

116TH CONGRESS
1ST SESSION

S. 1386

To modify the requirements applicable to locatable minerals on public domain land, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 9, 2019

Mr. SCHUMER (for Mr. UDALL (for himself, Mr. BENNET, Mr. HEINRICH, Mr. MARKEY, Mr. WYDEN, Mr. MERKLEY, Mr. BOOKER, Ms. HARRIS, and Mrs. FEINSTEIN)) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To modify the requirements applicable to locatable minerals on public domain land, 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 Mining and Reclamation Act of 2019”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—LOCATABLE MINERAL DEPOSITS

- Sec. 101. Limitation on patents.
- Sec. 102. Fees.
- Sec. 103. Limitations.

TITLE II—ROYALTIES

- Sec. 201. Royalty.
- Sec. 202. Royalty relief.
- Sec. 203. Enforcement.
- Sec. 204. Review.

TITLE III—MINERAL ACTIVITIES

- Sec. 301. Permits.
- Sec. 302. Exploration permits.
- Sec. 303. Mining permits.
- Sec. 304. Financial assurances.
- Sec. 305. Transfer, assignment, or sale of right.
- Sec. 306. Operation and reclamation.
- Sec. 307. Land open to location.
- Sec. 308. State law.
- Sec. 309. Inspection and monitoring.
- Sec. 310. Tribal consultation.

TITLE IV—HARDROCK MINERALS RECLAMATION FUND

- Sec. 401. Establishment of Fund.
- Sec. 402. Use and objectives of the Fund.
- Sec. 403. Abandoned mine land reclamation fee.

TITLE V—TRANSITION RULES, ADMINISTRATIVE PROVISIONS, AND MISCELLANEOUS PROVISIONS

- Sec. 501. Transition rules.
- Sec. 502. Enforcement.
- Sec. 503. Judicial review.
- Sec. 504. Uncommon varieties.
- Sec. 505. Review of uranium development on Federal land.
- Sec. 506. Effect.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

- 3 (1) ABANDONED HARDROCK MINE STATE.—The
- 4 term “abandoned hardrock mine State” means each
- 5 of the States of Alaska, Arizona, California, Colo-
- 6 rado, Idaho, Montana, Nevada, New Mexico, North
- 7 Dakota, Oregon, South Dakota, Utah, Washington,
- 8 and Wyoming.

1 (2) APPLICANT.—The term “applicant” means
2 any person that applies for—

3 (A) a permit under this Act; or

4 (B) a modification to, or a renewal of, a
5 permit issued under this Act.

6 (3) BENEFICIATION.—The term “beneficiation”
7 means—

8 (A) the crushing and grinding of locatable
9 mineral ore; and

10 (B) any processes that are employed to
11 free the mineral from other constituents, includ-
12 ing physical and chemical separation tech-
13 niques.

14 (4) CASUAL USE.—

15 (A) IN GENERAL.—The term “casual use”
16 means mineral activities that ordinarily result
17 in no or negligible disturbance of Federal land
18 or resources.

19 (B) INCLUSIONS.—The term “casual use”
20 includes the collection of geochemical, rock, soil,
21 or mineral specimens using hand tools, hand
22 panning, or nonmotorized sluicing.

23 (C) EXCLUSIONS.—The term “casual use”
24 does not include—

1 (i) the use of mechanized earth-mov-
2 ing equipment, suction dredging, or explo-
3 sives;

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

6 (iii) the construction of roads or drill
7 pads; or

8 (iv) the use of toxic or hazardous ma-
9 terials or explosives.

10 (5) CLAIM HOLDER.—The term “claim holder”
11 means a person holding a mining claim, millsite, or
12 tunnel site that is—

13 (A) located under the general mining laws;
14 and

15 (B) maintained in compliance with the
16 general mining laws and this Act.

17 (6) CONTROL.—The term “control” means hav-
18 ing the ability to determine the manner in which an
19 entity conducts mineral activities.

20 (7) EXPLORATION.—

21 (A) IN GENERAL.—The term “exploration”
22 means creating a surface disturbance (other
23 than casual use) to evaluate the type, extent,
24 quantity, or quality of minerals present.

1 (B) INCLUSIONS.—The term “exploration”
2 includes mineral activities associated with sam-
3 pling, drilling, or developing surface or under-
4 ground workings to evaluate locatable mineral
5 values.

6 (C) EXCLUSIONS.—The term “explo-
7 ration” does not include the extraction of min-
8 eral material for commercial use or sale.

9 (8) FEDERAL LAND.—The term “Federal land”
10 means any land and any interest in land that is—

11 (A) owned by the United States; and

12 (B) open to location of mining claims
13 under the general mining laws and this Act.

14 (9) FUND.—The term “Fund” means the
15 Hardrock Minerals Reclamation Fund established by
16 section 401(a).

17 (10) HARDROCK MINERAL.—The term
18 “hardrock mineral” has the meaning given the term
19 “locatable mineral” except that—

20 (A) legal and beneficial title to the mineral
21 need not be held by the United States; and

22 (B) paragraph (13)(B) does not apply to
23 this paragraph.

24 (11) INDIAN LAND.—The term “Indian land”
25 means land that is—

1 (A) held in trust for the benefit of an In-
2 dian tribe or member of an Indian tribe; or

3 (B) held by an Indian tribe or member of
4 an Indian tribe, subject to a restriction by the
5 United States against alienation.

6 (12) INDIAN TRIBE.—The term “Indian tribe”
7 has the meaning given the term in section 4 of the
8 Indian Self-Determination and Education Assistance
9 Act (25 U.S.C. 5304).

10 (13) LOCATABLE MINERAL.—

11 (A) IN GENERAL.—The term “locatable
12 mineral” means any mineral—

13 (i) the legal and beneficial title to
14 which remains in the United States; and

15 (ii) that is not subject to disposition
16 under—

17 (I) the Mineral Leasing Act (30
18 U.S.C. 181 et seq.);

19 (II) the Geothermal Steam Act of
20 1970 (30 U.S.C. 1001 et seq.);

21 (III) the Act of July 31, 1947
22 (commonly known as the “Materials
23 Act of 1947”) (30 U.S.C. 601 et
24 seq.); or

1 (IV) the Act of August 7, 1947
2 (commonly known as the “Mineral
3 Leasing Act for Acquired Lands”) (30
4 U.S.C. 351 et seq.).

5 (B) EXCLUSIONS.—The term “locatable
6 mineral” does not include any mineral that is—

7 (i) subject to a restriction against
8 alienation imposed by the United States;
9 and

10 (ii) held in trust by the United States
11 for, or owned by, any Indian tribe or mem-
12 ber of an Indian tribe, as defined in sec-
13 tion 2 of the Indian Mineral Development
14 Act of 1982 (25 U.S.C. 2101).

15 (14) MINERAL ACTIVITY.—The term “mineral
16 activity” means any activity on a mining claim, mill-
17 site, or tunnel site, or Federal land used in conjunc-
18 tion with the activity, for, relating to, or incidental
19 to, mineral exploration, mining, beneficiation, proc-
20 essing, or reclamation activities for any locatable
21 mineral.

22 (15) OPERATOR.—The term “operator”
23 means—

1 (A) any person proposing, or authorized by
2 a permit, to conduct mineral activities under
3 this Act; and

4 (B) any agent of a person described in
5 subparagraph (A).

6 (16) PERSON.—The term “person” means—

7 (A) an individual, Indian tribe, partner-
8 ship, association, society, joint venture, joint
9 stock company, firm, company, corporation, co-
10 operative, trust, consortium, or other organiza-
11 tion; and

12 (B) any instrumentality of a State or local
13 government, including any publicly owned util-
14 ity or publicly owned corporation of a State or
15 local government.

16 (17) PROCESSING.—

17 (A) IN GENERAL.—The term “processing”
18 means processes downstream of beneficiation
19 used to prepare locatable mineral ore into the
20 final marketable product.

21 (B) INCLUSIONS.—The term “processing”
22 includes smelting and electrolytic refining.

23 (18) SECRETARY.—The term “Secretary”
24 means the Secretary of the Interior.

1 (19) SECRETARY CONCERNED.—The term
2 “Secretary concerned” means—

3 (A) the Secretary of Agriculture (acting
4 through the Chief of the Forest Service), with
5 respect to National Forest System land; and

6 (B) the Secretary of the Interior (acting
7 through the Director of the Bureau of Land
8 Management), with respect to land managed by
9 the Bureau of Land Management or other Fed-
10 eral land.

11 (20) TEMPORARY CESSATION.—The term “tem-
12 porary cessation” means a halt in mine related pro-
13 duction activities for a continuous period of not
14 longer than 5 years.

15 (21) UNDUE DEGRADATION.—The term “undue
16 degradation” means substantial irreparable harm to
17 significant scientific, cultural, or environmental re-
18 sources on public land.

19 **TITLE I—LOCATABLE MINERAL** 20 **DEPOSITS**

21 **SEC. 101. LIMITATION ON PATENTS.**

22 (a) DETERMINATIONS REQUIRED.—No patent shall
23 be issued by the United States for any mining claim, mill-
24 site, or tunnel site located under the general mining laws
25 unless the Secretary determines that—

1 (1) a patent application was filed with the Sec-
2 retary with respect to the claim not later than Sep-
3 tember 30, 1994; and

4 (2) all requirements applicable to the patent ap-
5 plication under law were fully complied with by the
6 date described in paragraph (1).

7 (b) RIGHT TO PATENT.—

8 (1) IN GENERAL.—Subject to paragraph (2)
9 and notwithstanding subsection (c), if the Secretary
10 makes the determinations under paragraphs (1) and
11 (2) of subsection (a) with respect to a mining claim,
12 millsite, or tunnel site, the claim holder shall be enti-
13 tled to the issuance of a patent in the same manner
14 and degree to which the claim holder would have
15 been entitled to a patent before the date of enact-
16 ment of this Act.

17 (2) WITHDRAWAL.—The claim holder shall not
18 be entitled to the issuance of a patent if the deter-
19 minations under paragraphs (1) and (2) of sub-
20 section (a) are withdrawn or invalidated by the Sec-
21 retary or, on review, by a court of the United States.

22 (c) REPEAL.—Section 2325 of the Revised Statutes
23 (30 U.S.C. 29) is repealed.

24 **SEC. 102. FEES.**

25 (a) CLAIM MAINTENANCE FEES.—

1 (1) IN GENERAL.—Not later than August 31,
2 2020, and each August 31 thereafter, the holder of
3 each unpatented mining claim, millsite, or tunnel
4 site shall pay to the Secretary a maintenance fee of
5 \$200 for each claim, millsite, or tunnel site.

6 (2) REQUIREMENTS.—The maintenance fees re-
7 quired under paragraph (1) shall be in lieu of—

8 (A) the assessment work requirements
9 under the general mining laws; and

10 (B) the related filing requirements under
11 subsections (a) and (c) of section 314 of the
12 Federal Land Policy and Management Act of
13 1976 (43 U.S.C. 1744).

14 (3) TIMING OF INITIAL PAYMENT.—Notwith-
15 standing paragraph (1), the maintenance fee payable
16 for the initial assessment year in which the location
17 is made shall be paid at the time the location notice
18 is recorded with the Bureau of Land Management.

19 (4) CLAIM RELOCATION.—

20 (A) DEFINITION OF RELATED PARTY.—In
21 this paragraph and paragraph (5), the term
22 “related party” means—

23 (i) the spouse and qualifying child (as
24 defined in section 152 of the Internal Rev-

1 venue Code of 1986) of the claim holder;
2 and

3 (ii) a person affiliated with the claim
4 holder, including—

5 (I) a person controlled by, con-
6 trolling, or under common control
7 with, the claim holder; or

8 (II) a subsidiary, parent com-
9 pany, partner, director, or officer of
10 the claim holder.

11 (B) LIMITS ON RELOCATION.—

12 (i) IN GENERAL.—No claim, millsite,
13 or tunnel site, or portion of a claim or site,
14 may be relocated by a person or related
15 party if the person or related party held
16 the claim or site and subsequently relin-
17 quished the claim or site or allowed the
18 claim or site to become null and void.

19 (ii) DURATION.—The prohibition on
20 relocation shall extend for a period of 10
21 years beginning on the date the claim or
22 site was relinquished or became null and
23 void.

24 (5) WAIVER.—The maintenance fee required
25 under paragraph (1) shall be waived for a claim

1 holder who certifies in writing to the Secretary that
2 on the date the maintenance fee was due, the claim
3 holder and all related parties—

4 (A) held not more than 10 mining claims,
5 millsites, tunnel sites, or any combination of
6 claims and sites on Federal land; and

7 (B) can demonstrate that the claim holder
8 and all related parties have performed assess-
9 ment work required under section 2324 of the
10 Revised Statutes (30 U.S.C. 28) to maintain
11 the mining claims and sites held by the claim
12 holder and all related parties for the assessment
13 year ending on noon of September 1 of the cal-
14 endar year in which payment of the mainte-
15 nance fee was due.

16 (6) ADJUSTMENT.—

17 (A) IN GENERAL.—Subject to subpara-
18 graph (B), beginning on the date that is 5
19 years after the date of enactment of this Act
20 and every 5 years thereafter, the Secretary shall
21 adjust the amount of maintenance fees required
22 under paragraph (1) to reflect changes in the
23 Consumer Price Index for all urban consumers
24 published by the Department of Labor.

1 (B) MORE FREQUENT ADJUSTMENTS.—

2 The Secretary may adjust the amount of the
3 maintenance fees more frequently than specified
4 in subparagraph (A) to reflect changes in the
5 Consumer Price Index for all urban consumers
6 published by the Department of Labor if the
7 Secretary determines an adjustment to be rea-
8 sonable.

9 (C) NOTICE.—Not later than July 1 of any
10 year in which an adjustment is made under this
11 paragraph, the Secretary shall provide claim
12 holders notice of the adjustment.

13 (D) APPLICATION.—An adjustment under
14 this paragraph shall apply beginning in the first
15 calendar year after the calendar year in which
16 the adjustment is made.

17 (7) APPLICABLE LAW.—The co-ownership pro-
18 visions of section 2324 of the Revised Statutes (30
19 U.S.C. 28) shall remain in effect, except that the an-
20 nual maintenance fee, as applicable, shall replace ap-
21 plicable assessment requirements and expenditures.

22 (8) USE AND OCCUPANCY OF CLAIMS.—Timely
23 performance of required assessment work or pay-
24 ment of the maintenance fee under this subsection
25 satisfies any obligation the claim holder has under

1 the pedis possessio doctrine for any claim properly
2 located in accordance with the general mining laws
3 and applicable State law.

4 (b) LOCATION FEES.—

5 (1) IN GENERAL.—Subject to paragraph (2)
6 and notwithstanding any other provision of law, for
7 each unpatented mining claim, millsite, or tunnel
8 site located after the date of enactment of this Act,
9 the locator shall, at the time the location notice is
10 recorded with the Bureau of Land Management, pay
11 to the Secretary a location fee of \$50 for each claim
12 for each location notice recorded with the Bureau of
13 Land Management.

14 (2) ADJUSTMENT.—

15 (A) IN GENERAL.—Subject to subpara-
16 graph (B), beginning on the date that is 5
17 years after the date of enactment of this Act
18 and every 5 years thereafter, the Secretary shall
19 adjust the amount of location fees required
20 under paragraph (1) to reflect changes in the
21 Consumer Price Index for all urban consumers
22 published by the Department of Labor.

23 (B) MORE FREQUENT ADJUSTMENTS.—

24 The Secretary may adjust the amount of the lo-
25 cation fees more frequently than specified in

1 subparagraph (A) to reflect changes in the Con-
2 sumer Price Index for all urban consumers pub-
3 lished by the Department of Labor if the Sec-
4 retary determines an adjustment to be reason-
5 able.

6 (C) NOTICE.—Not later than July 1 of any
7 year in which an adjustment is made under this
8 paragraph, the Secretary shall provide claim
9 holders notice of the adjustment.

10 (D) APPLICATION.—An adjustment under
11 this paragraph shall apply beginning in the first
12 calendar year after the calendar year in which
13 the adjustment is made.

14 (3) EFFECT ON MAINTENANCE FEE.—The loca-
15 tion fee required under paragraph (1) shall be in ad-
16 dition to the maintenance fee required under sub-
17 section (a).

18 (c) DISPOSITION OF FUNDS.—

19 (1) IN GENERAL.—Any amounts received under
20 this section shall be used to pay the costs of admin-
21 istering program operations under sections 2318
22 through 2352 of the Revised Statutes (commonly
23 known as the “Mining Law of 1872”) (30 U.S.C. 21
24 et seq.) and this Act, without further appropriation.

1 (2) **EXCESS AMOUNTS.**—Any amounts in excess
2 of the costs described in paragraph (1) for any fiscal
3 year shall be deposited in the Fund.

4 (d) **EFFECT OF SECTION.**—Nothing in this section
5 changes or modifies—

6 (1) section 314(b) of the Federal Land Policy
7 and Management Act of 1976 (43 U.S.C. 1744(b));
8 or

9 (2) the provisions of subsection (c) of section
10 314 of the Federal Land Policy and Management
11 Act of 1976 (43 U.S.C. 1744) relating to filings re-
12 quired by subsection (b) of that section.

13 (e) **AMENDMENT TO REVISED STATUTES.**—Section
14 2324 of the Revised Statutes (30 U.S.C. 28) is amended
15 by inserting “or section 102(a)(5) of the Hardrock Mining
16 and Reclamation Act of 2019” after “Omnibus Budget
17 Reconciliation Act of 1993”.

18 **SEC. 103. LIMITATIONS.**

19 (a) **FAILURE TO COMPLY.**—

20 (1) **IN GENERAL.**—The failure of the claim
21 holder to perform assessment work or to pay a
22 maintenance fee if required under section 102(a), to
23 pay a location fee under section 102(b), or to file a
24 timely notice of location shall—

1 (A) conclusively constitute a forfeiture of
2 the mining claim, millsite, or tunnel site; and

3 (B) make the claim or site null and void by
4 operation of law.

5 (2) EFFECT.—Forfeiture under paragraph (1)
6 shall not relieve any person of any obligation under
7 this Act and applicable regulations, including rec-
8 lamation, and other applicable law.

9 (b) RELINQUISHMENT.—

10 (1) IN GENERAL.—A claim holder deciding not
11 to pursue mineral activities on a mining claim, mill-
12 site, or tunnel site, may relinquish the claim or site
13 by notifying the Secretary of the intent to relinquish
14 the claim or site.

15 (2) EFFECT.—A claim holder relinquishing a
16 claim, millsite, or tunnel site under paragraph (1)
17 shall be responsible for any obligation under this Act
18 and applicable regulations, including reclamation,
19 and other applicable law.

20 (c) USE OF MINING CLAIM.—

21 (1) IN GENERAL.—The continued use, occu-
22 pancy, and retention of any mining claim, millsite,
23 or tunnel site subject to this Act shall be exclusively
24 for mineral activities as authorized under this Act.

1 (2) FAILURE TO USE FOR MINERAL ACTIVI-
2 TIES.—If the claim holder cannot demonstrate to
3 the Secretary that the mining claim, millsite, or tun-
4 nel site has been used exclusively for mineral activi-
5 ties, the Secretary shall declare the claim, millsite,
6 or tunnel site null and void.

7 **TITLE II—ROYALTIES**

8 **SEC. 201. ROYALTY.**

9 (a) IN GENERAL.—Subject to subsection (c) and sec-
10 tion 202, production of all locatable minerals from any
11 mining claim located under the general mining laws and
12 maintained in compliance with this Act shall be subject
13 to a royalty established by the Secretary by regulation of
14 not less than 5 percent, and not more than 8 percent, of
15 the gross income from mining for production of all
16 locatable minerals.

17 (b) ROYALTY RATE.—The regulation shall establish
18 a reasonable royalty rate for each locatable mineral sub-
19 ject to a royalty under this section that may vary based
20 on the locatable mineral concerned.

21 (c) NO ROYALTY FOR FEDERAL LAND SUBJECT TO
22 EXISTING PERMIT.—No royalty under subsection (a) shall
23 be required for production on Federal land that—

1 (1) is subject to an approved plan of operations
2 or an operations permit on the date of the enact-
3 ment of this Act; and

4 (2) produces valuable locatable minerals in com-
5 mercial quantities on the date of enactment of this
6 Act.

7 (d) **FEDERAL LAND NOT SUBJECT TO EXISTING OP-**
8 **ERATIONS PERMIT.**—Production from any Federal land
9 not specifically approved for mineral extraction under a
10 plan of operations or an operations permit in existence on
11 the date of enactment of this Act shall be subject to the
12 royalty described in subsection (a).

13 (e) **DEPOSIT.**—Amounts received by the United
14 States as royalties under this section shall be deposited
15 in the Fund.

16 **SEC. 202. ROYALTY RELIEF.**

17 (a) **IN GENERAL.**—Subject to subsection (b), in order
18 to promote the greatest ultimate recovery pursuant to a
19 mining permit or a plan of operations under which produc-
20 tion in commercial quantities has occurred and in the in-
21 terest of conservation of natural resources, the Secretary
22 may reduce any royalty otherwise required for all or part
23 of a mining operation, on a showing by clear and con-
24 vincing evidence by the person conducting mineral activi-
25 ties under the operations or mining permit or plan of oper-

1 ations that, without the reduction in royalty, production
2 would not occur.

3 (b) EFFECTIVE DATE.—Any reduction in a royalty
4 provided for by this section shall not be effective until 60
5 days after the date on which the Secretary—

6 (1) publishes public notice of the royalty reduc-
7 tion; and

8 (2) submits to the Committee on Energy and
9 Natural Resources of the Senate and the Committee
10 on Natural Resources of the House of Representa-
11 tives notice and a statement of the reasons for
12 granting the royalty reduction.

13 **SEC. 203. ENFORCEMENT.**

14 (a) DUTIES OF THE SECRETARY.—

15 (1) IN GENERAL.—The Secretary shall establish
16 a comprehensive inspection, collection, fiscal, and
17 production accounting and auditing system—

18 (A) to accurately determine royalties, in-
19 terest, fines, penalties, fees, deposits, and other
20 payments owed under this title and section 403;
21 and

22 (B) to collect and account for such pay-
23 ments in a timely manner.

24 (2) INSPECTIONS.—The Secretary shall estab-
25 lish procedures to ensure that authorized and prop-

1 erly identified representatives of the Secretary will
2 inspect at least once annually each mining claim
3 that—

4 (A) is producing or expected to produce a
5 significant quantity of locatable minerals in any
6 year; or

7 (B) has a history of noncompliance with
8 this Act.

9 (b) DUTIES OF CLAIM HOLDERS, OPERATORS, AND
10 TRANSPORTERS.—

11 (1) PAYMENT OF ROYALTIES.—

12 (A) IN GENERAL.—A person who is re-
13 quired to make any royalty or other payment
14 under this title or section 403 shall make pay-
15 ment to the United States at such times and in
16 such manner as the Secretary may by rule pre-
17 scribe.

18 (B) LIABILITY FOR PAYMENTS.—

19 (i) DESIGNEES.—Any person who
20 pays, offsets, or credits funds, makes ad-
21 justments, requests and receives refunds,
22 or submits reports with respect to pay-
23 ments another person is required to make
24 shall be considered the designee of the

1 other person under this title or section
2 403.

3 (ii) LIABILITY.—A designee shall be
4 liable for any payment obligation under
5 this title or section 403 of any person on
6 whose behalf the designee undertakes the
7 activities described in clause (i).

8 (iii) PRO RATA SHARE.—The person
9 owning an interest in a claim, millsite, or
10 tunnel site, or production from the claim
11 or site, shall be liable for the pro rata
12 share of the person of payment obligations
13 under this title or section 403.

14 (2) SITE SECURITY.—

15 (A) IN GENERAL.—A person conducting
16 mineral activities shall develop and comply with
17 the site security provisions in the mining permit
18 designed to protect from theft the locatable
19 minerals that are produced or stored on a min-
20 ing claim.

21 (B) MINIMUM STANDARDS.—The provi-
22 sions shall conform with such minimum stand-
23 ards as the Secretary may prescribe by rule,
24 taking into account the variety of circumstances
25 on mining claims.

1 (C) NOTIFICATION OF COMMENCEMENT OR
2 RESUMPTION OF PRODUCTION.—Not later than
3 the fifth business day after production begins in
4 any place on a mining claim or production re-
5 sumes after more than 90 days after production
6 ceased or was suspended, the person conducting
7 mineral activities shall notify the Secretary, in
8 the manner prescribed by the Secretary, of the
9 date on which the production has begun or re-
10 sumed.

11 (c) RECORDKEEPING AND REPORTING REQUIRE-
12 MENTS.—

13 (1) IN GENERAL.—A claim holder, operator, or
14 other person directly or indirectly involved in devel-
15 oping, producing, processing, transporting, pur-
16 chasing, or selling locatable or hardrock minerals,
17 subject to this Act, through the point of first sale,
18 the point of royalty or fee computation, or the point
19 of smelting or other processing, whichever is later,
20 shall establish and maintain any records, make any
21 reports, and provide any information that the Sec-
22 retary may reasonably require for the purposes of
23 implementing this title or section 403 or determining
24 compliance with rules or orders under this title or
25 section 403.

1 (2) ACCESS.—On the request of any officer or
2 employee duly designated by the Secretary con-
3 ducting an audit or investigation pursuant to this
4 section, the appropriate records, reports, or informa-
5 tion that may be required by this section shall be
6 made available for inspection and duplication by the
7 officer or employee.

8 (3) DURATION OF RECORDKEEPING REQUIRE-
9 MENT.—

10 (A) IN GENERAL.—Records required by
11 the Secretary under this section shall be main-
12 tained for 7 years after the records are gen-
13 erated or amended unless the Secretary notifies
14 the claim holder, operator, other person re-
15 ferred to in paragraph (1), or record holder
16 that the Secretary has initiated an audit or in-
17 vestigation involving the records and that the
18 records must be maintained for a longer period.

19 (B) ONGOING AUDIT OR INVESTIGATION.—
20 In any case in which an audit or investigation
21 is underway, records shall be maintained until
22 the Secretary releases the claim holder, oper-
23 ator, other person referred to in paragraph (1),
24 or record holder subject to the recordkeeping

1 and requirements of this Act of the obligation
2 to maintain the records.

3 (d) AUDITS.—The Secretary may conduct such au-
4 dits of all claim holders, operators, producers, trans-
5 porters, purchasers, processors, or other persons directly
6 or indirectly involved in the production or sales of
7 locatable or hardrock minerals covered by this Act, as the
8 Secretary considers necessary for the purposes of ensuring
9 compliance with the requirements of this title or section
10 403.

11 (e) COOPERATIVE AGREEMENTS.—

12 (1) IN GENERAL.—The Secretary may enter
13 into cooperative agreements with the Secretary of
14 Agriculture—

15 (A) to share information concerning the
16 royalty management of locatable minerals;

17 (B) to carry out inspection, auditing, in-
18 vestigation, or enforcement (not including the
19 collection of royalties, civil or criminal penalties,
20 or other payments) activities under this section
21 in cooperation with the Secretary; and

22 (C) to carry out any other activity de-
23 scribed in this section.

24 (2) ACCESS.—Subject to paragraph (3) and
25 pursuant to a cooperative agreement, the Secretary

1 of Agriculture shall, on request, have access to all
2 royalty or fee accounting information in the posses-
3 sion of the Secretary relating to the production, re-
4 moval, or sale of locatable minerals from claims on
5 Federal land.

6 (3) CONFIDENTIAL INFORMATION.—

7 (A) IN GENERAL.—Trade secrets, propri-
8 etary information, and other confidential infor-
9 mation protected from disclosure under section
10 552 of title 5, United States Code (commonly
11 known as the “Freedom of Information Act”),
12 shall be made available by the Secretary to
13 other Federal agencies as necessary to ensure
14 compliance with this Act and other Federal
15 laws.

16 (B) PROTECTION BY OTHER FEDERAL OF-
17 FICIALS.—The Secretary, the Secretary of Agri-
18 culture, and other Federal officials shall ensure
19 that information described in subparagraph (A)
20 is provided protection in accordance with sec-
21 tion 552 of title 5, United States Code.

22 (f) INTEREST.—

23 (1) DEFINITION OF UNDERPAYMENT.—In this
24 subsection, the term “underpayment” means the dif-
25 ference between the royalty on the value of the pro-

1 duction or the fee under section 403 that should
2 have been received by the Secretary and the royalty
3 on the value of the production or the fee under sec-
4 tion 403 that was received by the Secretary, if the
5 royalty or fee that should have been received is
6 greater than the royalty or fee that was received.

7 (2) NONPAYMENT AND UNDERPAYMENT.—

8 (A) NONPAYMENT.—In the case of mining
9 claims or operations with respect to which roy-
10 alty payments or the fee under section 403 are
11 not received by the Secretary by the date that
12 the payments are due, the Secretary shall
13 charge interest on the nonpayment at the rate
14 specified under subparagraph (C).

15 (B) UNDERPAYMENT.—In the case of an
16 underpayment, interest shall be computed and
17 charged only on the amount of the deficiency
18 and not on the total amount, at the rate speci-
19 fied under subparagraph (C).

20 (C) INTEREST RATE.—In the case of non-
21 payment or underpayment, interest shall be
22 charged at the rate applicable under section
23 6621(a)(2) of the Internal Revenue Code of
24 1986.

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

10 (h) HEARINGS AND INVESTIGATIONS.—In carrying
 11 out this title and section 403, the Secretary may—

12 (1) conduct any investigation or other inquiry
 13 necessary and appropriate;

14 (2) conduct, after notice, any necessary and ap-
 15 propriate hearing or audit under rules prescribed by
 16 the Secretary; and

17 (3) administer oaths and issue subpoenas in
 18 conducting such proceedings.

19 (i) CIVIL PENALTIES.—

20 (1) FAILURE TO COMPLY WITH APPLICABLE
 21 LAW, RULES OR REGULATIONS, OR TO PERMIT IN-
 22 SPECTION.—

23 (A) IN GENERAL.—Except as provided in
 24 subparagraph (B), a person shall be liable for
 25 a penalty of up to \$500 per violation for each

1 day the violation continues, dating from the
2 date of the notice or report, if the person—

3 (i) after due notice of violation or
4 after the violation has been reported under
5 subparagraph (B)(i), fails or refuses to
6 comply with any requirement of this title
7 or section 403 or any rule or regulation
8 under this title or section 403; or

9 (ii) fails or refuses to permit inspec-
10 tion authorized under this title.

11 (B) EXCEPTIONS.—A penalty under this
12 paragraph may not be applied to any person
13 who is otherwise liable for a violation of sub-
14 paragraph (A) if—

15 (i) the violation was discovered and
16 reported to the Secretary or the authorized
17 representative of the Secretary by the lia-
18 ble person and corrected within 20 days
19 after the report (or such longer period to
20 which the Secretary may agree); or

21 (ii) after the due notice of violation
22 required under subparagraph (A)(i) has
23 been given to the person by the Secretary
24 or the authorized representative of the Sec-
25 retary, the person has corrected the viola-

1 tion within 20 days of the notification (or
2 such longer period to which the Secretary
3 may agree).

4 (2) FAILURE TO TAKE CORRECTIVE ACTION.—

5 If corrective action is not taken within 40 days (or
6 a longer period to which the Secretary may agree),
7 after due notice or submission of a report referred
8 to in paragraph (1)(A)(i), the person shall be liable
9 for a civil penalty of not more than \$5,000 per viola-
10 tion for each day the violation continues, dating
11 from the date of the notice or report.

12 (3) FAILURE TO MAKE PAYMENT OR TO PERMIT

13 LAWFUL ENTRY, INSPECTION, OR AUDIT.—A person
14 shall be liable for a penalty of up to \$10,000 per vio-
15 lation for each day the violation continues if the per-
16 son—

17 (A) knowingly or willfully fails to make
18 any payment of any royalty under this title or
19 fee under section 403 by the date as specified
20 by law (including regulation or order);

21 (B) fails or refuses to permit lawful entry,
22 inspection, or audit; or

23 (C) knowingly or willfully fails to comply
24 with subsection (b)(2)(C).

1 (4) FALSE INFORMATION; UNAUTHORIZED RE-
2 MOVAL OF LOCATABLE MINERAL.—A person shall be
3 liable for a penalty of up to \$25,000 per violation
4 for each day the violation continues in any case in
5 which the person, in violation of this title or section
6 403—

7 (A) knowingly or willfully prepares, main-
8 tains, or submits false, inaccurate, or mis-
9 leading reports, notices, affidavits, records,
10 data, or other written information;

11 (B) knowingly or willfully takes or re-
12 moves, transports, uses or diverts any locatable
13 mineral from any land covered by a mining
14 claim without having valid legal authority to do
15 so; or

16 (C) purchases, accepts, sells, transports, or
17 conveys to another, any locatable mineral know-
18 ing or having reason to know that the locatable
19 mineral was stolen or unlawfully removed or di-
20 verted.

21 (5) HEARING.—No penalty under this sub-
22 section shall be assessed until the person charged
23 with a violation has been given the opportunity for
24 a hearing on the record.

1 (6) DEDUCTION OF PENALTY FROM SUMS
2 OWED BY UNITED STATES.—The amount of any
3 penalty under this subsection, as finally determined,
4 may be deducted from any sums owed by the United
5 States to the person charged.

6 (7) COMPROMISE OR REDUCTION OF PEN-
7 ALTIES.—On a case-by-case basis, the Secretary
8 may compromise or reduce civil penalties under this
9 subsection.

10 (8) NOTICE.—

11 (A) IN GENERAL.—Notice under this sub-
12 section shall be by personal service by an au-
13 thorized representative of the Secretary or by
14 registered mail.

15 (B) DESIGNEE FOR RECEIPT OF NO-
16 TICE.—Any person may, in the manner pre-
17 scribed by the Secretary, designate a represent-
18 ative to receive any notice under this sub-
19 section.

20 (9) REASONS ON RECORD FOR AMOUNT OF
21 PENALTY.—In determining the amount of the pen-
22 alty under this subsection, whether the penalty
23 should be remitted or reduced, and by what amount,
24 the Secretary shall state on the record the reasons
25 for the determinations of the Secretary.

1 (10) REVIEW.—

2 (A) IN GENERAL.—Any person who has re-
3 quested a hearing in accordance with paragraph
4 (5) within the time the Secretary has prescribed
5 for such a hearing and who is aggrieved by a
6 final order of the Secretary under this sub-
7 section may seek review of the order in the
8 United States district court for the judicial dis-
9 trict in which the violation allegedly took place.

10 (B) BASIS FOR REVIEW.—Review by the
11 district court shall be only on the administrative
12 record and not de novo.

13 (C) DEADLINE.—An action under this
14 paragraph shall be barred unless the action is
15 filed not later than the date that is 90 days
16 after the date of issuance of the final order of
17 the Secretary.

18 (11) FAILURE TO PAY PENALTY.—

19 (A) IN GENERAL.—Subject to subpara-
20 graphs (B) and (C), if any person fails to pay
21 an assessment of a civil penalty under this Act,
22 the court shall have jurisdiction to award the
23 amount assessed plus interest from the date of
24 the expiration of the 90-day period referred to
25 in paragraph (10)(C).

1 (B) APPLICATION.—Subparagraph (A) ap-
2 plies—

3 (i) after the order making the assess-
4 ment has become a final order and if the
5 person does not file a petition for judicial
6 review of the order in accordance with
7 paragraph (10); or

8 (ii) after a court in an action brought
9 under paragraph (10) has entered a final
10 judgment in favor of the Secretary.

11 (C) ORDER TO PAY.—Judgment by the
12 court shall include an order to pay.

13 (j) CRIMINAL PENALTIES.—Any person who commits
14 an act for which a civil penalty is provided under sub-
15 section (i)(4) shall, on conviction, be punished by a fine
16 of not more than \$50,000 or by imprisonment for not
17 more than 2 years, or both.

18 (k) EFFECTIVE DATE.—

19 (1) IN GENERAL.—Except as provided in sec-
20 tion 201(b) with respect to the payment of royalties,
21 the royalty required under section 201 or fee re-
22 quired under section 403 shall take effect with re-
23 spect to the production of minerals on or after the
24 date of enactment of this Act.

1 (2) INITIAL PRODUCTION.—Any royalty pay-
2 ments or fee payments under section 403 attrib-
3 utable to production during the 1-year period begin-
4 ning on the date of enactment of this Act shall be
5 payable at the expiration of the 1-year period, to-
6 gether with interest at the rate required under sub-
7 section (f)(2)(C).

8 (1) INJUNCTION AND SPECIFIC ENFORCEMENT AU-
9 THORITY.—

10 (1) CIVIL ACTION BY ATTORNEY GENERAL.—In
11 addition to any other remedy under law, the Attor-
12 ney General or the designee of the Attorney General
13 may bring a civil action in a district court of the
14 United States, which shall have jurisdiction over
15 such actions—

16 (A) to restrain any violation of this title or
17 section 403; or

18 (B) to compel the taking of any action re-
19 quired by or under this title or section 403.

20 (2) VENUE.—A civil action described in para-
21 graph (1) may be brought only in the United States
22 district court for the judicial district in which the
23 act, omission, or transaction constituting a violation
24 under this title or section 403 occurred, or in which
25 the defendant is found or transacts business.

1 **SEC. 204. REVIEW.**

2 (a) IN GENERAL.—Not later than 5 years after the
3 date of enactment of this Act and every 5 years thereafter,
4 the Secretary shall complete a review and submit to the
5 Committee on Energy and Natural Resources of the Sen-
6 ate and the Committee on Natural Resources of the House
7 of Representatives a report addressing collections and im-
8 pacts of the royalty and fees provided for by this Act.

9 (b) TOPICS.—The report shall address—

10 (1) the total revenues received (by category) on
11 an annual basis as—

12 (A) claim maintenance fees;

13 (B) location fees;

14 (C) land use fees;

15 (D) royalties and related payments; and

16 (E) abandoned mine land fees;

17 (2) the disposition of the fees and royalties, in-
18 cluding—

19 (A) the amount used for mining law pro-
20 gram administration; and

21 (B) the amount used for abandoned mine
22 land reclamation, including allocation by State
23 and Indian tribe;

24 (3) the effectiveness of the program under this
25 Act in addressing abandoned mine land problems on
26 Federal and non-Federal land;

1 (4) any impact on domestic locatable mineral
2 exploration and production as a result of the fees
3 and royalties; and

4 (5) any recommendations with respect to
5 changes in Federal law (including regulations) relat-
6 ing to the amount or method of collection (including
7 auditing, compliance, and enforcement) of the fees
8 and royalties.

9 **TITLE III—MINERAL ACTIVITIES**

10 **SEC. 301. PERMITS.**

11 (a) **IN GENERAL.**—Except as provided in section
12 501(a)(2), no person may engage in mineral activities on
13 Federal land that may cause a disturbance of surface re-
14 sources, including land, air, water, and fish and wildlife,
15 unless a permit authorizing the activities was issued to
16 the person under this title.

17 (b) **EXCEPTIONS.**—Notwithstanding subsection (a), a
18 permit under this title shall not be required for mineral
19 activities that are a casual use of the Federal land.

20 (c) **NO MODIFICATION.**—Nothing in this section en-
21 larges, diminishes, establishes, repeals, or otherwise modi-
22 fies any requirement of law that a mining claim, millsite,
23 or tunnel site be valid in order for mineral activities to
24 be undertaken.

1 (d) COORDINATION WITH NEPA PROCESS.—To the
2 maximum extent practicable, the Secretary concerned
3 shall conduct the permit processes under this Act in co-
4 ordination with the timing and other requirements of sec-
5 tion 102 of the National Environmental Policy Act of
6 1969 (42 U.S.C. 4332).

7 **SEC. 302. EXPLORATION PERMITS.**

8 (a) IN GENERAL.—Except as provided in section
9 501(a)(2), an exploration permit shall be required prior
10 to conducting any exploration activities on Federal land
11 that involve more than the casual use of the Federal land.

12 (b) LIMITATIONS.—An exploration permit under sub-
13 section (a) shall not authorize the person to—

14 (1) remove any mineral for sale; or

15 (2) conduct any activity other than an activity
16 required for—

17 (A) exploration for locatable minerals; or

18 (B) reclamation.

19 (c) REQUIREMENTS.—To be eligible for an explo-
20 ration permit, a person shall submit to the Secretary con-
21 cerned, in a manner prescribed by the Secretary con-
22 cerned, an application for an exploration permit that con-
23 tains—

24 (1) an exploration plan demonstrating that—

1 (A) the applicant will operate in accord-
2 ance with this Act and applicable regulations;

3 (B) the formation of acid mine drainage
4 will be avoided to the maximum extent prac-
5 ticable; and

6 (C) mineral activities will be conducted in
7 a manner that uses best management practices;

8 (2) a description of potential impacts to
9 groundwater and surface water, including appro-
10 priate hydrological assessments and analyses, as rea-
11 sonably required by the Secretary;

12 (3) a reclamation plan for the proposed explo-
13 ration activity demonstrating that the applicant will
14 conduct reclamation activities in accordance with
15 section 306;

16 (4) evidence of adequate financial assurance in
17 accordance with section 304;

18 (5) the necessary documentation to demonstrate
19 that the proposed exploration activity will comply
20 with applicable Federal and State environmental
21 laws (including regulations);

22 (6) a monitoring and evaluation plan to ensure
23 compliance with reclamation and other requirements
24 of this Act; and

1 (7) any other relevant information determined
2 by the Secretary to be necessary to satisfy the re-
3 quirements of this Act and other applicable law.

4 (d) PERMIT ISSUANCE.—

5 (1) APPROVAL.—

6 (A) IN GENERAL.—Subject to subpara-
7 graph (B), the Secretary concerned shall ap-
8 prove an application and issue an exploration
9 permit if the Secretary concerned determines
10 that the application is in compliance with—

11 (i) this Act;

12 (ii) any regulations promulgated
13 under this Act; and

14 (iii) any other applicable laws.

15 (B) CONDITIONS.—The Secretary con-
16 cerned may reasonably condition the approval
17 of such a permit to satisfy the requirements of
18 this Act and applicable regulations.

19 (2) DENIAL.—The Secretary concerned shall
20 deny the issuance of an exploration permit if the
21 Secretary concerned determines that the permit does
22 not meet the requirements of—

23 (A) this Act;

24 (B) any regulations promulgated under
25 this Act; or

1 (C) other applicable laws.

2 (3) NOTICE.—Before approving or denying an
3 exploration permit under this subsection, the Sec-
4 retary concerned—

5 (A) shall provide public notice and an op-
6 portunity for written comment; and

7 (B) may hold a public hearing.

8 (e) MODIFICATIONS TO PERMIT.—

9 (1) IN GENERAL.—The permit holder may sub-
10 mit to the Secretary concerned an application to
11 modify an exploration permit.

12 (2) APPROVAL.—

13 (A) IN GENERAL.—In determining whether
14 to approve or disapprove a proposed modifica-
15 tion to an exploration permit, the Secretary
16 concerned shall make the same determinations
17 as are required in the case of the original per-
18 mit.

19 (B) EXCEPTIONS.—Subparagraph (A)
20 shall not apply to minor modifications to an ex-
21 ploration permit or instances in which the na-
22 ture of the modifications make compliance with
23 the requirements unnecessary, as determined by
24 the Secretary concerned.

1 (3) MODIFICATIONS FROM SECRETARY CON-
2 CERNED.—

3 (A) IN GENERAL.—The Secretary con-
4 cerned may require reasonable modification to
5 any permit on a determination that the require-
6 ments of this Act or other applicable law cannot
7 be met if the permit is followed as approved.

8 (B) REQUIREMENTS FOR DETERMINA-
9 TION.—A determination under subparagraph
10 (A) shall be—

- 11 (i) based on a written finding; and
12 (ii) subject to notice and hearing re-
13 quirements established by the Secretary
14 concerned.

15 **SEC. 303. MINING PERMITS.**

16 (a) IN GENERAL.—Except as provided in section
17 501(a)(2), a mining permit shall be required prior to con-
18 ducting mineral activities on Federal land, other than cas-
19 ual use or exploration on the Federal land.

20 (b) REQUIREMENTS.—To be eligible for a mining per-
21 mit, a person shall submit to the Secretary concerned, in
22 a manner prescribed by the Secretary concerned, an appli-
23 cation for a mining permit that contains—

- 1 (1) a description of the condition of the land
2 and water resources of the area before mining activi-
3 ties are initiated;
- 4 (2) an operations plan demonstrating that—
- 5 (A) the applicant will operate in accord-
6 ance with this Act and applicable regulations;
- 7 (B) the formation of acid mine drainage
8 will be avoided to the maximum extent prac-
9 ticable; and
- 10 (C) mineral activities will be conducted in
11 a manner that uses best management practices;
- 12 (3) a description of potential impacts to
13 groundwater and surface water, including appro-
14 priate hydrological assessments and analyses, as rea-
15 sonably required by the Secretary;
- 16 (4) a reclamation plan for the proposed mineral
17 activities demonstrating that the applicant will con-
18 duct reclamation activities in accordance with sec-
19 tion 306;
- 20 (5) evidence of adequate financial assurance
21 under section 304, including, if required, a trust
22 fund as required under section 304(i);
- 23 (6) the necessary documentation to demonstrate
24 that the proposed mineral activities will comply with

1 applicable Federal and State environmental laws (in-
2 cluding regulations);

3 (7) a monitoring and evaluation plan to ensure
4 compliance with reclamation and other requirements
5 of this Act; and

6 (8) any other relevant information determined
7 by the Secretary concerned to be necessary to satisfy
8 the requirements of this Act and other applicable
9 law.

10 (c) PERMIT ISSUANCE.—

11 (1) APPROVAL.—

12 (A) IN GENERAL.—Subject to subpara-
13 graph (B), the Secretary concerned shall ap-
14 prove a permit application and issue a mining
15 permit if the Secretary concerned determines
16 that the application is in compliance with—

17 (i) this Act;

18 (ii) any regulations promulgated
19 under this Act; and

20 (iii) other applicable laws.

21 (B) CONDITIONS.—The Secretary con-
22 cerned may reasonably condition the approval
23 of such a permit to satisfy the requirements of
24 this Act and applicable regulations.

1 (2) DENIAL.—The Secretary concerned shall
2 deny the issuance of a mining permit if the Sec-
3 retary concerned determines that the permit does
4 not meet the requirements of—

5 (A) this Act;

6 (B) any regulations promulgated under
7 this Act; or

8 (C) other applicable laws.

9 (3) NOTICE.—Before approving or denying a
10 mining permit under this subsection, the Secretary
11 concerned—

12 (A) shall provide public notice and an op-
13 portunity for written comment; and

14 (B) may hold a public hearing.

15 (d) TERM OF PERMIT; CONTINUATION.—

16 (1) IN GENERAL.—An operations permit
17 shall—

18 (A) be for a term of 30 years; and

19 (B) continue for so long thereafter as
20 locatable minerals are produced in commercial
21 quantities from the permit area in compliance
22 with the requirements of this Act and other ap-
23 plicable law.

24 (2) CONTINUATION.—No permit shall expire be-
25 cause operations or production have ceased pursuant

1 to an approved temporary cessation or been sus-
2 pended pursuant to any order of, or with the consent
3 of, the Secretary concerned.

4 (e) MODIFICATIONS TO PERMIT.—

5 (1) REQUEST FROM PERMIT HOLDER.—

6 (A) IN GENERAL.—A mining permit holder
7 may submit to the Secretary concerned an ap-
8 plication to modify the mining permit.

9 (B) APPROVAL.—

10 (i) IN GENERAL.—In determining
11 whether to approve or disapprove a pro-
12 posed modification to a mining permit, the
13 Secretary concerned shall make the same
14 determinations as are required in the case
15 of an original mining permit.

16 (ii) EXCEPTIONS.—Clause (i) shall
17 not apply to minor modifications to a min-
18 ing permit or instances in which the nature
19 of the modifications make compliance with
20 the requirements unnecessary, as deter-
21 mined by the Secretary concerned.

22 (2) MODIFICATIONS FROM SECRETARY CON-
23 CERNED.—

24 (A) IN GENERAL.—The Secretary con-
25 cerned may require reasonable modification to

1 any permit on a determination that the require-
2 ments of this Act or other applicable law cannot
3 be met if the permit is followed as approved.

4 (B) REQUIREMENTS FOR DETERMINA-
5 TION.—A determination under subparagraph
6 (A) shall be—

7 (i) based on a written finding; and

8 (ii) subject to notice and hearing re-
9 quirements established by the Secretary
10 concerned.

11 (f) LAND USE FEES.—

12 (1) IN GENERAL.—In the case of Federal land
13 included in a mining permit approved under this sec-
14 tion after the date of enactment of this Act, or Fed-
15 eral land added pursuant to a modification to a per-
16 mit or plan of operations if the modification is ap-
17 proved after the date of enactment of this Act, not
18 later than August 31 of each year, the operator shall
19 pay a land use fee in an amount established by the
20 Secretary by regulation that is equal to 4 times the
21 claim maintenance fee imposed section 102(a)(1) for
22 each 20 acres of Federal land that is included within
23 the mine permit area.

24 (2) ADDITIONAL FEE.—The land use fee im-
25 posed under this subsection shall be in addition to

1 the claim maintenance fees imposed under section
2 102(a).

3 (3) AUTHORIZED ACTIVITIES.—Upon approval
4 by the Secretary concerned of a mining permit and
5 upon payment of the land use fee as required by this
6 subsection, the operator may use and occupy all
7 Federal land within the mine permit area for such
8 uses as are approved in the mining permit if the
9 uses are undertaken in accordance with all applica-
10 ble law.

11 (4) ADJUSTMENT.—Land use fees imposed
12 under this subsection shall be adjusted as necessary
13 to correspond to any adjustment in the claim main-
14 tenance fees imposed under section 102(a).

15 (5) DISPOSITION OF FUNDS.—Any amounts re-
16 ceived under this subsection shall be deposited in the
17 Fund.

18 (g) TEMPORARY CESSATION OF OPERATIONS.—

19 (1) IN GENERAL.—An operator conducting min-
20 eral activities under this title may not temporarily
21 cease mineral activities for a period of greater than
22 180 days unless—

23 (A) the Secretary concerned has approved
24 the temporary cessation; or

1 (B) the temporary cessation is permitted
2 under the exploration or mining permit.

3 (2) MULTIPLE TEMPORARY CESSATIONS.—The
4 Secretary concerned may approve more than 1 tem-
5 porary cessation for mineral activities under a per-
6 mit.

7 (3) INTERIM MANAGEMENT PLAN.—Any oper-
8 ator temporarily ceasing mineral activities shall fol-
9 low an interim management plan approved by the
10 Secretary concerned.

11 **SEC. 304. FINANCIAL ASSURANCES.**

12 (a) IN GENERAL.—Before beginning any mineral ac-
13 tivities requiring an exploration or mining permit under
14 this Act, an operator shall provide to the Secretary con-
15 cerned evidence of a bond, surety, or other financial assur-
16 ance approved by the Secretary concerned in an amount
17 determined, after public notice and comment, by the Sec-
18 retary concerned to be sufficient to ensure the completion
19 of reclamation under section 306 and the restoration of
20 any land or water adversely affected by the mineral activi-
21 ties if the work (including any interim stabilization and
22 infrastructure maintenance activities) would be performed
23 by the Secretary concerned (or a third party retained by
24 the Secretary concerned) in the event of forfeiture.

1 (b) LAND AND WATER COVERED.—The financial as-
2 surance shall cover—

3 (1) all land within the initial permit area;

4 (2) all affected water that may require restora-
5 tion, treatment, or other management as a result of
6 mineral activities; and

7 (3) all land added and water affected pursuant
8 to any permit modification.

9 (c) REVIEW.—Not later than 3 years after the date
10 on which an operator provides financial assurance in an
11 amount determined under subsection (a) and not later
12 than every 3 years thereafter, the Secretary concerned
13 shall—

14 (1) review the financial assurance to determine
15 if the amount of the financial assurance is adequate
16 for purposes of this section; and

17 (2) if the Secretary concerned determines that
18 the amount of the financial assurance is not ade-
19 quate, adjust the amount of the financial assurance
20 in accordance with this section.

21 (d) REDUCTION.—

22 (1) IN GENERAL.—The Secretary concerned
23 may reduce the amount of the financial assurance
24 required if the Secretary concerned determines that

1 a portion of the reclamation is completed in accord-
2 ance with section 306.

3 (2) NOTICE.—Before reducing or releasing the
4 amount of financial assurance pursuant to this sub-
5 section, the Secretary concerned shall provide public
6 notice and a reasonable opportunity for public notice
7 and comment in accordance with subsection (g).

8 (e) INCREMENTAL FINANCIAL ASSURANCE.—

9 (1) IN GENERAL.—The Secretary concerned
10 may authorize amounts of financial assurance for in-
11 cremental mineral activities if—

12 (A) no mineral activities are allowed be-
13 yond the activities for which financial assurance
14 is provided;

15 (B) the financial assurance for an incre-
16 ment covers all reclamation costs within the
17 permit area for the increment; and

18 (C) the amount and terms of the financial
19 assurance for each increment are reviewed an-
20 nually.

21 (2) REVIEW.—Notwithstanding subsection (e),
22 the Secretary concerned shall—

23 (A) review at least on an annual basis the
24 amount and terms of the financial assurance
25 for any increment; and

1 (B) adjust the financial assurance as ap-
2 propriate.

3 (f) 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 responsibility of the operator for reclamation, long-term
7 maintenance, and effluent treatment as specified in sub-
8 section (h).

9 (g) RELEASE.—Subject to subsections (h) and (i),
10 the Secretary concerned may, after public notice and a
11 reasonable opportunity for public comment and after in-
12 spection, release in whole or in part the financial assur-
13 ance required under this section if the Secretary concerned
14 determines that—

15 (1) reclamation covered by the financial assur-
16 ance has been accomplished as required by this Act
17 and other applicable law; and

18 (2) the terms and conditions of any other appli-
19 cable Federal and State requirements have been ful-
20 filled.

21 (h) RELEASE OF FINANCIAL ASSURANCE FOR
22 WATER.—If the Secretary concerned does not require the
23 establishment of a trust fund or other long-term funding
24 mechanism under subsection (i), the portion of the finan-
25 cial assurance attributable to the estimated cost of treat-

1 ment of any discharge or other water-related condition re-
2 sulting from mineral activities shall not be released until
3 the public has been provided notice and an opportunity
4 to comment in accordance with subsection (g) and—

5 (1) the discharge has ceased for a period of at
6 least 5 years, as determined through ongoing moni-
7 toring and testing; or

8 (2) if the discharge continues, the operator has
9 met all applicable effluent limitations and water
10 quality standards for a period of at least 5 years.

11 (i) LONG-TERM FINANCIAL ASSURANCES.—

12 (1) IN GENERAL.—Notwithstanding subsections
13 (d) and (g), if any discharge or other water-related
14 condition resulting from mineral activities requires
15 treatment in order to meet the applicable effluent
16 limitations and water quality standards, the finan-
17 cial assurance shall cover the estimated cost of
18 maintaining the treatment for the period that will be
19 needed after the cessation of mineral activities.

20 (2) LONG-TERM FUNDING MECHANISMS.—

21 (A) IN GENERAL.—The Secretary con-
22 cerned shall, if determined necessary by the
23 Secretary concerned, require the operator to es-
24 tablish a trust fund or other funding mecha-
25 nism to provide financial assurances to ensure

1 the continuation of long-term treatment or
2 other management to achieve water quality
3 standards and for other long-term, post-mining
4 maintenance or monitoring requirements.

5 (B) AMOUNT.—The amount of funding
6 shall be adequate to provide for construction,
7 long-term operation, maintenance, or replace-
8 ment of any treatment facilities and infrastruc-
9 ture, for as long as the treatment and facilities
10 are needed after mine closure.

11 (C) LIABILITY.—Nothing in this para-
12 graph allows any person to transfer any liability
13 arising from mineral activities to any other per-
14 son.

15 (j) REPORT.—

16 (1) IN GENERAL.—Not later than 3 years after
17 the date of enactment of this Act, the Secretary, in
18 consultation with the Secretary of Agriculture and
19 the Administrator of the Environmental Protection
20 Agency, shall conduct a review and submit to the
21 Committee on Energy and Natural Resources of the
22 Senate and the Committee on Natural Resources of
23 the House of Representatives a report regarding the
24 sufficiency of financial assurances for locatable min-

1 erals activities (including exploration and mining) on
2 Federal land.

3 (2) TOPICS.—The report shall address—

4 (A) methods for establishing financial as-
5 surances levels;

6 (B) the type, level, and adequacy of finan-
7 cial assurances required for exploration activi-
8 ties;

9 (C) for each mine on Federal land—

10 (i) the dates of approval of any plan
11 of operation or mining permit;

12 (ii) the acreage involved;

13 (iii) the expected life of the mine;

14 (iv) the type, level, and adequacy of fi-
15 nancial assurance; and

16 (v) whether the mine is expected to
17 require long-term water treatment or
18 maintenance after mine closure;

19 (D) the effectiveness of various types of fi-
20 nancial assurances; and

21 (E) the availability of and costs associated
22 with various types of financial assurances.

23 (3) RECOMMENDATIONS.—The report shall in-
24 clude any recommendations for modifications to
25 Federal law or applicable regulations to improve the

1 effectiveness of financial assurances for locatable
2 mineral activities described in paragraph (1).

3 **SEC. 305. TRANSFER, ASSIGNMENT, OR SALE OF RIGHT.**

4 The Secretary concerned shall approve the transfer,
5 assignment, or sale of rights of an exploration or mining
6 permit only if the successor in interest agrees in writing
7 to assume the liability and reclamation responsibilities (in-
8 cluding the financial assurance requirements under section
9 304 (including applicable regulations)) established by the
10 permit under this Act, without affecting the liability of the
11 transferor under any other law or exploration or mining
12 permit.

13 **SEC. 306. OPERATION AND RECLAMATION.**

14 (a) IN GENERAL.—The operator shall restore land
15 and water subject to mineral activities carried out under
16 a permit issued under this title to a condition capable of
17 supporting—

18 (1) the uses that the land and water was capa-
19 ble of supporting before surface disturbance by the
20 operator; or

21 (2) other beneficial uses that conform to appli-
22 cable land use plans (including, if appropriate, the
23 generation of renewable energy), as determined by
24 the Secretary concerned.

25 (b) TIMING.—

1 (1) IN GENERAL.—Reclamation activities shall
2 be carried out as contemporaneously as practicable
3 with the conduct of mineral activities.

4 (2) TEMPORARY CESSATION.—If mineral activi-
5 ties are ceased for a period other than a temporary
6 cessation as approved by the Secretary concerned,
7 reclamation activities shall begin immediately.

8 (c) ADMINISTRATION OF LAND.—Notwithstanding
9 section 302(b) of the Federal Land Policy and Manage-
10 ment Act of 1976 (43 U.S.C. 1732(b)), the first section
11 of the Act of June 4, 1897 (commonly known as the “Or-
12 ganic Act of 1897”) (16 U.S.C. 478), or the Forest and
13 Rangeland Renewable Resources Planning Act of 1974
14 (16 U.S.C. 1600 et seq.), and in accordance with this title
15 and applicable law, unless expressly stated otherwise in
16 this Act, the Secretary concerned—

17 (1) shall ensure that mineral activities on any
18 Federal land that is subject to a mining claim, mill-
19 site claim, or tunnel site claim are carefully con-
20 trolled to prevent undue degradation of public land
21 and resources; and

22 (2) shall not grant permission to engage in min-
23 eral activities if the Secretary concerned, after con-
24 sidering the evidence, makes a determination that

1 undue degradation would result from those activi-
2 ties.

3 (d) OPERATION AND RECLAMATION STANDARDS.—

4 The Secretary and the Secretary of Agriculture shall joint-
5 ly promulgate regulations that carry out this Act.

6 (e) RELATIONSHIP TO OTHER LAWS.—The require-
7 ments of this Act shall be in addition to any requirements
8 applicable to mineral activities under—

9 (1) the Federal Land Policy and Management
10 Act of 1976 (43 U.S.C. 1701 et seq.);

11 (2) the National Forest Management Act of
12 1976 (16 U.S.C. 472a et seq.); and

13 (3) the Act of June 4, 1897 (commonly known
14 as the “Organic Act of 1897”) (16 U.S.C. 473–482,
15 551).

16 **SEC. 307. LAND OPEN TO LOCATION.**

17 Section 202(e) of the Federal Land Policy and Man-
18 agement Act of 1976 (43 U.S.C. 1712(e)) is amended—

19 (1) in paragraph (3), by striking “removed
20 from or restored to the operation of the Mining Law
21 of 1872, as amended (R.S. 2318–2352; 30 U.S.C.
22 21 et seq.) or”; and

23 (2) by adding at the end the following:

24 “(4) REVIEW OF LAND.—

1 “(A) DEFINITION OF NATIONAL CON-
2 SERVATION SYSTEM UNIT.—In this paragraph,
3 the term ‘National Conservation System unit’
4 means—

5 “(i) any unit of—

6 “(I) the National Park System;

7 “(II) the National Wildlife Ref-
8 uge System; or

9 “(III) the National Wild and
10 Scenic Rivers System;

11 “(ii) a National Monument; or

12 “(iii) a National Conservation Area.

13 “(B) REVIEW.—Not later than 3 years
14 after the date of enactment of this paragraph,
15 each Secretary concerned, acting through the
16 local Federal land manager, shall, consistent
17 with the respective jurisdiction of each Sec-
18 retary concerned, undertake and complete a re-
19 view of—

20 “(i) public land designated as a wil-
21 derness study area or National Forest Sys-
22 tem land identified as suitable for wilder-
23 ness designation;

24 “(ii) areas of critical environmental
25 concern;

1 “(iii) Federal land in which mineral
2 activities pose a reasonable likelihood of
3 substantial adverse impacts on National
4 Conservation system units;

5 “(iv)(I) areas designated for inclusion
6 in the National Wild and Scenic Rivers
7 System pursuant to the Wild and Scenic
8 Rivers Act (16 U.S.C. 1271 et seq.);

9 “(II) areas designated for potential
10 addition to the System pursuant to section
11 5(a) of that Act (16 U.S.C. 1276(a)); and

12 “(III) areas determined to be eligible
13 for inclusion in the System pursuant to
14 section 5(d) of that Act (16 U.S.C.
15 1276(d)); and

16 “(v)(I) inventoried roadless areas (as
17 defined in section 294.11 of title 36, Code
18 of Federal Regulations (or successor regu-
19 lations));

20 “(II) Idaho Roadless Areas (as de-
21 fined in section 294.21 of title 36, Code of
22 Federal Regulations (or successor regula-
23 tions)); and

24 “(III) Colorado Roadless Areas (as
25 defined in section 294.41 of title 36, Code

1 of Federal Regulations (or successor regu-
2 lations)).

3 “(5) WITHDRAWALS OF LAND.—

4 “(A) IN GENERAL.—Subsequent to review
5 in accordance with paragraph (4)(B), in addi-
6 tion to withdrawals made pursuant to section
7 204 and subject to valid existing rights, tracts
8 of Federal land may, pursuant to this para-
9 graph, be removed from operation of sections
10 2318 through 2352 of the Revised Statutes
11 (commonly known and referred to in this sub-
12 section as the ‘Mining Law of 1872’) (30
13 U.S.C. 21 et seq.) if the Secretary, based on
14 the analysis of the local Federal land manager,
15 and in the case of National Forest System land,
16 on the recommendation of the Secretary of Ag-
17 riculture based on the analysis of the local Fed-
18 eral land manager, determines that the action is
19 appropriate after application of the criteria es-
20 tablished under subsection (c).

21 “(B) REVISION OF LAND USE PLANS.—

22 The Secretary concerned, acting through the
23 local Federal land manager, shall revise or
24 amend the applicable land use plan, as appro-
25 priate, to provide for removal of land, subject to

1 valid existing rights, from operation of the Min-
2 ing Law of 1872 on a determination by the Sec-
3 retary under subparagraph (A) that the land
4 should be removed from operation of that Act.

5 “(C) SEGREGATION FROM GENERAL MIN-
6 ING LAWS PENDING COMPLETION.—On a deter-
7 mination by the Secretary that the land should
8 be removed from operation of the Mining Law
9 of 1872, the land shall be immediately seg-
10 regated from operation of the Mining Law of
11 1872 until the plan amendment or revision is
12 completed.

13 “(D) COMPLETION DEADLINE.—Any
14 amendment or revision of a land use plan shall
15 be completed not later than 1 year after the
16 date of the determination of the Secretary
17 under subparagraph (A).

18 “(6) PETITION FOR REVIEW.—The Governor of
19 a State, the head of an Indian tribe, or an appro-
20 priate local government official may petition—

21 “(A) the Secretary concerned to direct the
22 local Federal land manager to undertake a re-
23 view under paragraph (4); and

24 “(B) the Secretary to determine whether
25 land within the State should be removed from

1 operation of the Mining Law of 1872, subject
2 to valid existing rights, pursuant to paragraph
3 (5).”.

4 **SEC. 308. STATE LAW.**

5 Any reclamation, environmental, public health protec-
6 tion, bonding, or inspection standard or requirement in
7 State law (including regulations) that meets or exceeds the
8 requirements of this Act shall not be considered to be in-
9 consistent with this Act.

10 **SEC. 309. INSPECTION AND MONITORING.**

11 (a) INSPECTIONS.—

12 (1) IN GENERAL.—The Secretary concerned
13 shall make inspections of mineral activities to ensure
14 compliance with this Act.

15 (2) TIMING.—The Secretary concerned shall es-
16 tablish the frequency of inspections for mineral ac-
17 tivities conducted under a permit issued under this
18 Act, with the Secretary concerned requiring not less
19 than 1 complete inspection per calendar quarter.

20 (3) ANNUAL INSPECTIONS.—After revegetation
21 has been established in accordance with a reclama-
22 tion plan, the Secretary concerned shall conduct not
23 less than 2 complete inspections per year.

24 (4) SEASONAL ACTIVITIES.—The Secretary con-
25 cerned shall have the discretion to modify the in-

1 specification frequency for mineral activities that are
2 conducted on a seasonal basis, except that the Sec-
3 retary concerned shall require not less than 2 com-
4 plete inspections per calendar year.

5 (5) FINANCIAL ASSURANCE.—Inspections shall
6 continue under this subsection until the final release
7 of financial assurance.

8 (b) MONITORING.—The Secretary concerned shall re-
9 quire all operators—

10 (1) to develop and maintain a monitoring and
11 evaluation system to identify compliance with all re-
12 quirements of a permit approved under this Act; and

13 (2) to submit such reports as may be required
14 by the Secretary concerned.

15 **SEC. 310. TRIBAL CONSULTATION.**

16 (a) IN GENERAL.—Consistent with Executive Order
17 13175 (25 U.S.C. 5301 note; relating to consultation and
18 coordination with Indian Tribal governments) and all
19 other applicable Federal law, the Secretary concerned
20 shall conduct active, meaningful, and timely consultation
21 with all applicable Indian tribes prior to undertaking or
22 issuing a permit for any mineral activity that may affect—

23 (1) Indian land; or

24 (2) land that is not Indian land but is—

1 (A) within the exterior boundaries of In-
2 dian country (as defined in section 1151 of title
3 18, United States Code); or

4 (B) land to which an Indian tribe attaches
5 religious or cultural significance.

6 (b) TIMING.—

7 (1) IN GENERAL.—Except as provided in para-
8 graph (2), each consultation required for a mineral
9 activity under subsection (a) shall be completed be-
10 fore—

11 (A) any Federal funds are expended for
12 the mineral activity; and

13 (B) the issuance of any permit for the
14 mineral activity.

15 (2) EXCEPTION.—Paragraph (1) shall not
16 apply to nondestructive project planning for a min-
17 eral activity.

18 (c) REQUIREMENTS.—The Secretary concerned shall
19 ensure that consultation with an Indian tribe under this
20 section—

21 (1) provides the Indian tribe a reasonable op-
22 portunity—

23 (A) to identify any concerns of the Indian
24 tribe;

1 (B) to advise on the identification and
2 evaluation of other areas that potentially would
3 be impacted by the mineral activities, including
4 areas of traditional religious or cultural impor-
5 tance;

6 (C) to articulate the views of the Indian
7 tribe regarding the direct and indirect effects of
8 the mineral activities on the areas identified
9 and evaluated under subparagraph (B); and

10 (D) to participate in the resolution of any
11 potential adverse effects of the mineral activi-
12 ties;

13 (2) includes consultation with the representa-
14 tives designated or identified by the Indian tribe;

15 (3) recognizes that the relationship between the
16 Federal Government and Indian tribes—

17 (A) is a government-to-government rela-
18 tionship; and

19 (B) is a unique legal relationship, as pro-
20 vided under the Constitution of the United
21 States, treaties, laws, and court decisions; and

22 (4) is conducted in a manner—

23 (A) sensitive to the concerns and needs of
24 the Indian tribe; and

25 (B) respectful of Tribal sovereignty.

1 (d) EFFECT.—Nothing in this section—

2 (1) alters, amends, repeals, interprets, or modi-
3 fies Tribal sovereignty or the treaty or other rights
4 of any Indian tribe; or

5 (2) preempts, modifies, or limits the exercise of
6 Tribal sovereignty or the treaty or other rights of
7 any Indian tribe.

8 **TITLE IV—HARDROCK**
9 **MINERALS RECLAMATION FUND**

10 **SEC. 401. ESTABLISHMENT OF FUND.**

11 (a) ESTABLISHMENT.—There is established in the
12 Treasury of the United States a separate account, to be
13 known as the “Hardrock Minerals Reclamation Fund”,
14 consisting of—

15 (1) any amounts received by the United States
16 under section 101;

17 (2) any amounts collected under section 102
18 (subject to the requirements of section 102(c)(1));

19 (3) any amounts donated to the Fund by per-
20 sons, corporations, associations, and foundations;

21 (4) any amounts collected under section 201;

22 (5) any amounts collected under section 303(e);

23 (6) any amounts collected under section 403;

24 (7) any amounts collected under sections 203
25 and 502; and

1 (8) any income on investments under subsection
2 (b).

3 (b) INVESTMENT.—

4 (1) IN GENERAL.—The Secretary shall notify
5 the Secretary of the Treasury of any portion of the
6 Fund that the Secretary determines is not required
7 to meet current withdrawals.

8 (2) ELIGIBLE INVESTMENTS.—The Secretary of
9 the Treasury shall invest portions of the Fund iden-
10 tified under paragraph (1) in public debt securities
11 with maturities suitable for the needs of the Fund.

12 (3) INTEREST.—Investments in public debt se-
13 curities shall bear interest at rates determined by
14 the Secretary of the Treasury, taking into consider-
15 ation current market yields on outstanding market-
16 place obligations of the United States of comparable
17 maturity.

18 (c) ADMINISTRATION.—The Fund shall be adminis-
19 tered by the Secretary, acting through the Director of the
20 Office of Surface Mining Reclamation and Enforcement.

21 (d) EXPENDITURES.—Subject to section 402,
22 amounts in the Fund may, without fiscal year limitation
23 and without further appropriation—

24 (1) be expended by the Secretary for the pur-
25 poses described in section 402;

1 (2) be transferred by the Secretary to the Di-
2 rector of the Bureau of Land Management, the
3 Chief of the Forest Service, the Director of the Na-
4 tional Park Service, the Director of the United
5 States Fish and Wildlife Service, or the head of any
6 other Federal agency, that develops, implements,
7 and has the ability to carry out all or a significant
8 portion of a reclamation program under this title; or

9 (3) be transferred by the Secretary to an Indian
10 tribe or a State with an approved reclamation pro-
11 gram, as provided in subsection (e).

12 (e) STATE AND TRIBAL RECLAMATION PROGRAMS.—

13 (1) IN GENERAL.—Each State having within
14 the borders of the State, or Indian tribe having
15 within the borders of the reservation of the Indian
16 tribe, mined land that is eligible for reclamation
17 under this title may submit to the Secretary a re-
18 clamation program for the land.

19 (2) APPROVAL.—If the Secretary determines
20 that a State or Indian tribe has developed and sub-
21 mitted a program for reclamation of abandoned
22 mines consistent with the priorities established
23 under section 402(c) and has the ability and nec-
24 essary State or tribal legislation to implement this
25 title, the Secretary shall—

1 (A) approve the program; and

2 (B) grant to the State or Indian tribe the
3 exclusive responsibility and authority to imple-
4 ment the approved program.

5 (3) WITHDRAWAL OF APPROVAL.—The Sec-
6 retary shall withdraw the approval and authorization
7 if the Secretary determines that the State or tribal
8 program is not in compliance with procedures,
9 guidelines, and requirements established by the Sec-
10 retary.

11 (4) APPROVAL OF EXISTING PROGRAMS.—Sub-
12 ject to paragraph (3), any State program in an
13 abandoned hardrock mine State or tribal program
14 for reclamation of abandoned mines approved under
15 title IV of the Surface Mining Control and Reclama-
16 tion Act of 1977 (30 U.S.C. 1231 et seq.) before the
17 date of enactment of this Act and in good standing
18 with the Secretary as of that date shall be consid-
19 ered approved under this title.

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

21 (a) USE.—

22 (1) IN GENERAL.—The Secretary may, without
23 fiscal year limitation and without further appropria-
24 tion, use amounts in the Fund for the reclamation
25 and restoration of land and water resources ad-

1 versely affected by past hardrock minerals and min-
2 ing and related activities in abandoned hardrock
3 mine States and on Indian land located within the
4 exterior boundaries of abandoned hardrock mine
5 States, including the conduct of activities—

6 (A) to protect public health and safety;

7 (B) to prevent, abate, treat, and control
8 water pollution created by abandoned mine
9 drainage, including activities conducted in wa-
10 tersheds;

11 (C) to reclaim and restore abandoned sur-
12 face and underground mined areas;

13 (D) to reclaim and restore abandoned mill-
14 ing and processing areas;

15 (E) to backfill, seal, or otherwise control
16 abandoned underground mine entries;

17 (F) to revegetate land adversely affected
18 by past mining activities—

19 (i) to prevent erosion and sedimenta-
20 tion; and

21 (ii) for any other reclamation purpose;

22 (G) to control surface subsidence due to
23 abandoned underground mines; and

24 (H) to enhance fish and wildlife habitat.

1 (2) DETERMINATION.—Before expending
2 amounts in the Fund for the purposes described in
3 paragraph (1), the Secretary shall make a deter-
4 mination that there is no continuing reclamation re-
5 sponsibility of the claim holder, operator, or other
6 person who abandoned the site before completion of
7 the required reclamation under Federal or State law.

8 (b) ALLOCATION.—Of the amounts deposited in the
9 Fund each fiscal year—

10 (1) 20 percent shall be allocated by the Sec-
11 retary for expenditure by the Secretary or, if a State
12 or Indian tribe has an approved program pursuant
13 to section 401(e), by the State or Indian tribe, in
14 the States in which, or on Indian land on which,
15 hardrock minerals are produced, based on a formula
16 reflecting existing production in the State or on the
17 land of the Indian tribe;

18 (2) 30 percent shall be allocated by the Sec-
19 retary for expenditure by the Secretary or, if a State
20 or Indian tribe has an approved program pursuant
21 to section 401(e), by the State or Indian tribe, in
22 the States and on Indian land using a formula based
23 on the quantity of hardrock minerals historically
24 produced in the State or from the Indian land before
25 the date of enactment of this Act;

1 (3) 25 percent shall be allocated by the Sec-
2 retary for expenditure on Federal land;

3 (4) 10 percent shall be available to the Sec-
4 retary for grants under subsection (e);

5 (5) 10 percent shall be available to the Sec-
6 retary for grants under subsection (f); and

7 (6) 5 percent shall be available for administra-
8 tive expenses of the United States, Indian tribes,
9 and the States to accomplish the purposes of this
10 title.

11 (c) PRIORITIES.—

12 (1) IN GENERAL.—Subject to paragraph (2),
13 expenditures from the Fund shall be based on the
14 following priorities:

15 (A) The conduct of activities to protect
16 public health and safety from the adverse ef-
17 fects of past hardrock mineral mining activities,
18 including activities addressing surface water
19 and groundwater contaminants.

20 (B) The conduct of activities to restore
21 land, water, and fish and wildlife resources de-
22 graded by the adverse effects of past hardrock
23 mineral mining activities, including restoration
24 activities in watershed areas.

1 (2) MULTIPLE PRIORITIES.—In complying with
2 the priorities established under this subsection,
3 funds may be expended for reclamation activities
4 under paragraph (1)(B) before the completion of all
5 reclamation projects under paragraph (1)(A) if the
6 expenditure of the funds for reclamation activities
7 under paragraph (1)(B) is made in conjunction with
8 reclamation activities under paragraph (1)(A).

9 (3) MINIMUM EXPENDITURE.—Notwithstanding
10 paragraphs (1) and (2), not less than 25 percent of
11 the expenditures by the Secretary on Federal lands
12 for any year shall be for the purposes described in
13 paragraph (1)(B).

14 (d) ELIGIBLE LAND AND WATER.—

15 (1) IN GENERAL.—Amounts may be expended
16 for reclamation activities under this section only
17 with respect to land or water resources if the land
18 or water resources have been—

19 (A) affected by hardrock mineral mining
20 activities; and

21 (B) abandoned or left in an inadequate
22 reclamation status.

23 (2) SPECIFIC SITES AND AREAS NOT ELIGI-
24 BLE.—Section 411(d) of the Surface Mining Control

1 and Reclamation Act of 1977 (30 U.S.C. 1240a(d))
2 shall apply to expenditures from the Fund.

3 (3) INVENTORY.—

4 (A) IN GENERAL.—The Secretary shall—

5 (i) prepare and maintain a publicly
6 available inventory of abandoned hardrock
7 minerals mines on Federal land, State
8 land, other publicly owned land, private
9 land, and any abandoned mine on Indian
10 land that may be eligible for expenditures
11 under this section; and

12 (ii) submit to Congress an annual re-
13 port that describes the progress in reclaim-
14 ing the sites listed on the inventory.

15 (B) MAXIMUM EXPENDITURE.—The Sec-
16 retary shall expend not more than \$5,000,000
17 to carry out the inventory required by this
18 paragraph.

19 (e) GRANTS TO CERTAIN STATES AND INDIAN
20 TRIBES.—

21 (1) IN GENERAL.—The Secretary shall use
22 amounts made available under subsection (b)(4) to
23 make grants to States (other than abandoned
24 hardrock mine States) and Indian tribes to carry out
25 reclamation and restoration of land and water re-

1 sources adversely affected by past hardrock minerals
2 and mining activities, including the conduct of ac-
3 tivities described in subsection (a)(1).

4 (2) DETERMINATION.—Before awarding a
5 grant under this subsection, the Secretary shall
6 make a determination that there is no continuing
7 reclamation responsibility of any person who aban-
8 doned the site before completion of required rec-
9 lamation under Federal or State law.

10 (3) CRITERIA.—The Secretary shall establish
11 by regulation the procedures and criteria for award-
12 ing grants under this subsection, which shall in-
13 clude—

14 (A) consistency with the priorities estab-
15 lished under subsection (c)(1); and

16 (B) priority for those projects for which
17 Federal funding is not available under other
18 laws or programs.

19 (f) GRANTS TO PUBLIC ENTITIES AND NONPROFIT
20 ORGANIZATIONS.—The Secretary shall use amounts made
21 available under subsection (b)(5) to make grants to public
22 entities (including State fish and game agencies and local
23 governments) and nonprofit organizations (based on cri-
24 teria established by the Secretary by regulation) to carry
25 out activities that support collaborative restoration

1 projects to improve fish and wildlife habitat affected by
2 past hardrock minerals and mining activities, including ac-
3 tivities that—

4 (1) improve water quality and quantity;

5 (2) restore watersheds in which historic mining
6 dewatered or otherwise fragmented stream habitats;

7 (3) restore instream habitat conditions nec-
8 essary to support aquatic species;

9 (4) restore vegetative cover and streamside
10 areas to control erosion and improve conditions for
11 fish and wildlife;

12 (5) control and remove noxious weeds and
13 invasive species associated with historic mining dis-
14 turbances that affect fish and wildlife;

15 (6) restore fish and wildlife habitat in cases in
16 which previous hardrock minerals and mining activ-
17 ity limits fish and wildlife productivity;

18 (7) protect and restore fish and wildlife habitat
19 in areas affected by historic minerals and mining ac-
20 tivity; and

21 (8) mitigate impacts to watersheds affected by
22 past hardrock minerals and mining activities.

23 (g) RESPONSE OR REMOVAL ACTIONS.—

24 (1) IN GENERAL.—Reclamation and restoration
25 activities conducted under this section that con-

1 stitute a removal or remedial action under section
 2 101 of the Comprehensive Environmental Response,
 3 Compensation, and Liability Act of 1980 (42 U.S.C.
 4 9601) shall be conducted only with the concurrence
 5 of the Administrator of the Environmental Protec-
 6 tion Agency.

7 (2) MEMORANDUM OF UNDERSTANDING.—The
 8 Secretary and the Administrator of the Environ-
 9 mental Protection Agency shall enter into a memo-
 10 randum of understanding to establish procedures for
 11 consultation, concurrence, training, the exchange of
 12 technical expertise, and the conduct of joint activi-
 13 ties, as appropriate, that provide assurances that
 14 reclamation or restoration activities under this sec-
 15 tion shall not be conducted in a manner that—

16 (A) increases the costs or likelihood of re-
 17 moval or remedial actions under the Com-
 18 prehensive Environmental Response, Compensa-
 19 tion, and Liability Act of 1980 (42 U.S.C. 9601
 20 et seq.); or

21 (B) to the maximum extent practicable,
 22 avoids oversight by multiple agencies.

23 **SEC. 403. ABANDONED MINE LAND RECLAMATION FEE.**

24 (a) IMPOSITION OF FEE.—Each operator of a
 25 hardrock minerals mining operation shall pay to the Sec-

1 retary, for deposit in the Fund, a reclamation fee in an
 2 amount established by the Secretary by regulation of not
 3 less than 1 percent, and not more than 3 percent, of the
 4 value of the production from the hardrock minerals mining
 5 operation for each calendar year.

6 (b) VALUE OF PRODUCTION.—For purposes of this
 7 section, the Secretary shall determine the value of produc-
 8 tion in the same manner as provided under section 201(a).

9 (c) PAYMENT DEADLINE.—The reclamation fee shall
 10 be paid not later than 60 days after the end of each cal-
 11 endar year beginning with the first calendar year occur-
 12 ring after the date of enactment of this Act.

13 (d) DEPOSIT OF REVENUES.—Amounts received by
 14 the Secretary under subsection (a) shall be deposited into
 15 the Fund.

16 (e) EFFECT.—Nothing in this section requires a re-
 17 duction in, or otherwise affects, any similar fee required
 18 under any law (including regulations) of any State.

19 **TITLE V—TRANSITION RULES,**
 20 **ADMINISTRATIVE PROVI-**
 21 **SIONS, AND MISCELLANEOUS**
 22 **PROVISIONS**

23 **SEC. 501. TRANSITION RULES.**

24 (a) APPLICABILITY.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (2), section 201(b), and section 303(f), the re-
3 quirements of this Act apply to any mining claim,
4 millsite, or tunnel site located under the general
5 mining laws, before, on, or after the date of enact-
6 ment of this Act.

7 (2) PREEXISTING CLAIM.—If a plan of oper-
8 ations is approved or a notice of operations is filed
9 for mineral activities on any claim or site referred to
10 in paragraph (1) before the date of enactment of
11 this Act—

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

14 (i) mineral activities at the claim or
15 site shall be subject to the plan of oper-
16 ations or notice of operations; and

17 (ii) if the Secretary concerned deter-
18 mines that any modifications to the plan of
19 operations are minor, modification may be
20 made in accordance with the laws applica-
21 ble before the date of enactment of this
22 Act; and

23 (B) the operator shall bring the mineral
24 activities into compliance with this Act (includ-
25 ing implementing regulations) by the end of the

1 10-year period beginning on the date of enact-
2 ment of this Act.

3 (3) FEES.—Except as provided in sections
4 201(b) and 303(f), all fees required to be paid under
5 this Act shall apply beginning on the date of enact-
6 ment of this Act to—

7 (A) any mining claim, millsite, or tunnel
8 site located under the general mining laws (in-
9 cluding production from the claim or site) be-
10 fore, on, or after the date of enactment of this
11 Act;

12 (B) all land covered by a plan of oper-
13 ations or a notice of operations, exploration per-
14 mit, or mining permit; and

15 (C) with respect to the fee established by
16 section 403, any production on or after the date
17 of enactment of this Act from any hardrock
18 minerals mining operation.

19 (b) APPLICATION OF ACT TO BENEFICIATION AND
20 PROCESSING OF NON-FEDERAL MINERALS ON FEDERAL
21 LAND.—

22 (1) IN GENERAL.—This Act (including the sur-
23 face management and operation requirements of title
24 III) shall apply in the same manner and to the same
25 extent to mining claims, millsites, and tunnel sites

1 used for beneficiation or processing activities for any
2 mineral without regard to whether the legal and ben-
3 efiticial title to the mineral is held by the United
4 States.

5 (2) APPLICABILITY.—This subsection applies
6 only to minerals that—

7 (A) are locatable minerals; or

8 (B) would be locatable minerals if the legal
9 and beneficial title to the minerals were held by
10 the United States.

11 **SEC. 502. ENFORCEMENT.**

12 (a) ORDERS.—

13 (1) NOTICE OF VIOLATION.—

14 (A) IN GENERAL.—If the Secretary con-
15 cerned determines that any person is in viola-
16 tion of any surface management or operation
17 requirement under title III or any regulation
18 promulgated to carry out such a requirement or
19 any permit condition required pursuant to title
20 III, the Secretary concerned shall provide to the
21 person a notice that describes the violation and
22 any necessary corrective actions.

23 (B) ABATEMENT PERIOD.—

24 (i) IN GENERAL.—Subject to clause

25 (ii), a person that receives notice under

1 subparagraph (A) shall have not more than
2 90 days after the date of receipt of the no-
3 tice to abate the violation.

4 (ii) EXTENSION.—The Secretary con-
5 cerned may extend the period described in
6 clause (i) if the person shows good cause
7 for the extension, as determined by the
8 Secretary concerned.

9 (2) CESSATION ORDER.—

10 (A) IN GENERAL.—The Secretary con-
11 cerned shall immediately order a cessation of
12 mineral activities if the Secretary concerned de-
13 termines that any condition or practice exists,
14 or any person is in violation of any requirement
15 of a permit approved, or notice of operations
16 submitted, under this Act, that is causing, or
17 can reasonably be expected to cause—

18 (i) an imminent danger to the health
19 or safety of the public; or

20 (ii) significant, imminent harm to
21 land, air, water, or fish or wildlife re-
22 sources.

23 (B) REQUIREMENTS.—

24 (i) IN GENERAL.—A cessation order
25 issued under subparagraph (A) shall re-

1 main in effect until the Secretary con-
2 cerned—

3 (I) determines that the condition,
4 practice, or violation has been abated;
5 or

6 (II) modifies, vacates, or termi-
7 nates the cessation order.

8 (ii) ABATEMENT.—In any cessation
9 order issued under subparagraph (A), the
10 Secretary concerned shall—

11 (I) identify the steps necessary to
12 abate the violation in the most expedi-
13 tious manner practicable; and

14 (II) require appropriate financial
15 assurances to ensure that the abate-
16 ment obligations are met.

17 (C) ENFORCEMENT.—

18 (i) IN GENERAL.—If the required
19 abatement has not been completed by the
20 date that is 30 days after the date on
21 which an order is issued under subpara-
22 graph (A), the Secretary concerned shall
23 bring against the person failing to com-
24 plete the abatement an enforcement action
25 that is most likely to bring about abate-

1 ment in the most expeditious manner prac-
2 ticable, including seeking appropriate in-
3 junctive relief to bring about abatement.

4 (ii) EFFECT.—Nothing in this sub-
5 paragraph precludes the Secretary con-
6 cerned from taking alternative enforcement
7 action before the date described in clause
8 (i).

9 (3) MODIFICATIONS.—The Secretary concerned
10 may modify, vacate, or terminate any notice or order
11 issued under paragraph (1) or (2).

12 (4) FORFEITURE.—

13 (A) IN GENERAL.—If a person fails to
14 abate a violation or defaults on the terms of the
15 permit, the Secretary concerned shall forfeit the
16 financial assurance for the permit as necessary
17 to ensure abatement and reclamation under this
18 Act.

19 (B) ALTERNATIVES.—The Secretary con-
20 cerned may prescribe conditions under which a
21 surety may perform reclamation in accordance
22 with the approved permit and applicable law in-
23 stead of forfeiture.

24 (C) LIABILITY.—In the event of forfeiture,
25 the claim holder or operator, or a subsidiary,

1 parent company, corporation, or partner of the
2 claim holder, or operator shall be jointly and
3 severally liable for any remaining reclamation
4 obligations under this Act.

5 (b) CIVIL PENALTIES.—

6 (1) IN GENERAL.—Subject to paragraph (2),
7 any person that violates any surface management or
8 operation requirement under title III, any regulation
9 promulgated to carry out such a requirement, or any
10 permit condition required pursuant to title III may
11 be assessed a civil penalty by the Secretary con-
12 cerned.

13 (2) CESSATION ORDER.—If the violation leads
14 to the issuance of a cessation order under subsection
15 (a)(2), the Secretary concerned shall assess the civil
16 penalty.

17 (3) MAXIMUM AMOUNT.—The penalty shall not
18 exceed \$5,000 for each violation.

19 (4) CONTINUING VIOLATIONS.—Each day of
20 continuing violation may be considered a separate
21 violation for purposes of penalty assessments.

22 (5) FACTORS AFFECTING AMOUNT.—In deter-
23 mining the amount of the penalty for a violation by
24 a person, the Secretary concerned shall consider—

1 (A) the history of the person of previous
2 violations;

3 (B) the seriousness of the violation, includ-
4 ing any irreparable harm to the environment
5 and any hazard to the health or safety of the
6 public;

7 (C) whether the person was negligent; and

8 (D) the demonstrated good faith of the
9 person charged in attempting to achieve rapid
10 compliance after notification of the violation.

11 (6) CORPORATE LIABILITY.—If a corporate per-
12 mittee is in violation of a requirement of any surface
13 management or operations requirement under title
14 III of this Act, any regulation promulgated to carry
15 out such a requirement, or any permit condition re-
16 quired pursuant to title III, or fails or refuses to
17 comply with a notice or an order issued under sub-
18 section (a), any director, officer, or agent of the cor-
19 poration who willfully and knowingly authorized, or-
20 dered, or carried out the violation, failure, or refusal
21 shall be subject to civil penalties, fines, and impris-
22 onment that may be imposed under a person under
23 this subsection, subsection (d) or (e).

24 (c) ADMINISTRATIVE REVIEW.—

1 (1) COMPLIANCE ORDER.—Any person issued a
2 notice of violation or a cessation order under sub-
3 section (a) may apply to the Secretary concerned for
4 review of the notice or order by the date that is not
5 later than 30 days after receipt of the notice or
6 order.

7 (2) CIVIL PENALTY.—Any person who is sub-
8 ject to a civil penalty assessed by the Secretary con-
9 cerned under this section may apply to the Secretary
10 concerned for review of the penalty by the date that
11 is not later than 30 days after the date on which the
12 person receives notice of the penalty.

13 (3) HEARING.—The Secretary concerned shall
14 provide an opportunity for a hearing on the record
15 subject to section 554 of title 5, United States Code,
16 at the request of any person that is—

17 (A) issued a notice of violation under sub-
18 section (a)(1);

19 (B) issued a cessation order under sub-
20 section (a)(2); or

21 (C) subject to civil penalties under sub-
22 section (b).

23 (d) CIVIL ACTION.—

24 (1) IN GENERAL.—The Secretary concerned
25 may submit to the Attorney General a request to

1 bring a civil action for relief, including a permanent
2 or temporary injunction or restraining order and the
3 imposition of civil penalties, in any appropriate dis-
4 trict court of the United States, if a person—

5 (A) violates, fails, or refuses to comply
6 with any notice or order issued by the Secretary
7 concerned under subsection (a); or

8 (B) interferes with, hinders, or delays the
9 Secretary concerned in carrying out an inspec-
10 tion under section 309.

11 (2) RELIEF.—

12 (A) IN GENERAL.—The court hearing a
13 civil action brought under paragraph (1) shall
14 have the jurisdiction to provide any relief that
15 the court determines to be appropriate.

16 (B) REVIEW.—Any relief granted by the
17 court to enforce an order under paragraph (1)
18 shall continue in effect until the date on which
19 all proceedings for review of the order are com-
20 pleted or terminated unless the court granting
21 the relief sets the relief aside.

22 (e) CRIMINAL PENALTIES.—

23 (1) FALSE STATEMENTS; TAMPERING.—

24 (A) IN GENERAL.—A person shall, on con-
25 viction, be punished by a fine of not more than

1 \$25,000, imprisonment for not more than 1
2 year, or fine and imprisonment if the person
3 willfully and knowingly—

4 (i) makes any false material state-
5 ment, representation, or certification in,
6 omits or conceals material information
7 from, or unlawfully alters, any mining
8 claim, notice of location, application,
9 record, report, plan, or other document
10 filed or required to be maintained under
11 this Act; or

12 (ii) falsifies, tampers with, renders in-
13 accurate, or fails to install any monitoring
14 device or method required to be maintained
15 under this Act.

16 (B) SECOND VIOLATION.—If a conviction
17 of a person under subparagraph (A) is for a
18 violation committed after a first conviction of
19 the person under that subparagraph, punish-
20 ment shall be by a fine of not more than
21 \$50,000, imprisonment of not more than 2
22 years, or fine and imprisonment.

23 (2) KNOWING VIOLATIONS.—

24 (A) IN GENERAL.—A person shall, on con-
25 viction, be punished by a fine of not more than

1 \$25,000, imprisonment for not more than 1
2 year, or both if the person willfully and know-
3 ingly—

4 (i) engages in mineral activities with-
5 out a permit if required under section 302
6 or 303; or

7 (ii) violates any surface management
8 or operation requirement under title III
9 (including any regulation promulgated to
10 carry out the requirement) or any require-
11 ment, condition, or limitation of a permit
12 issued under this Act.

13 (B) SECOND VIOLATION.—If a conviction
14 of a person under subparagraph (A) is for a
15 violation committed after the first conviction of
16 the person under that subparagraph, punish-
17 ment shall be a fine of not more than \$50,000,
18 imprisonment of not more than 2 years, or
19 both.

20 (f) DELEGATION.—Notwithstanding any other provi-
21 sion of law, the Secretary may use personnel of the Office
22 of Surface Mining Reclamation and Enforcement or the
23 Bureau of Land Management to ensure compliance with
24 this Act.

1 **SEC. 503. JUDICIAL REVIEW.**

2 (a) RULEMAKING.—

3 (1) IN GENERAL.—The following shall be sub-
4 ject to judicial review only in the United States
5 Court of Appeals for the District of Columbia:

6 (A) Any final action by the Secretary con-
7 cerned in promulgating regulations to carry out
8 this Act.

9 (B) Any other final actions considered to
10 be a rulemaking to carry out this Act.

11 (2) DEADLINE.—A petition for review of any
12 action subject to judicial review under paragraph (1)
13 shall be filed not later than 60 days after the date
14 of the action unless the petition is based solely on
15 grounds arising after the 60-day period.

16 (b) FINAL AGENCY ACTION.—Except as provided in
17 subsection (a), final agency action under this Act shall be
18 subject to judicial review in the district courts of the
19 United States in accordance with section 1391 of title 28,
20 United States Code.

21 **SEC. 504. UNCOMMON VARIETIES.**

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

24 (1) by striking “SEC. 3. No deposit” and insert-
25 ing the following:

1 **“SEC. 3. COMMON VARIETIES OF MINERAL MATERIALS.**

2 “(a) IN GENERAL.—No deposit”;

3 (2) in the first sentence—

4 (A) by inserting “mineral materials, in-
5 cluding” after “varieties of”; and

6 (B) by striking “or cinders” and inserting
7 “cinders, and clay”;

8 (3) by striking “‘Common varieties’ as used in
9 this Act does not” and inserting the following:

10 “(c) DEFINITIONS.—In this Act:

11 “(1) COMMON VARIETIES.—The term ‘common
12 varieties’ does not”;

13 (4) by striking “‘Petrified wood’ as used in this
14 Act means” and inserting the following:

15 “(2) PETRIFIED WOOD.—The term ‘petrified
16 wood’ means”; and

17 (5) by inserting after subsection (a) the fol-
18 lowing:

19 “(b) DISPOSAL OF MINERAL MATERIALS.—

20 “(1) DEFINITION OF VALID EXISTING
21 RIGHTS.—In this subsection, the term ‘valid existing
22 rights’ means rights to a mining claim located for
23 any mineral material that—

24 “(A) had and still has some property giv-
25 ing mineral material the distinct and special
26 value referred to in this section or, as the case

1 may be, met the definition of block pumice re-
2 ferred to in subsection (c)(1);

3 “(B) was properly located and maintained
4 under the general mining laws prior to the date
5 of enactment of this subsection;

6 “(C) was supported by a discovery of a val-
7 uable mineral deposit within the meaning of the
8 general mining laws as in effect immediately
9 prior to the date of enactment of this sub-
10 section; and

11 “(D) continues to be valid under this Act.

12 “(2) DISPOSAL.—Subject to valid existing
13 rights, effective beginning on the date of enactment
14 of this subsection, notwithstanding the references to
15 the term common varieties in this section and to the
16 exception to the term relating to a deposit of mate-
17 rials with some property giving it distinct and spe-
18 cial value, all deposits of mineral materials referred
19 to in this section (including the block pumice re-
20 ferred to in subsection (c)(1)) shall be subject to dis-
21 posal only under the terms and conditions of the Act
22 of July 31, 1947 (commonly known as the ‘Materials
23 Act of 1947’) (30 U.S.C. 601 et seq.).”.

24 (b) CONFORMING AMENDMENT.—The first section of
25 the Act of July 31, 1947 (commonly known as the “Mate-

1 rials Act of 1947”) (30 U.S.C. 601), is amended in the
2 first sentence by striking “common varieties of”.

3 **SEC. 505. REVIEW OF URANIUM DEVELOPMENT ON FED-**
4 **ERAL LAND.**

5 (a) DEFINITION OF FEDERAL LAND.—In this sec-
6 tion, the term “Federal land” means land administered
7 by the Secretary or the Secretary of Agriculture.

8 (b) REVIEW.—

9 (1) IN GENERAL.—Not later than 90 days after
10 the date of enactment of this Act, the Secretary, in
11 consultation with the Secretary of Agriculture, shall
12 enter into an arrangement under which the National
13 Academy of Sciences shall conduct a study of ura-
14 nium development on Federal land.

15 (2) MATTERS TO BE ADDRESSED.—The study
16 shall describe and analyze—

17 (A) the laws applicable to the development
18 of uranium on Federal land and the agencies
19 responsible for administering and enforcing
20 those laws;

21 (B) the requirements relating to the devel-
22 opment of uranium under sections 2318
23 through 2352 of the Revised Statutes (com-
24 monly known and referred to in this section as

1 the “Mining Law of 1872”) (30 U.S.C. 21 et
2 seq.);

3 (C) the requirements relating to the devel-
4 opment of uranium under the Atomic Energy
5 Act of 1954 (42 U.S.C. 2011 et seq.);

6 (D) the uranium leasing program adminis-
7 tered by the Department of Energy under that
8 Act;

9 (E) the requirements relating to the ap-
10 proval of uranium in-situ leasing recovery and
11 the licensing process required by the Nuclear
12 Regulatory Commission;

13 (F) the efficacy of bonds or other forms of
14 financial surety in ensuring the reclamation of
15 Federal land and associated waters impacted by
16 the development of uranium; and

17 (G) the efficacy of Federal law in pro-
18 tecting public health and safety and the envi-
19 ronment from impacts due to the development
20 of uranium on Federal land.

21 (c) RECOMMENDATIONS.—The study shall—

22 (1) analyze the effectiveness of current Federal
23 requirements applicable to the exploration, develop-
24 ment, and production of uranium on Federal land in
25 allowing for the production of uranium while ensur-

1 ing protection of public health and safety and the
2 environment; and

3 (2) make recommendations as to changes, if
4 any, to Federal law (including regulations) and
5 agency procedures relating to the development of
6 uranium resources on Federal land to allow for the
7 production of uranium while ensuring protection of
8 public health and safety and the environment, in-
9 cluding specific recommendations on whether—

10 (A) future development of uranium on

11 Federal land should be—

12 (i) removed from operation of the
13 Mining Law of 1872; and

14 (ii) subject to leasing;

15 (B) additional requirements (including ad-
16 ditional financial assurances or fees) should be
17 applicable to ensure reclamation of uranium
18 mine sites, including abandoned uranium mine
19 sites; and

20 (C) whether additional land should be
21 withdrawn from location and entry of uranium
22 mining claims by the Secretary.

23 (d) COMPLETION OF STUDY.—The National Acad-
24 emy of Sciences shall—

1 (1) not later than 18 months after the date of
2 enactment of this Act, submit the findings and rec-
3 ommendations of the study to the Secretary and the
4 Secretary of Agriculture; and

5 (2) on completion of the study, make the results
6 of the study available to the public.

7 (e) REPORT.—Not later than 180 days after receiving
8 the results of the study, the Secretary, in consultation with
9 the Secretary of Agriculture, shall submit to the Com-
10 mittee on Energy and Natural Resources of the Senate
11 and the Committee on Natural Resources of the House
12 of Representatives a report on—

13 (1) the findings and recommendations of the
14 study;

15 (2) the agreement or disagreement of the Secre-
16 taries with each of the findings and recommenda-
17 tions of the study; and

18 (3)(A) a plan and timeframe for implementing
19 those recommendations of the study that do not re-
20 quire legislation; or

21 (B) if the Secretary declines to implement a
22 recommendation, the justification for declining to
23 implement the recommendation.

1 **SEC. 506. EFFECT.**

2 (a) SPECIAL APPLICATION OF GENERAL MINING
3 LAWS.—

4 (1) IN GENERAL.—Nothing in this Act repeals
5 or modifies any Federal law (including regulations),
6 order, or land use plan in effect before the date of
7 enactment of this Act that prohibits or restricts the
8 application of the general mining laws, including
9 laws that provide for special management criteria for
10 operations under the general mining laws as in ef-
11 fect before the date of enactment of this Act, and
12 laws that provide protections of natural and cultural
13 resources and the environment that are equal to or
14 greater than the protections required under this Act.

15 (2) EXISTING LAWS.—Any law described in
16 paragraph (1) shall remain in force and effect with
17 respect to claims and sites located or proposed to be
18 located under this Act.

19 (3) MINERAL INVESTIGATIONS.—Nothing in
20 this Act applies to or limits mineral investigations,
21 studies, or other mineral activities conducted by any
22 Federal or State agency acting in a governmental
23 capacity under other authorities.

24 (b) ENVIRONMENTAL LAWS.—Nothing in this Act af-
25 fects or limits any assessment, investigation, evaluation,
26 or listing under—

1 (1) the Comprehensive Environmental Re-
2 sponse, Compensation, and Liability Act of 1980 (42
3 U.S.C. 9601 et seq.); or

4 (2) the Solid Waste Disposal Act (42 U.S.C.
5 3251 et seq.).

6 (c) EFFECT ON GENERAL MINING LAWS.—

7 (1) IN GENERAL.—This Act supersedes the gen-
8 eral mining laws, except for the provisions of the
9 general mining laws relating to the location of min-
10 ing claims that are not expressly modified by this
11 Act.

12 (2) LIMITATION.—Nothing in this Act super-
13 sedes, modifies, amends, or repeals any provision of
14 Federal law not expressly superseded, modified,
15 amended, or repealed by this Act, other than the
16 general mining laws.

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