, or knowingly fails to make any statement,
10 representation, or certification, required under this section
11 with respect to such operation shall, upon conviction, be
12 punished by a fine of not more than \$10,000.

13 (e) CIVIL ACTION TO RECOVER FEE.—Any portion
14 of such reclamation fee not properly or promptly paid pur-
15 suant to this section shall be recoverable, with statutory
16 interest, from the hardrock mineral activities operator, in
17 any court of competent jurisdiction in any action at law
18 to compel payment of debts.

19 (f) EFFECT.—Nothing in this section requires a re-
20 duction in, or otherwise affects, any similar fee required
21 under any law (including regulations) of any State.

22 (g) EXEMPTION.—The fee under this section shall
23 not apply for small miners.

24 **SEC. 404. USE AND OBJECTIVES OF THE FUND.**

25 (a) AUTHORIZED USES.—

1 (1) IN GENERAL.—The Secretary may, subject
2 to appropriations, use moneys in the Fund for the
3 reclamation and restoration of land and water re-
4 sources adversely affected by past hardrock mineral
5 activities and related activities on lands described in
6 section 405, including any of the following:

7 (A) Protecting public health and safety.

8 (B) Preventing, abating, treating, and con-
9 trolling water pollution created by abandoned
10 mine drainage, including in river watershed
11 areas.

12 (C) Reclaiming and restoring abandoned
13 surface and underground mined areas.

14 (D) Reclaiming and restoring abandoned
15 milling and processing areas.

16 (E) Backfilling, sealing, or otherwise con-
17 trolling abandoned underground mine entries.

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

22 (G) Controlling surface subsidence due to
23 abandoned underground mines.

24 (H) Enhancing fish and wildlife habitat.

1 (2) MANNER OF USE.—Amounts in the Fund
2 may—

3 (A) be expended by the Secretary for the
4 purposes described in paragraph (1);

5 (B) be transferred by the Secretary to the
6 Director of the Bureau of Land Management,
7 the Chief of the Forest Service, the Director of
8 the National Park Service, the Director of the
9 United States Fish and Wildlife Service, the
10 head of any other Federal agency, or any public
11 entity that volunteers to develop and imple-
12 ment, and that has the ability to carry out, all
13 or a significant portion of a reclamation pro-
14 gram under this title; or

15 (C) be transferred by the Secretary to an
16 Indian Tribe or a State to carry out a reclama-
17 tion program under this title that meets the
18 purposes described in paragraph (1).

19 (b) ALLOCATION.—Of the amounts deposited into the
20 Fund—

21 (1) 25 percent shall be allocated for expenditure
22 by the Secretary in States or on Tribal lands within
23 the boundaries of which occurs production of
24 hardrock minerals or mineral concentrates or prod-
25 ucts derived from hardrock minerals, based on a for-

1 mula reflecting existing production in each such
2 State or on the land of the Indian Tribe;

3 (2) 25 percent shall be allocated for expenditure
4 by the Secretary in States or on Tribal lands based
5 on a formula reflecting the quantity of hardrock
6 minerals, or mineral concentrates or products de-
7 rived from hardrock minerals, historically produced
8 in each such State or from the land of the Indian
9 Tribe before the date of enactment of this Act; and

10 (3) 50 percent shall be allocated for expenditure
11 by the Secretary to address high-priority needs ac-
12 cording to the priorities in subsection (c).

13 (c) PRIORITIES.—Expenditures of moneys from the
14 Fund shall reflect the following priorities in the order stat-
15 ed:

16 (1) The protection of public health and safety
17 from extreme danger from the adverse effects of
18 past mineral activities, especially as relates to sur-
19 face water and ground water contaminants.

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

22 (3) The restoration of land, water, and fish and
23 wildlife resources previously degraded by the adverse
24 effects of past mineral activities, which may include
25 restoration activities in river watershed areas.

1 (d) HABITAT.—Reclamation and restoration activi-
2 ties under this title shall include appropriate mitigation
3 measures to provide for the continuation of any estab-
4 lished habitat for wildlife in existence before the com-
5 mencement of such activities.

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

1 **SEC. 405. ELIGIBLE LANDS AND WATERS.**

2 (a) **ELIGIBILITY.**—Reclamation expenditures under
3 this title may only be made with respect to Federal, State,
4 Indian, local, and private lands that have been affected
5 by past mineral activities, and water resources that tra-
6 verse or are contiguous to such lands, including any of
7 the following:

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

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

18 (b) **INVENTORY.**—The Secretary shall prepare and
19 maintain a publicly available inventory of abandoned
20 hardrock minerals mines on public lands and any aban-
21 doned mine on Indian lands that may be eligible for ex-
22 penditures under this title, and shall submit an annual
23 report to the Congress on the progress in cleanup of such
24 sites.

1 **SEC. 406. AUTHORIZATION OF APPROPRIATIONS.**

2 Amounts credited to the Fund are authorized to be
3 appropriated for the purpose of this title without fiscal
4 year limitation.

5 **TITLE V—ADDITIONAL**
6 **PROVISIONS**

7 **SEC. 501. POLICY FUNCTIONS.**

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

11 (1) by inserting “and to ensure that mineral ex-
12 traction and processing not cause undue degradation
13 of the natural and cultural resources of the public
14 lands” after “activities”; and

15 (2) by adding at the end the following: “It shall
16 also be the responsibility of the Secretary of Agri-
17 culture to carry out the policy provisions of clauses
18 (1) and (2) of the first paragraph of this section.”.

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

1 **SEC. 502. USER FEES AND INFLATION ADJUSTMENT.**

2 (a) IN GENERAL.—The Secretary and the Secretary
3 of Agriculture may each establish and collect from persons
4 subject to the requirements of this Act such user fees as
5 may be necessary to reimburse the United States for the
6 expenses incurred in administering such requirements.
7 Fees may be assessed and collected under this section only
8 in such manner as may reasonably be expected to result
9 in an aggregate amount of the fees collected during any
10 fiscal year which does not exceed the aggregate amount
11 of administrative expenses referred to in this section.

12 (b) ADJUSTMENT.—

13 (1) INFLATION.—The Secretary shall adjust the
14 fees required by this section, and all claim mainte-
15 nance fees, rental rates, penalty amounts, and other
16 dollar amounts established in this Act, to reflect
17 changes in the Consumer Price Index published by
18 the Bureau of Labor Statistics of the Department of
19 Labor every 3 years after the date of enactment of
20 this Act, or more frequently if the Secretary deter-
21 mines an adjustment to be reasonable.

22 (2) NOTICE.—The Secretary shall provide
23 claimants, license holders, and lease holders notice of
24 any adjustment made under this subsection not later
25 than July 1 of any year in which the adjustment is
26 made.

1 (3) APPLICABILITY.—A fee adjustment under
2 this subsection shall begin to apply the calendar year
3 following the calendar year in which it is made.

4 **SEC. 503. INSPECTION AND MONITORING.**

5 (a) INSPECTIONS.—

6 (1) IN GENERAL.—The Secretary concerned
7 shall make inspections of mineral activities so as to
8 ensure compliance with the requirements of this Act.

9 (2) FREQUENCY.—The Secretary concerned
10 shall establish a frequency of inspections for mineral
11 activities conducted under a permit issued under
12 title III, but in no event shall such inspection fre-
13 quency be less than one complete inspection per cal-
14 endar quarter or, two per calendar quarter in the
15 case of a permit for which the Secretary concerned
16 approves an application under section 304(f). After
17 revegetation has been established in accordance with
18 a reclamation plan, such Secretary shall conduct 2
19 complete inspections annually. Such Secretary shall
20 have the discretion to modify the inspection fre-
21 quency for mineral activities that are conducted on
22 a seasonal basis. Inspections shall continue under
23 this subsection until final release of financial assur-
24 ance.

25 (3) BY REQUEST.—

1 (A) IN GENERAL.—Any person who has
2 reason to believe he or she is or may be ad-
3 versely affected by mineral activities due to any
4 violation of the requirements of a permit ap-
5 proved under this Act may request an inspec-
6 tion.

7 (B) REVIEW PERIOD.—The Secretary con-
8 cerned shall determine within 10 working days
9 of receipt of the request whether the request
10 states a reason to believe that a violation exists.

11 (C) IMMINENT THREAT.—If the person al-
12 leges and provides reason to believe that an im-
13 minent threat to the environment or danger to
14 the health or safety of the public exists, the 10-
15 day period shall be waived and the inspection
16 shall be conducted immediately.

17 (D) NOTIFICATION.—When an inspection
18 is conducted under this paragraph, the Sec-
19 retary concerned shall notify the person re-
20 questing the inspection, and such person shall
21 be allowed to accompany the Secretary con-
22 cerned or the Secretary's authorized representa-
23 tive during the inspection.

1 (E) LIABILITY.—The Secretary shall not
2 incur any liability for allowing such person to
3 accompany an authorized representative.

4 (F) ANONYMITY.—The identity of the per-
5 son supplying information to the Secretary re-
6 lating to a possible violation or imminent dan-
7 ger or harm shall remain confidential with the
8 Secretary if so requested by that person, unless
9 that person elects to accompany an authorized
10 representative on the inspection.

11 (G) PROCEDURES.—The Secretaries shall,
12 by joint rule, establish procedures for the review
13 of—

14 (i) any decision by an authorized rep-
15 resentative not to inspect; or

16 (ii) any refusal by such representative
17 to ensure that remedial actions are taken
18 with respect to any alleged violation.

19 (H) WRITTEN STATEMENT.—The Sec-
20 retary concerned shall furnish a person request-
21 ing a review a written statement of the reasons
22 for the Secretary's final disposition of the case.

23 (b) MONITORING.—

24 (1) MONITORING SYSTEM.—The Secretary con-
25 cerned shall require all operators to develop and

1 maintain a monitoring and evaluation system that
2 shall identify compliance with all requirements of a
3 permit approved under this Act. The Secretary con-
4 cerned may require additional monitoring to be con-
5 ducted as necessary to assure compliance with the
6 reclamation and other environmental standards of
7 this Act. Such plan must be reviewed and approved
8 by the Secretary and shall become a part of the ex-
9 plorations or operations permit.

10 (2) REPORTING REQUIREMENTS.—The operator
11 shall file reports with the Secretary concerned, on a
12 frequency determined by the Secretary concerned, on
13 the results of the monitoring and evaluation process,
14 except that if the monitoring and evaluation show a
15 violation of the requirements of a permit approved
16 under this Act, it shall be reported immediately to
17 the Secretary concerned. The Secretary shall evalu-
18 ate the reports submitted pursuant to this para-
19 graph, and based on those reports and any necessary
20 inspection shall take enforcement action pursuant to
21 this section. Such reports shall be maintained by the
22 operator and by the Secretary and shall be made
23 available to the public.

24 (3) FAILURE TO REPORT.—The Secretary con-
25 cerned shall determine what information shall be re-

1 ported by the operator pursuant to paragraph (2). A
2 failure to report as required by the Secretary con-
3 cerned shall constitute a violation of this Act and
4 subject the operator to enforcement action pursuant
5 to section 506.

6 **SEC. 504. CITIZENS SUITS.**

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

10 (1) against any person (including the Secretary
11 or the Secretary of Agriculture) who is alleged to be
12 in violation of any of the provisions of this Act or
13 any regulation promulgated pursuant to this Act or
14 any term or condition of any lease, license, or permit
15 issued under this Act; or

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

22 (b) DISTRICT COURT JURISDICTION.—The United
23 States district courts shall have jurisdiction over actions
24 brought under this section, without regard to the amount
25 in controversy or the citizenship of the parties, including

1 actions brought to apply any civil penalty under this Act.
2 The district courts of the United States shall have juris-
3 diction to compel agency action unreasonably delayed, ex-
4 cept that an action to compel agency action reviewable
5 under section 505 may only be filed in a United States
6 district court within the circuit in which such action would
7 be reviewable under section 505.

8 (c) EXCEPTIONS.—

9 (1) NOTICE.—No action may be commenced
10 under subsection (a) before the end of the 60-day
11 period beginning on the date the plaintiff has given
12 notice in writing of such alleged violation to the al-
13 leged violator and the Secretary concerned, except
14 that any such action may be brought immediately
15 after such notification if the violation complained of
16 constitutes an imminent threat to the environment
17 or to the health or safety of the public.

18 (2) ON-GOING LITIGATION.—No action may be
19 brought against any person other than the Secretary
20 or the Secretary of Agriculture under subsection
21 (a)(1) if such Secretary has commenced and is dili-
22 gently prosecuting a civil or criminal action in a
23 court of the United States to require compliance.

24 (3) EXCEPTION.—No action may be commenced
25 under subsection (a)(2) against either Secretary to

1 review any rule promulgated by, or to any permit
2 issued or denied by such Secretary if such rule or
3 permit issuance or denial is judicially reviewable
4 under section 505 or under any other provision of
5 law at any time after such promulgation, issuance,
6 or denial is final.

7 (d) VENUE.—Venue of all actions brought under this
8 section shall be determined in accordance with section
9 1391 of title 28, United States Code.

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

18 (f) SAVINGS CLAUSE.—Nothing in this section shall
19 restrict any right which any person (or class of persons)
20 may have under chapter 7 of title 5, United States Code,
21 under this section, or under any other statute or common
22 law to bring an action to seek any relief against the Sec-
23 retary or the Secretary of Agriculture or against any other
24 person, including any action for any violation of this Act
25 or of any regulation or permit issued under this Act or

1 for any failure to act as required by law. Nothing in this
2 section shall affect the jurisdiction of any court under any
3 provision of title 28, United States Code, including any
4 action for any violation of this Act or of any regulation
5 or permit issued under this Act or for any failure to act
6 as required by law.

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

8 (a) REVIEW BY SECRETARY.—

9 (1) NOTICE OF VIOLATION.—Any person issued
10 a notice of violation or cessation order under section
11 507, or any person having an interest which is or
12 may be adversely affected by such notice or order,
13 may apply to the Secretary concerned for review of
14 the notice or order within 30 days after receipt
15 thereof, or as the case may be, within 30 days after
16 such notice or order is modified, vacated, or termi-
17 nated.

18 (2) REVIEW OF PENALTY.—Any person who is
19 subject to a penalty assessed under section 507 may
20 apply to the Secretary concerned for review of the
21 assessment within 45 days of notification of such
22 penalty.

23 (3) THIRD PARTY REQUESTS.—Any person may
24 apply to the Secretary concerned for review of a de-

1 cision under this subsection within 30 days after
2 such decision is issued.

3 (4) STAYS PENDING REVIEW.—Pending a re-
4 view by the Secretary or resolution of an administra-
5 tive appeal, final decisions (except enforcement ac-
6 tions under section 507) shall be stayed.

7 (5) PUBLIC HEARING.—The Secretary con-
8 cerned shall provide an opportunity for a public
9 hearing at the request of any party to the pro-
10 ceeding as specified in paragraph (1). The filing of
11 an application for review under this subsection shall
12 not operate as a stay of any order or notice issued
13 under section 506.

14 (6) WRITTEN DECISION.—For any review pro-
15 ceeding under this subsection, the Secretary con-
16 cerned shall make findings of fact and shall issue a
17 written decision incorporating therein an order
18 vacating, affirming, modifying, or terminating the
19 notice, order, or decision, or with respect to an as-
20 sessment, the amount of penalty that is warranted.
21 Where the application for review concerns a ces-
22 sation order issued under section 506 the Secretary
23 concerned shall issue the written decision within 30
24 days of the receipt of the application for review or
25 within 30 days after the conclusion of any hearing

1 referred to in paragraph (5), whichever is later, un-
2 less temporary relief has been granted by the Sec-
3 retary concerned under paragraph (7).

4 (7) TEMPORARY RELIEF.—Pending completion
5 of any review proceedings under this subsection, the
6 applicant may file with the Secretary concerned a
7 written request that the Secretary grant temporary
8 relief from any order issued under section 506 to-
9 gether with a detailed statement giving reasons for
10 such relief. The Secretary concerned shall expedi-
11 tiously issue an order or decision granting or deny-
12 ing such relief. The Secretary concerned may grant
13 such relief under such conditions as he or she may
14 prescribe only if such relief shall not adversely affect
15 the health or safety of the public or cause imminent
16 environmental harm to land, air, or water resources.

17 (8) SAVINGS CLAUSE.—The availability of re-
18 view under this subsection shall not be construed to
19 limit the operation of rights under section 504.

20 (b) JUDICIAL REVIEW.—

21 (1) COURT OF APPEALS FOR THE DISTRICT OF
22 COLUMBIA.—Any final action by the Secretaries of
23 the Interior and Agriculture in promulgating regula-
24 tions to implement this Act, or any other final ac-
25 tions constituting rulemaking to implement this Act,

1 shall be subject to judicial review only in the United
2 States Court of Appeals for the District of Colum-
3 bia. Any action subject to judicial review under this
4 subsection shall be affirmed unless the court con-
5 cludes that such action is arbitrary, capricious, or
6 otherwise inconsistent with law. A petition for review
7 of any action subject to judicial review under this
8 subsection shall be filed within 60 days from the
9 date of such action, or after such date if the petition
10 is based solely on grounds arising after the 60th
11 day. Any such petition may be made by any person
12 who commented or otherwise participated in the
13 rulemaking or any person who may be adversely af-
14 fected by the action of the Secretaries.

15 (2) STANDARD OF REVIEW.—Final agency ac-
16 tion under this subsection, including such final ac-
17 tion on those matters described under subsection
18 (a), shall be subject to judicial review in accordance
19 with paragraph (4) and pursuant to section 1391 of
20 title 28, United States Code, on or before 60 days
21 from the date of such final action. Any action sub-
22 ject to judicial review under this subsection shall be
23 affirmed unless the court concludes that such action
24 is arbitrary, capricious, or otherwise inconsistent
25 with law.

1 (3) SAVINGS CLAUSE.—The availability of judi-
2 cial review established in this subsection shall not be
3 construed to limit the operations of rights under sec-
4 tion 504.

5 (4) RECORD.—The court shall hear any petition
6 or complaint filed under this subsection solely on the
7 record made before the Secretary or Secretaries con-
8 cerned. The court may affirm or vacate any order or
9 decision or may remand the proceedings to the Sec-
10 retary or Secretaries for such further action as it
11 may direct.

12 (5) COMMENCE OF A PROCEEDING NOT A
13 STAY.—The commencement of a proceeding under
14 this section shall not, unless specifically ordered by
15 the court, operate as a stay of the action, order, or
16 decision of the Secretary or Secretaries concerned.

17 (c) COSTS.—Whenever a proceeding occurs under
18 subsection (a) or (b), at the request of any person, a sum
19 equal to the aggregate amount of all costs and expenses
20 (including attorney fees) as determined by the Secretary
21 or Secretaries concerned or the court to have been reason-
22 ably incurred by such person for or in connection with par-
23 ticipation in such proceedings, including any judicial re-
24 view of the proceeding, may be assessed against either
25 party as the court, in the case of judicial review, or the

1 Secretary or Secretaries concerned in the case of adminis-
2 trative proceedings, deems proper if it is determined that
3 such party prevailed in whole or in part, achieving some
4 success on the merits, and that such party made a sub-
5 stantial contribution to a full and fair determination of
6 the issues.

7 **SEC. 506. REPORTING REQUIREMENTS.**

8 (a) REPORT TO SECRETARY.—An operator engaging
9 in any mineral activities located on Federal land or on In-
10 dian land shall submit to the Secretary an annual report,
11 in a time and manner prescribed by the Secretary, describ-
12 ing the total amount (in metric tons) and value of
13 hardrock minerals produced through such mineral activi-
14 ties, including the total amount and value of any minerals
15 produced from a mine partially located on either Federal
16 land or Indian land, disaggregated by mineral and by per-
17 centage extracted from Federal land and percentage ex-
18 tracted from Indian land.

19 (b) FAILURE TO REPORT.—Any person who fails to
20 comply with the requirements of subsection (a) shall be
21 subject to a civil penalty not to exceed \$25,000 per day
22 (indexed for inflation) during which such failure con-
23 tinues, which may be assessed by the Secretary.

24 (c) REPORT TO CONGRESS.—The Secretary shall
25 submit an annual report to Congress providing the fol-

1 lowing information for each hardrock mine located on
2 Federal land or on Indian land:

3 (1) The data submitted for such mine under
4 subsection (a).

5 (2) The name of the mine operator.

6 (3) The State in which such mine is located.

7 (4) The Bureau of Land Management Field Of-
8 fice with jurisdiction over such mine.

9 (5) Whether such mine is located on Federal
10 land.

11 (6) Whether such mine is located on Indian
12 land.

13 (d) REGULATIONS.—The Secretary shall promulgate
14 such regulations as are necessary to carry out this section
15 not later than 180 days after the date of the enactment
16 of this Act.

17 **SEC. 507. ENFORCEMENT.**

18 (a) ORDERS.—

19 (1) NOTICE OF VIOLATION.—If the Secretary
20 concerned, or an authorized representative of such
21 Secretary, determines that any person is in violation
22 of any environmental protection requirement or any
23 regulation issued by the Secretaries to implement
24 this Act, such Secretary or authorized representative
25 shall issue to such person a notice of violation de-

1 scribing the violation and the corrective measures to
2 be taken. The Secretary concerned, or the author-
3 ized representative of such Secretary, shall provide
4 such person with a period of time not to exceed 30
5 days to abate the violation. Such period of time may
6 be extended by the Secretary concerned upon a
7 showing of good cause by such person. If, upon the
8 expiration of time provided for such abatement, the
9 Secretary concerned, or the authorized representa-
10 tive of such Secretary, finds that the violation has
11 not been abated he or she shall immediately order a
12 cessation of all mineral activities or the portion
13 thereof relevant to the violation.

14 (2) ORDER FOR IMMEDIATE CESSATION.—If the
15 Secretary concerned, or the authorized representa-
16 tive of the Secretary concerned, determines that any
17 condition or practice exists, or that any person is in
18 violation of any requirement under a permit ap-
19 proved under this Act, and such condition, practice
20 or violation is causing, or can reasonably be expected
21 to cause either of the following, such Secretary or
22 authorized representative shall immediately order a
23 cessation of mineral activities or the portion thereof
24 relevant to the condition, practice, or violation:

1 (A) An imminent danger to the health or
2 safety of the public.

3 (B) Significant, imminent environmental
4 harm to land, air, water, or fish or wildlife re-
5 sources.

6 (3) DURATION.—

7 (A) TERMINATION.—A cessation order
8 pursuant to paragraph (1) or (2) shall remain
9 in effect until such Secretary, or authorized
10 representative, determines that the condition,
11 practice, or violation has been abated, or until
12 modified, vacated or terminated by the Sec-
13 retary or authorized representative. In any such
14 order, the Secretary or authorized representa-
15 tive shall determine the steps necessary to abate
16 the violation in the most expeditious manner
17 possible and shall include the necessary meas-
18 ures in the order.

19 (B) FINANCIAL ASSURANCES.—The Sec-
20 retary concerned shall require appropriate fi-
21 nancial assurances to ensure that the abate-
22 ment obligations are met when issuing an order
23 under this section.

24 (C) AUTHORITY OF THE SECRETARY.—
25 Any notice or order issued pursuant to para-

1 graph (1) or (2) may be modified, vacated, or
2 terminated by the Secretary concerned or an
3 authorized representative of such Secretary.
4 Any person to whom any such notice or order
5 is issued shall be entitled to a hearing on the
6 record.

7 (4) ALTERNATIVE ENFORCEMENT ACTION.—If,
8 after 30 days of the date of the order referred to in
9 subsection (a) the required abatement has not oc-
10 curred, the Secretary concerned shall take such al-
11 ternative enforcement action against the claim hold-
12 er, license holder, lease holder, or operator (or any
13 person who controls the claim holder, license holder,
14 lease holder, or operator) as will most likely bring
15 about abatement in the most expeditious manner
16 possible. Such alternative enforcement action may
17 include seeking appropriate injunctive relief to bring
18 about abatement. Nothing in this paragraph shall
19 preclude the Secretary concerned from taking alter-
20 native enforcement action prior to the expiration of
21 30 days.

22 (5) FAILURE OR DEFAULT.—If a claim holder,
23 license holder, lease holder, or operator (or any per-
24 son who controls the claim holder, license holder,
25 lease holder, or operator) fails to abate a violation

1 or defaults on the terms of the permit, the Secretary
2 concerned shall forfeit the financial assurance for
3 the plan as necessary to ensure abatement and rec-
4 lamation under this Act. The Secretary concerned
5 may prescribe conditions under which a surety may
6 perform reclamation in accordance with the ap-
7 proved plan in lieu of forfeiture.

8 (6) PENDING REVIEW.—The Secretary con-
9 cerned shall not cause forfeiture of the financial as-
10 surance while administrative or judicial review is
11 pending.

12 (7) LIABILITY IN THE EVENT OF FOR-
13 FEITURE.—In the event of forfeiture, the claim hold-
14 er, license holder, lease holder, operator, or any affil-
15 iate thereof, as appropriate as determined by the
16 Secretary by rule, shall be jointly and severally liable
17 for any remaining reclamation obligations under this
18 Act.

19 (b) COMPLIANCE.—The Secretary concerned may re-
20 quest the Attorney General to institute a civil action for
21 relief, including a permanent or temporary injunction or
22 restraining order, or any other appropriate enforcement
23 order, including the imposition of civil penalties, in the dis-
24 trict court of the United States for the district in which
25 the mineral activities are located whenever a person—

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

4 (2) interferes with, hinders, or delays the Sec-
5 retary concerned in carrying out an inspection under
6 section 503.

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

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

17 (d) PENALTIES.—

18 (1) FAILURE TO COMPLY WITH REQUIREMENTS
19 OF A PERMIT.—Any person who fails to comply with
20 any requirement of a permit approved under this
21 Act or any regulation issued by the Secretaries to
22 implement this Act shall be liable for a penalty of
23 not more than \$25,000 per violation. Each day of
24 violation may be deemed a separate violation for
25 purposes of penalty assessments.

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

8 (3) PENALTIES FOR DIRECTORS, OFFICERS,
9 AND AGENTS.—Whenever a corporation is in viola-
10 tion of a requirement of a permit approved under
11 this Act or any regulation issued by the Secretaries
12 to implement this Act or fails or refuses to comply
13 with an order issued under subsection (a), any direc-
14 tor, officer, or agent of such corporation who know-
15 ingly authorized, ordered, or carried out such viola-
16 tion, failure, or refusal shall be subject to the same
17 penalties as may be imposed upon the person re-
18 ferred to in paragraph (1).

19 (e) SUSPENSIONS OR REVOCATIONS.—The Secretary
20 concerned shall suspend or revoke a permit issued under
21 title II, in whole or in part, if the operator—

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 306;

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

13 (7) with regard to plans conditionally approved
14 under section 305(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 II; or

17 (2) violates any other requirement of a permit
18 issued under this Act, or any condition or limitation
19 thereof,

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

1 \$10,000 per day of violation, or by imprisonment of not
2 more than 6 years, or both.

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

9 (i) **DEFINITION.**—For purposes of this section, the
10 term “person” includes any officer, agent, or employee of
11 a person.

12 **SEC. 508. REGULATIONS.**

13 The Secretary and the Secretary of Agriculture shall
14 issue such regulations as are necessary to implement this
15 Act. The regulations implementing titles II and III and
16 this title that affect the Forest Service shall be joint regu-
17 lations issued by both Secretaries, and shall be issued not
18 later than 180 days after the date of enactment of this
19 Act.

20 **SEC. 509. OIL SHALE CLAIMS.**

21 Section 2511(f) of the Energy Policy Act of 1992 (30
22 U.S.C. 242(f); Public Law 102–486) is amended—

23 (1) by striking “as prescribed by the Sec-
24 retary”; and

1 (2) by inserting before the period the following:
2 “in the same manner as required by title II of the
3 Hardrock Leasing and Reclamation Act of 2019”.

4 **SEC. 510. SAVINGS CLAUSE.**

5 (a) SPECIAL APPLICATION OF MINING LAWS.—Noth-
6 ing in this Act shall be construed as repealing or modi-
7 fying any Federal law, regulation, order, or land use plan,
8 in effect prior to the date of enactment of this Act that
9 prohibits or restricts the application of the general mining
10 laws, including laws that provide for special management
11 criteria for operations under the general mining laws as
12 in effect prior to the date of enactment of this Act, to
13 the extent such laws provide for protection of natural and
14 cultural resources and the environment greater than re-
15 quired under this Act, and any such prior law shall remain
16 in force and effect with respect to claims converted to
17 leases under this Act. Nothing in this Act shall be con-
18 strued as applying to or limiting mineral investigations,
19 studies, or other mineral activities conducted by any Fed-
20 eral or State agency acting in its governmental capacity
21 pursuant to other authority. Nothing in this Act shall af-
22 fect or limit any assessment, investigation, evaluation, or
23 listing pursuant to the Comprehensive Environmental Re-
24 sponse, Compensation, and Liability Act of 1980 (42

1 U.S.C. 9601 et seq.), or the Solid Waste Disposal Act (42
2 U.S.C. 3251 et seq.).

3 (b) EFFECT ON OTHER FEDERAL LAWS.—

4 (1) GENERAL MINING LAWS.—The provisions of
5 this Act shall supersede the general mining laws.

6 (2) OTHER LAWS.—Except for the general min-
7 ing laws, nothing in this Act shall be construed as
8 superseding, modifying, amending, or repealing any
9 provision of Federal law not expressly superseded,
10 modified, amended, or repealed by this Act.

11 (3) ENVIRONMENTAL LAWS.—Nothing in this
12 Act shall be construed as altering, affecting, amend-
13 ing, modifying, or changing, directly or indirectly,
14 any law which refers to and provides authorities or
15 responsibilities for, or is administered by, the Envi-
16 ronmental Protection Agency or the Administrator
17 of the Environmental Protection Agency, includ-
18 ing—

19 (A) the Federal Water Pollution Control
20 Act (33 U.S.C. 1251 et seq.);

21 (B) title XIV of the Public Health Service
22 Act (the Safe Drinking Water Act) (42 U.S.C.
23 300f et seq.);

24 (C) the Clean Air Act (42 U.S.C. 7401 et
25 seq.);

1 (D) the Pollution Prevention Act of 1990
2 (42 U.S.C. 13101 et seq.);

3 (E) the Toxic Substances Control Act (15
4 U.S.C. 2601 et seq.);

5 (F) the Federal Insecticide, Fungicide, and
6 Rodenticide Act (7 U.S.C. 136 et seq.);

7 (G) the Federal Food, Drug, and Cosmetic
8 Act (21 U.S.C. 301 et seq.);

9 (H) the Motor Vehicle Information and
10 Cost Savings Act (15 U.S.C. 1901 et seq.);

11 (I) the Federal Hazardous Substances Act
12 (15 U.S.C. 1261 et seq.);

13 (J) the Endangered Species Act of 1973
14 (16 U.S.C. 1540);

15 (K) the Atomic Energy Act of 1954 (42
16 U.S.C. 2011 et seq.);

17 (L) the Noise Control Act of 1972 (42
18 U.S.C. 4901 et seq.);

19 (M) the Solid Waste Disposal Act (42
20 U.S.C. 6901 et seq.);

21 (N) the Comprehensive Environmental Re-
22 sponse, Compensation, and Liability Act of
23 1980 (42 U.S.C. 9601 et seq.);

1 (O) the Superfund Amendments and Reau-
2 thorization Act of 1986 (Public Law 99–499;
3 100 Stat. 1613);

4 (P) the Ocean Dumping Act (33 U.S.C.
5 1401 et seq.);

6 (Q) the Environmental Research, Develop-
7 ment, and Demonstration Authorization Act of
8 1978 (42 U.S.C. 4365);

9 (R) the Pollution Prosecution Act of 1990
10 (42 U.S.C. 4321 note; Public Law 101–593);

11 (S) the Federal Facilities Compliance Act
12 of 1992 (Public Law 102–386; 106 Stat.
13 1505); and

14 (T) any statute containing an amendment
15 to any of such Acts.

16 (4) FEDERAL INDIAN LAW.—Nothing in this
17 Act shall be construed as modifying or affecting any
18 provision of—

19 (A) the Native American Graves Protection
20 and Repatriation Act (25 U.S.C. 3001 et seq.);

21 (B) American Indian Religious Freedom
22 Act (42 U.S.C. 1996);

23 (C) the National Historic Preservation Act
24 (16 U.S.C. 470 et seq.); or

1 (D) the Religious Freedom Restoration Act
2 of 1993 (42 U.S.C. 2000bb et seq.).

3 (c) SOVEREIGN IMMUNITY OF INDIAN TRIBES.—
4 Nothing in this section shall be construed so as to waive
5 the sovereign immunity of any Indian Tribe.

6 **SEC. 511. AVAILABILITY OF PUBLIC RECORDS.**

7 Copies of records, reports, inspection materials, or in-
8 formation obtained by the Secretary or the Secretary of
9 Agriculture under this Act shall be made immediately
10 available to the public, consistent with section 552 of title
11 5, United States Code, in central and sufficient locations
12 in the county, multicounty, and State area of mineral ac-
13 tivities or reclamation so that such items are conveniently
14 available to residents in the area proposed or approved for
15 mineral activities and on the internet.

16 **SEC. 512. MISCELLANEOUS POWERS.**

17 (a) IN GENERAL.—In carrying out his or her duties
18 under this Act, the Secretary concerned may conduct any
19 investigation, inspection, or other inquiry necessary and
20 appropriate and may conduct, after notice, any hearing
21 or audit, necessary and appropriate to carrying out his
22 or her duties.

23 (b) ANCILLARY POWERS.—In connection with any
24 hearing, inquiry, investigation, or audit under this Act, the
25 Secretary, or for National Forest System lands the Sec-

1 retary of Agriculture, is authorized to take any of the fol-
2 lowing actions:

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

9 (2) Administer oaths.

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

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

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

23 (c) ENFORCEMENT.—In cases of refusal to obey a
24 subpoena served upon any person under this section, the
25 district court of the United States for any district in which

1 such person is found, resides, or transacts business, upon
2 application by the Attorney General at the request of the
3 Secretary concerned and after notice to such person, shall
4 have jurisdiction to issue an order requiring such person
5 to appear and produce documents before the Secretary
6 concerned. Any failure to obey such order of the court may
7 be punished by such court as contempt thereof and subject
8 to a penalty of up to \$10,000 a day.

9 (d) ENTRY AND ACCESS.—Without advance notice
10 and upon presentation of appropriate credentials, the Sec-
11 retary concerned or any authorized representative there-
12 of—

13 (1) shall have the right of entry to, upon, or
14 through the site of any claim, license, lease, mineral
15 activities, or any premises in which any records re-
16 quired to be maintained under this Act are located;

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

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

24 (4) may, on any mining claim, license, or lease
25 maintained in compliance with this Act, and without

1 advance notice, stop and inspect any motorized form
2 of transportation that such Secretary has probable
3 cause to believe is carrying hardrock minerals, con-
4 centrates, or products derived therefrom from a
5 claim site for the purpose of determining whether
6 the operator of such vehicle has documentation re-
7 lated to such hardrock minerals, concentrates, or
8 products derived therefrom as required by law, if
9 such documentation is required under this Act; and

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

23 **SEC. 513. MINERAL MATERIALS.**

24 (a) DETERMINATIONS.—Section 3 of the Act of July
25 23, 1955 (30 U.S.C. 611), is amended—

1 (1) in the heading, by striking “**OR CINDERS**”
2 and inserting “**CINDERS, AND CLAY**”;

3 (2) by striking “No” and inserting “(a) No”;

4 (3) by inserting “mineral materials, including”
5 after “varieties of”;

6 (4) by striking “or cinders” and inserting “cin-
7 ders, and clay”; and

8 (5) by adding at the end the following:

9 “(b)(1) Subject to valid existing rights, after the date
10 of enactment of the Hardrock Leasing and Reclamation
11 Act of 2019, notwithstanding the reference to common va-
12 rieties in subsection (a) and to the exception to such term
13 relating to a deposit of materials with some property giv-
14 ing it distinct and special value, all deposits of mineral
15 materials referred to in such subsection, including the
16 block pumice referred to in such subsection, shall be sub-
17 ject to disposal only under the terms and conditions of
18 the Materials Act of 1947 (30 U.S.C. 601–603).

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

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

1 “(B) was properly located and maintained
2 under the general mining laws prior to the date of
3 enactment of the Hardrock Leasing and Reclama-
4 tion Act of 2019; and

5 “(C) was supported by a discovery of a valuable
6 mineral deposit within the meaning of the general
7 mining laws as in effect immediately prior to the
8 date of enactment of the Hardrock Leasing and Rec-
9 lamation Act of 2019.”.

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

13 (1) in subsection (b) by inserting “and mineral
14 material” after “vegetative”; and

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

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

22 (d) SHORT TITLES.—

23 (1) SURFACE RESOURCES.—The Act of July
24 23, 1955, is amended by inserting after section 7
25 the following new section:

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

3 (2) MINERAL MATERIALS.—The Act of July 31,
4 1947, entitled “An Act to provide for the disposal of
5 materials on the public lands of the United States”
6 (30 U.S.C. 601 et seq.) is amended by inserting
7 after section 4 the following new section:

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

10 (e) REPEALS.—(1) Subject to valid existing rights,
11 the Act of August 4, 1892 (chapter 375; 27 Stat. 348;
12 30 U.S.C. 161), commonly known as the Building Stone
13 Act, is hereby repealed.

14 (2) Subject to valid existing rights, the Act of Janu-
15 ary 31, 1901 (chapter 186; 31 Stat. 745; 30 U.S.C. 162),
16 commonly known as the Saline Placer Act, is hereby re-
17 pealed.

18 **SEC. 514. EFFECTIVE DATE.**

19 This Act shall take effect on the date of enactment
20 of this Act, except as otherwise provided in this Act.

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