

117TH CONGRESS
2D SESSION

S. 4083

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

IN THE SENATE OF THE UNITED STATES

APRIL 26, 2022

Mr. HEINRICH (for himself, Mr. BENNET, Mr. MERKLEY, Mr. LUJÁN, Mr. BOOKER, Mr. WYDEN, and Mr. MARKEY) 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 “Clean Energy Minerals Reform Act of 2022”.

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. 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) **APPLICANT.**—The term “applicant” means

4 any person that applies for—

5 (A) a permit under this Act; or

6 (B) a modification to, or a renewal of, a

7 permit issued under this Act.

1 (2) BENEFICIATION.—The term “beneficiation”
2 means—

3 (A) the crushing and grinding of locatable
4 mineral ore; and

5 (B) any processes that are employed to
6 free the mineral from other constituents, includ-
7 ing physical and chemical separation tech-
8 niques.

9 (3) CASUAL USE.—

10 (A) IN GENERAL.—The term “casual use”
11 means mineral activities that ordinarily result
12 in no or negligible disturbance of Federal land
13 or resources.

14 (B) INCLUSIONS.—The term “casual use”
15 includes the collection of geochemical, rock, soil,
16 or mineral specimens using hand tools, hand
17 panning, or nonmotorized sluicing.

18 (C) EXCLUSIONS.—The term “casual use”
19 does not include—

20 (i) the use of mechanized earth-mov-
21 ing equipment, suction dredging, or explo-
22 sives;

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

- 1 (iii) the construction of roads or drill
2 pads; or
3 (iv) the use of toxic or hazardous ma-
4 terials or explosives.

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

8 (A) located under the general mining laws;
9 and

10 (B) maintained in compliance with the
11 general mining laws and this Act.

12 (5) CONTROL.—The term “control” means hav-
13 ing the ability to determine the manner in which an
14 entity conducts mineral activities.

15 (6) EXPLORATION.—

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

20 (B) INCLUSIONS.—The term “exploration”
21 includes mineral activities associated with sam-
22 pling, drilling, or developing surface or under-
23 ground workings to evaluate locatable mineral
24 values.

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

4 (7) FEDERAL LAND.—The term “Federal land”
5 means any land and any interest in land that is—

6 (A) owned by the United States; and

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

9 (8) FUND.—The term “Fund” means the
10 Hardrock Minerals Reclamation Fund established by
11 section 401(a).

12 (9) HARDROCK MINERAL.—The term “hardrock
13 mineral” has the meaning given the term “locatable
14 mineral” except that—

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

17 (B) paragraph (13)(B) does not apply to
18 this paragraph.

19 (10) INDIAN LAND.—The term “Indian land”
20 means land that is—

21 (A) held in trust for the benefit of an In-
22 dian Tribe or member of an Indian Tribe; or

23 (B) held by an Indian Tribe or member of
24 an Indian Tribe, subject to a restriction by the
25 United States against alienation.

1 (11) INDIAN TRIBE.—The term “Indian Tribe”
 2 has the meaning given the term in section 4 of the
 3 Indian Self-Determination and Education Assistance
 4 Act (25 U.S.C. 5304).

5 (12) LOCATABLE MINERAL.—

6 (A) IN GENERAL.—The term “locatable
 7 mineral” means any mineral—

8 (i) the legal and beneficial title to
 9 which remains in the United States; and

10 (ii) that is not subject to disposition
 11 under—

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

14 (II) the Geothermal Steam Act of
 15 1970 (30 U.S.C. 1001 et seq.);

16 (III) the Act of July 31, 1947
 17 (commonly known as the “Materials
 18 Act of 1947”) (30 U.S.C. 601 et
 19 seq.); or

20 (IV) the Act of August 7, 1947
 21 (commonly known as the “Mineral
 22 Leasing Act for Acquired Lands”) (30
 23 U.S.C. 351 et seq.).

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

1 (i) subject to a restriction against
2 alienation imposed by the United States;
3 and

4 (ii) held in trust by the United States
5 for, or owned by, any Indian Tribe or
6 member of an Indian Tribe, as defined in
7 section 2 of the Indian Mineral Develop-
8 ment Act of 1982 (25 U.S.C. 2101).

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

16 (14) OPERATOR.—The term “operator”
17 means—

18 (A) any person proposing, or authorized by
19 a permit, to conduct mineral activities under
20 this Act; and

21 (B) any agent of a person described in
22 subparagraph (A).

23 (15) PERSON.—The term “person” means—

24 (A) an individual, Indian Tribe, partner-
25 ship, association, society, joint venture, joint

1 stock company, firm, company, corporation, co-
2 operative, trust, consortium, or other organiza-
3 tion; and

4 (B) any instrumentality of a State or local
5 government, including any publicly owned util-
6 ity or publicly owned corporation of a State or
7 local government.

8 (16) PROCESSING.—

9 (A) IN GENERAL.—The term “processing”
10 means processes downstream of beneficiation
11 used to prepare locatable mineral ore into the
12 final marketable product.

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

15 (17) SECRETARY.—The term “Secretary”
16 means the Secretary of the Interior.

17 (18) SECRETARY CONCERNED.—The term
18 “Secretary concerned” means—

19 (A) the Secretary of Agriculture (acting
20 through the Chief of the Forest Service), with
21 respect to National Forest System land; and

22 (B) the Secretary of the Interior (acting
23 through the Director of the Bureau of Land
24 Management), with respect to land managed by

1 the Bureau of Land Management or other Fed-
 2 eral land.

3 (19) TEMPORARY CESSATION.—The term “tem-
 4 porary cessation” means a halt in mine related pro-
 5 duction activities for a continuous period of not
 6 longer than 5 years.

7 (20) UNDUE DEGRADATION.—The term “undue
 8 degradation” means substantial irreparable harm to
 9 significant scientific, cultural, or environmental re-
 10 sources on public land.

11 **TITLE I—LOCATABLE MINERAL** 12 **DEPOSITS**

13 **SEC. 101. LIMITATION ON PATENTS.**

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

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

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

24 (b) RIGHT TO PATENT.—

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

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

15 (c) REPEAL.—Section 2325 of the Revised Statutes
16 (30 U.S.C. 29) is repealed.

17 **SEC. 102. FEES.**

18 (a) CLAIM MAINTENANCE FEES.—

19 (1) IN GENERAL.—Not later than August 31,
20 2023, and each August 31 thereafter, the holder of
21 each unpatented mining claim, millsite, or tunnel
22 site shall pay to the Secretary a maintenance fee of
23 \$200 for each claim, millsite, or tunnel site.

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

1 (A) the assessment work requirements
2 under the general mining laws; and

3 (B) the related filing requirements under
4 subsections (a) and (c) of section 314 of the
5 Federal Land Policy and Management Act of
6 1976 (43 U.S.C. 1744).

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

12 (4) CLAIM RELOCATION.—

13 (A) DEFINITION OF RELATED PARTY.—In
14 this paragraph and paragraph (5), the term
15 “related party” means—

16 (i) the spouse and qualifying child (as
17 defined in section 152 of the Internal Rev-
18 enue Code of 1986) of the claim holder;
19 and

20 (ii) a person affiliated with the claim
21 holder, including—

22 (I) a person controlled by, con-
23 trolling, or under common control
24 with, the claim holder; or

1 (II) a subsidiary, parent com-
2 pany, partner, director, or officer of
3 the claim holder.

4 (B) LIMITS ON RELOCATION.—

5 (i) IN GENERAL.—No claim, millsite,
6 or tunnel site, or portion of a claim or site,
7 may be relocated by a person or related
8 party if the person or related party held
9 the claim or site and subsequently relin-
10 quished the claim or site or allowed the
11 claim or site to become null and void.

12 (ii) DURATION.—The prohibition on
13 relocation shall extend for a period of 10
14 years beginning on the date the claim or
15 site was relinquished or became null and
16 void.

17 (5) WAIVER.—The maintenance fee required
18 under paragraph (1) shall be waived for a claim
19 holder who certifies in writing to the Secretary that
20 on the date the maintenance fee was due, the claim
21 holder and all related parties—

22 (A) held not more than 10 mining claims,
23 millsites, tunnel sites, or any combination of
24 claims and sites on Federal land; and

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

10 (6) ADJUSTMENT.—

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

19 (B) MORE FREQUENT ADJUSTMENTS.—

20 The Secretary may adjust the amount of the
21 maintenance fees more frequently than specified
22 in subparagraph (A) to reflect changes in the
23 Consumer Price Index for all urban consumers
24 published by the Department of Labor if the

1 Secretary determines an adjustment to be rea-
2 sonable.

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

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

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

16 (8) USE AND OCCUPANCY OF CLAIMS.—Timely
17 performance of required assessment work or pay-
18 ment of the maintenance fee under this subsection
19 satisfies any obligation the claim holder has under
20 the pedis possessio doctrine for any claim properly
21 located in accordance with the general mining laws
22 and applicable State law.

23 (b) LOCATION FEES.—

24 (1) IN GENERAL.—Subject to paragraph (2)
25 and notwithstanding any other provision of law, for

1 each unpatented mining claim, millsite, or tunnel
2 site located after the date of enactment of this Act,
3 the locator shall, at the time the location notice is
4 recorded with the Bureau of Land Management, pay
5 to the Secretary a location fee of \$50 for each claim
6 for each location notice recorded with the Bureau of
7 Land Management.

8 (2) ADJUSTMENT.—

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

17 (B) MORE FREQUENT ADJUSTMENTS.—

18 The Secretary may adjust the amount of the lo-
19 cation fees more frequently than specified in
20 subparagraph (A) to reflect changes in the Con-
21 sumer Price Index for all urban consumers pub-
22 lished by the Department of Labor if the Sec-
23 retary determines an adjustment to be reason-
24 able.

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

5 (D) APPLICATION.—An adjustment under
 6 this paragraph shall apply beginning in the first
 7 calendar year after the calendar year in which
 8 the adjustment is made.

9 (3) EFFECT ON MAINTENANCE FEE.—The loca-
 10 tion fee required under paragraph (1) shall be in ad-
 11 dition to the maintenance fee required under sub-
 12 section (a).

13 (c) DISPOSITION OF FUNDS.—

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

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

23 (d) EFFECT OF SECTION.—Nothing in this section
 24 changes or modifies—

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

4 (2) the provisions of subsection (c) of section
 5 314 of the Federal Land Policy and Management
 6 Act of 1976 (43 U.S.C. 1744) relating to filings re-
 7 quired by subsection (b) of that section.

8 (e) AMENDMENT TO REVISED STATUTES.—Section
 9 2324 of the Revised Statutes (30 U.S.C. 28) is amended
 10 by inserting “or section 102(a)(5) of the Clean Energy
 11 Minerals Reform Act of 2022” after “Omnibus Budget
 12 Reconciliation Act of 1993”.

13 **SEC. 103. LIMITATIONS.**

14 (a) FAILURE TO COMPLY.—

15 (1) IN GENERAL.—The failure of the claim
 16 holder to perform assessment work or to pay a
 17 maintenance fee if required under section 102(a), to
 18 pay a location fee under section 102(b), or to file a
 19 timely notice of location shall—

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

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

24 (2) EFFECT.—Forfeiture under paragraph (1)
 25 shall not relieve any person of any obligation under

1 this Act and applicable regulations, including rec-
2 lamation, and other applicable law.

3 (b) RELINQUISHMENT.—

4 (1) IN GENERAL.—A claim holder deciding not
5 to pursue mineral activities on a mining claim, mill-
6 site, or tunnel site, may relinquish the claim or site
7 by notifying the Secretary of the intent to relinquish
8 the claim or site.

9 (2) EFFECT.—A claim holder relinquishing a
10 claim, millsite, or tunnel site under paragraph (1)
11 shall be responsible for any obligation under this Act
12 and applicable regulations, including reclamation,
13 and other applicable law.

14 (c) USE OF MINING CLAIM.—

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

19 (2) FAILURE TO USE FOR MINERAL ACTIVI-
20 TIES.—If the claim holder cannot demonstrate to
21 the Secretary that the mining claim, millsite, or tun-
22 nel site has been used exclusively for mineral activi-
23 ties, the Secretary shall declare the claim, millsite,
24 or tunnel site null and void.

TITLE II—ROYALTIES

2 SEC. 201. ROYALTY.

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

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

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

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

21 (2) produces valuable locatable minerals in com-
22 mercial quantities on the date of enactment of this
23 Act.

24 (d) FEDERAL LAND NOT SUBJECT TO EXISTING OP-
25 ERATIONS PERMIT.—Production from any Federal land

1 not specifically approved for mineral extraction under a
 2 plan of operations or an operations permit in existence on
 3 the date of enactment of this Act shall be subject to the
 4 royalty described in subsection (a).

5 (e) DEPOSIT.—Amounts received by the United
 6 States as royalties under this section shall be deposited
 7 in the Fund.

8 **SEC. 202. ROYALTY RELIEF.**

9 (a) IN GENERAL.—Subject to subsection (b), in order
 10 to promote the greatest ultimate recovery pursuant to a
 11 mining permit or a plan of operations under which produc-
 12 tion in commercial quantities has occurred and in the in-
 13 terest of conservation of natural resources, the Secretary
 14 may reduce any royalty otherwise required for all or part
 15 of a mining operation, on a showing by clear and con-
 16 vincing evidence by the person conducting mineral activi-
 17 ties under the operations or mining permit or plan of oper-
 18 ations that, without the reduction in royalty, production
 19 would not occur.

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

23 (1) publishes public notice of the royalty reduc-
 24 tion; and

1 (2) submits to the Committee on Energy and
 2 Natural Resources of the Senate and the Committee
 3 on Natural Resources of the House of Representa-
 4 tives notice and a statement of the reasons for
 5 granting the royalty reduction.

6 **SEC. 203. ENFORCEMENT.**

7 (a) DUTIES OF THE SECRETARY.—

8 (1) IN GENERAL.—The Secretary shall establish
 9 a comprehensive inspection, collection, fiscal, and
 10 production accounting and auditing system—

11 (A) to accurately determine royalties, in-
 12 terest, fines, penalties, fees, deposits, and other
 13 payments owed under this title and section 402;
 14 and

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

17 (2) INSPECTIONS.—The Secretary shall estab-
 18 lish procedures to ensure that authorized and prop-
 19 erly identified representatives of the Secretary will
 20 inspect at least once annually each mining claim
 21 that—

22 (A) is producing or expected to produce a
 23 significant quantity of locatable minerals in any
 24 year; or

1 (B) has a history of noncompliance with
2 this Act.

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

5 (1) PAYMENT OF ROYALTIES.—

6 (A) IN GENERAL.—A person who is re-
7 quired to make any royalty or other payment
8 under this title or section 402 shall make pay-
9 ment to the United States at such times and in
10 such manner as the Secretary may by rule pre-
11 scribe.

12 (B) LIABILITY FOR PAYMENTS.—

13 (i) DESIGNEES.—Any person who
14 pays, offsets, or credits funds, makes ad-
15 justments, requests and receives refunds,
16 or submits reports with respect to pay-
17 ments another person is required to make
18 shall be considered the designee of the
19 other person under this title or section
20 402.

21 (ii) LIABILITY.—A designee shall be
22 liable for any payment obligation under
23 this title or section 402 of any person on
24 whose behalf the designee undertakes the
25 activities described in clause (i).

1 (iii) PRO RATA SHARE.—The person
 2 owning an interest in a claim, millsite, or
 3 tunnel site, or production from the claim
 4 or site, shall be liable for the pro rata
 5 share of the person of payment obligations
 6 under this title or section 402.

7 (2) SITE SECURITY.—

8 (A) IN GENERAL.—A person conducting
 9 mineral activities shall develop and comply with
 10 the site security provisions in the mining permit
 11 designed to protect from theft the locatable
 12 minerals that are produced or stored on a min-
 13 ing claim.

14 (B) MINIMUM STANDARDS.—The provi-
 15 sions shall conform with such minimum stand-
 16 ards as the Secretary may prescribe by rule,
 17 taking into account the variety of circumstances
 18 on mining claims.

19 (C) NOTIFICATION OF COMMENCEMENT OR
 20 RESUMPTION OF PRODUCTION.—Not later than
 21 the fifth business day after production begins in
 22 any place on a mining claim or production re-
 23 sumes after more than 90 days after production
 24 ceased or was suspended, the person conducting
 25 mineral activities shall notify the Secretary, in

1 the manner prescribed by the Secretary, of the
2 date on which the production has begun or re-
3 sumed.

4 (c) RECORDKEEPING AND REPORTING REQUIRE-
5 MENTS.—

6 (1) IN GENERAL.—A claim holder, operator, or
7 other person directly or indirectly involved in devel-
8 oping, producing, processing, transporting, pur-
9 chasing, or selling locatable or hardrock minerals,
10 subject to this Act, through the point of first sale,
11 the point of royalty or fee computation, or the point
12 of smelting or other processing, whichever is later,
13 shall establish and maintain any records, make any
14 reports, and provide any information that the Sec-
15 retary may reasonably require for the purposes of
16 implementing this title or section 402 or determining
17 compliance with rules or orders under this title or
18 section 402.

19 (2) ACCESS.—On the request of any officer or
20 employee duly designated by the Secretary con-
21 ducting an audit or investigation pursuant to this
22 section, the appropriate records, reports, or informa-
23 tion that may be required by this section shall be
24 made available for inspection and duplication by the
25 officer or employee.

1 (3) DURATION OF RECORDKEEPING REQUIRE-
2 MENT.—

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

12 (B) ONGOING AUDIT OR INVESTIGATION.—
13 In any case in which an audit or investigation
14 is underway, records shall be maintained until
15 the Secretary releases the claim holder, oper-
16 ator, other person referred to in paragraph (1),
17 or record holder subject to the recordkeeping
18 and requirements of this Act of the obligation
19 to maintain the records.

20 (d) AUDITS.—The Secretary may conduct such au-
21 dits of all claim holders, operators, producers, trans-
22 porters, purchasers, processors, or other persons directly
23 or indirectly involved in the production or sales of
24 locatable or hardrock minerals covered by this Act, as the
25 Secretary considers necessary for the purposes of ensuring

1 compliance with the requirements of this title or section
2 402.

3 (e) COOPERATIVE AGREEMENTS.—

4 (1) IN GENERAL.—The Secretary may enter
5 into cooperative agreements with the Secretary of
6 Agriculture—

7 (A) to share information concerning the
8 royalty management of locatable minerals;

9 (B) to carry out inspection, auditing, in-
10 vestigation, or enforcement (not including the
11 collection of royalties, civil or criminal penalties,
12 or other payments) activities under this section
13 in cooperation with the Secretary; and

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

16 (2) ACCESS.—Subject to paragraph (3) and
17 pursuant to a cooperative agreement, the Secretary
18 of Agriculture shall, on request, have access to all
19 royalty or fee accounting information in the posses-
20 sion of the Secretary relating to the production, re-
21 moval, or sale of locatable minerals from claims on
22 Federal land.

23 (3) CONFIDENTIAL INFORMATION.—

24 (A) IN GENERAL.—Trade secrets, propri-
25 etary information, and other confidential infor-

1 mation protected from disclosure under section
2 552 of title 5, United States Code (commonly
3 known as the “Freedom of Information Act”),
4 shall be made available by the Secretary to
5 other Federal agencies as necessary to ensure
6 compliance with this Act and other Federal
7 laws.

8 (B) PROTECTION BY OTHER FEDERAL OF-
9 FICIALS.—The Secretary, the Secretary of Agri-
10 culture, and other Federal officials shall ensure
11 that information described in subparagraph (A)
12 is provided protection in accordance with sec-
13 tion 552 of title 5, United States Code.

14 (f) INTEREST.—

15 (1) DEFINITION OF UNDERPAYMENT.—In this
16 subsection, the term “underpayment” means the dif-
17 ference between the royalty on the value of the pro-
18 duction or the fee under section 402 that should
19 have been received by the Secretary and the royalty
20 on the value of the production or the fee under sec-
21 tion 402 that was received by the Secretary, if the
22 royalty or fee that should have been received is
23 greater than the royalty or fee that was received.

24 (2) NONPAYMENT AND UNDERPAYMENT.—

1 (A) NONPAYMENT.—In the case of mining
2 claims or operations with respect to which roy-
3 alty payments or the fee under section 402 are
4 not received by the Secretary by the date that
5 the payments are due, the Secretary shall
6 charge interest on the nonpayment at the rate
7 specified under subparagraph (C).

8 (B) UNDERPAYMENT.—In the case of an
9 underpayment, interest shall be computed and
10 charged only on the amount of the deficiency
11 and not on the total amount, at the rate speci-
12 fied under subparagraph (C).

13 (C) INTEREST RATE.—In the case of non-
14 payment or underpayment, interest shall be
15 charged at the rate applicable under section
16 6621(a)(2) of the Internal Revenue Code of
17 1986.

18 (g) EXPANDED ROYALTY OBLIGATIONS.—Each per-
19 son liable for royalty payments under this section shall
20 be jointly and severally liable for royalty on all locatable
21 minerals lost or wasted from a mining claim located under
22 the general mining laws and maintained in compliance
23 with this Act if the loss or waste is due to negligence on
24 the part of any such person or due to the failure to comply

1 with any rule, regulation, or order issued under this sec-
 2 tion.

3 (h) HEARINGS AND INVESTIGATIONS.—In carrying
 4 out this title and section 402, the Secretary may—

5 (1) conduct any investigation or other inquiry
 6 necessary and appropriate;

7 (2) conduct, after notice, any necessary and ap-
 8 propriate hearing or audit under rules prescribed by
 9 the Secretary; and

10 (3) administer oaths and issue subpoenas in
 11 conducting such proceedings.

12 (i) CIVIL PENALTIES.—

13 (1) FAILURE TO COMPLY WITH APPLICABLE
 14 LAW, RULES OR REGULATIONS, OR TO PERMIT IN-
 15 SPECTION.—

16 (A) IN GENERAL.—Except as provided in
 17 subparagraph (B), a person shall be liable for
 18 a penalty of up to \$500 per violation for each
 19 day the violation continues, dating from the
 20 date of the notice or report, if the person—

21 (i) after due notice of violation or
 22 after the violation has been reported under
 23 subparagraph (B)(i), fails or refuses to
 24 comply with any requirement of this title

1 or section 402 or any rule or regulation
 2 under this title or section 402; or

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

5 (B) EXCEPTIONS.—A penalty under this
 6 paragraph may not be applied to any person
 7 who is otherwise liable for a violation of sub-
 8 paragraph (A) if—

9 (i) the violation was discovered and
 10 reported to the Secretary or the authorized
 11 representative of the Secretary by the lia-
 12 ble person and corrected within 20 days
 13 after the report (or such longer period to
 14 which the Secretary may agree); or

15 (ii) after the due notice of violation
 16 required under subparagraph (A)(i) has
 17 been given to the person by the Secretary
 18 or the authorized representative of the Sec-
 19 retary, the person has corrected the viola-
 20 tion within 20 days of the notification (or
 21 such longer period to which the Secretary
 22 may agree).

23 (2) FAILURE TO TAKE CORRECTIVE ACTION.—

24 If corrective action is not taken within 40 days (or
 25 a longer period to which the Secretary may agree),

1 after due notice or submission of a report referred
 2 to in paragraph (1)(A)(i), the person shall be liable
 3 for a civil penalty of not more than \$5,000 per viola-
 4 tion for each day the violation continues, dating
 5 from the date of the notice or report.

6 (3) FAILURE TO MAKE PAYMENT OR TO PERMIT
 7 LAWFUL ENTRY, INSPECTION, OR AUDIT.—A person
 8 shall be liable for a penalty of up to \$10,000 per vio-
 9 lation for each day the violation continues if the per-
 10 son—

11 (A) knowingly or willfully fails to make
 12 any payment of any royalty under this title or
 13 fee under section 402 by the date as specified
 14 by law (including regulation or order);

15 (B) fails or refuses to permit lawful entry,
 16 inspection, or audit; or

17 (C) knowingly or willfully fails to comply
 18 with subsection (b)(2)(C).

19 (4) FALSE INFORMATION; UNAUTHORIZED RE-
 20 MOVAL OF LOCATABLE MINERAL.—A person shall be
 21 liable for a penalty of up to \$25,000 per violation
 22 for each day the violation continues in any case in
 23 which the person, in violation of this title or section
 24 402—

1 (A) knowingly or willfully prepares, main-
 2 tains, or submits false, inaccurate, or mis-
 3 leading reports, notices, affidavits, records,
 4 data, or other written information;

5 (B) knowingly or willfully takes or re-
 6 moves, transports, uses or diverts any locatable
 7 mineral from any land covered by a mining
 8 claim without having valid legal authority to do
 9 so; or

10 (C) purchases, accepts, sells, transports, or
 11 conveys to another, any locatable mineral know-
 12 ing or having reason to know that the locatable
 13 mineral was stolen or unlawfully removed or di-
 14 verted.

15 (5) HEARING.—No penalty under this sub-
 16 section shall be assessed until the person charged
 17 with a violation has been given the opportunity for
 18 a hearing on the record.

19 (6) DEDUCTION OF PENALTY FROM SUMS
 20 OWED BY UNITED STATES.—The amount of any
 21 penalty under this subsection, as finally determined,
 22 may be deducted from any sums owed by the United
 23 States to the person charged.

24 (7) COMPROMISE OR REDUCTION OF PEN-
 25 ALTIES.—On a case-by-case basis, the Secretary

1 may compromise or reduce civil penalties under this
2 subsection.

3 (8) NOTICE.—

4 (A) IN GENERAL.—Notice under this sub-
5 section shall be by personal service by an au-
6 thorized representative of the Secretary or by
7 registered mail.

8 (B) DESIGNEE FOR RECEIPT OF NO-
9 TICE.—Any person may, in the manner pre-
10 scribed by the Secretary, designate a represent-
11 ative to receive any notice under this sub-
12 section.

13 (9) REASONS ON RECORD FOR AMOUNT OF
14 PENALTY.—In determining the amount of the pen-
15 alty under this subsection, whether the penalty
16 should be remitted or reduced, and by what amount,
17 the Secretary shall state on the record the reasons
18 for the determinations of the Secretary.

19 (10) REVIEW.—

20 (A) IN GENERAL.—Any person who has re-
21 quested a hearing in accordance with paragraph
22 (5) within the time the Secretary has prescribed
23 for such a hearing and who is aggrieved by a
24 final order of the Secretary under this sub-
25 section may seek review of the order in the

1 United States district court for the judicial dis-
2 trict in which the violation allegedly took place.

3 (B) BASIS FOR REVIEW.—Review by the
4 district court shall be only on the administrative
5 record and not de novo.

6 (C) DEADLINE.—An action under this
7 paragraph shall be barred unless the action is
8 filed not later than the date that is 90 days
9 after the date of issuance of the final order of
10 the Secretary.

11 (11) FAILURE TO PAY PENALTY.—

12 (A) IN GENERAL.—Subject to subpara-
13 graphs (B) and (C), if any person fails to pay
14 an assessment of a civil penalty under this Act,
15 the court shall have jurisdiction to award the
16 amount assessed plus interest from the date of
17 the expiration of the 90-day period referred to
18 in paragraph (10)(C).

19 (B) APPLICATION.—Subparagraph (A) ap-
20 plies—

21 (i) after the order making the assess-
22 ment has become a final order and if the
23 person does not file a petition for judicial
24 review of the order in accordance with
25 paragraph (10); or

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

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

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

11 (k) EFFECTIVE DATE.—

12 (1) IN GENERAL.—Except as provided in sec-
13 tion 201(b) with respect to the payment of royalties,
14 the royalty required under section 201 or fee re-
15 quired under section 402 shall take effect with re-
16 spect to the production of minerals on or after the
17 date of enactment of this Act.

18 (2) INITIAL PRODUCTION.—Any royalty pay-
19 ments or fee payments under section 402 attrib-
20 utable to production during the 1-year period begin-
21 ning on the date of enactment of this Act shall be
22 payable at the expiration of the 1-year period, to-
23 gether with interest at the rate required under sub-
24 section (f)(2)(C).

1 (l) INJUNCTION AND SPECIFIC ENFORCEMENT AU-
2 THORITY.—

3 (1) CIVIL ACTION BY ATTORNEY GENERAL.—In
4 addition to any other remedy under law, the Attor-
5 ney General or the designee of the Attorney General
6 may bring a civil action in a district court of the
7 United States, which shall have jurisdiction over
8 such actions—

9 (A) to restrain any violation of this title or
10 section 402; or

11 (B) to compel the taking of any action re-
12 quired by or under this title or section 402.

13 (2) VENUE.—A civil action described in para-
14 graph (1) may be brought only in the United States
15 district court for the judicial district in which the
16 act, omission, or transaction constituting a violation
17 under this title or section 402 occurred, or in which
18 the defendant is found or transacts business.

19 **SEC. 204. REVIEW.**

20 (a) IN GENERAL.—Not later than 5 years after the
21 date of enactment of this Act and every 5 years thereafter,
22 the Secretary shall complete a review and submit to the
23 Committee on Energy and Natural Resources of the Sen-
24 ate and the Committee on Natural Resources of the House

1 of Representatives a report addressing collections and im-
2 pacts of the royalty and fees provided for by this Act.

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

4 (1) the total revenues received (by category) on
5 an annual basis as—

6 (A) claim maintenance fees;

7 (B) location fees;

8 (C) land use fees;

9 (D) royalties and related payments; and

10 (E) abandoned mine land fees;

11 (2) the disposition of the fees and royalties, in-
12 cluding—

13 (A) the amount used for mining law pro-
14 gram administration; and

15 (B) the amount used for abandoned mine
16 land reclamation, including allocation by State
17 and Indian Tribe;

18 (3) the effectiveness of the program under this
19 Act in addressing abandoned mine land problems on
20 Federal and non-Federal land;

21 (4) any impact on domestic locatable mineral
22 exploration and production as a result of the fees
23 and royalties; and

24 (5) any recommendations with respect to
25 changes in Federal law (including regulations) relat-

1 ing to the amount or method of collection (including
 2 auditing, compliance, and enforcement) of the fees
 3 and royalties.

4 **TITLE III—MINERAL ACTIVITIES**

5 **SEC. 301. PERMITS.**

6 (a) IN GENERAL.—Except as provided in section
 7 501(a)(2), no person may engage in mineral activities on
 8 Federal land that may cause a disturbance of surface re-
 9 sources, including land, air, water, and fish and wildlife,
 10 unless a permit authorizing the activities was issued to
 11 the person under this title.

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

15 (c) NO MODIFICATION.—Nothing in this section en-
 16 larges, diminishes, establishes, repeals, or otherwise modi-
 17 fies any requirement of law that a mining claim, millsite,
 18 or tunnel site be valid in order for mineral activities to
 19 be undertaken.

20 (d) COORDINATION WITH NEPA PROCESS.—To the
 21 maximum extent practicable, the Secretary concerned
 22 shall conduct the permit processes under this Act in co-
 23 ordination with the timing and other requirements of sec-
 24 tion 102 of the National Environmental Policy Act of
 25 1969 (42 U.S.C. 4332).

1 **SEC. 302. EXPLORATION PERMITS.**

2 (a) IN GENERAL.—Except as provided in section
3 501(a)(2), an exploration permit shall be required prior
4 to conducting any exploration activities on Federal land
5 that involve more than the casual use of the Federal land.

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

8 (1) remove any mineral for sale; or

9 (2) conduct any activity other than an activity
10 required for—

11 (A) exploration for locatable minerals; or

12 (B) reclamation.

13 (c) REQUIREMENTS.—To be eligible for an explo-
14 ration permit, a person shall submit to the Secretary con-
15 cerned, in a manner prescribed by the Secretary con-
16 cerned, an application for an exploration permit that con-
17 tains—

18 (1) an exploration plan demonstrating that—

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

21 (B) the formation of acid mine drainage
22 will be avoided to the maximum extent prac-
23 ticable; and

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

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

5 (3) a reclamation plan for the proposed explo-
6 ration activity demonstrating that the applicant will
7 conduct reclamation activities in accordance with
8 section 306;

9 (4) evidence of adequate financial assurance in
10 accordance with section 304;

11 (5) the necessary documentation to demonstrate
12 that the proposed exploration activity will comply
13 with applicable Federal and State environmental
14 laws (including regulations);

15 (6) a monitoring and evaluation plan to ensure
16 compliance with reclamation and other requirements
17 of this Act; and

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

21 (d) PERMIT ISSUANCE.—

22 (1) APPROVAL.—

23 (A) IN GENERAL.—Subject to subpara-
24 graph (B), the Secretary concerned shall ap-
25 prove an application and issue an exploration

1 permit if the Secretary concerned determines
2 that the application is in compliance with—

3 (i) this Act;

4 (ii) any regulations promulgated
5 under this Act; and

6 (iii) any other applicable laws.

7 (B) CONDITIONS.—The Secretary con-
8 cerned may reasonably condition the approval
9 of such a permit to satisfy the requirements of
10 this Act and applicable regulations.

11 (2) DENIAL.—The Secretary concerned shall
12 deny the issuance of an exploration permit if the
13 Secretary concerned determines that the permit does
14 not meet the requirements of—

15 (A) this Act;

16 (B) any regulations promulgated under
17 this Act; or

18 (C) other applicable laws.

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

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

24 (B) may hold a public hearing.

25 (e) MODIFICATIONS TO PERMIT.—

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

4 (2) APPROVAL.—

5 (A) IN GENERAL.—In determining whether
6 to approve or disapprove a proposed modifica-
7 tion to an exploration permit, the Secretary
8 concerned shall make the same determinations
9 as are required in the case of the original per-
10 mit.

11 (B) EXCEPTIONS.—Subparagraph (A)
12 shall not apply to minor modifications to an ex-
13 ploration permit or instances in which the na-
14 ture of the modifications make compliance with
15 the requirements unnecessary, as determined by
16 the Secretary concerned.

17 (3) MODIFICATIONS FROM SECRETARY CON-
18 CERNED.—

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

1 (B) REQUIREMENTS FOR DETERMINA-
 2 TION.—A determination under subparagraph
 3 (A) shall be—
 4 (i) based on a written finding; and
 5 (ii) subject to notice and hearing re-
 6 quirements established by the Secretary
 7 concerned.

8 **SEC. 303. MINING PERMITS.**

9 (a) IN GENERAL.—Except as provided in section
 10 501(a)(2), a mining permit shall be required prior to con-
 11 ducting mineral activities on Federal land, other than cas-
 12 ual use or exploration on the Federal land.

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

17 (1) a description of the condition of the land
 18 and water resources of the area before mining activi-
 19 ties are initiated;

20 (2) an operations plan demonstrating that—

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

23 (B) the formation of acid mine drainage
 24 will be avoided to the maximum extent prac-
 25 ticable; and

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

3 (3) a description of potential impacts to
4 groundwater and surface water, including appro-
5 priate hydrological assessments and analyses, as rea-
6 sonably required by the Secretary;

7 (4) a reclamation plan for the proposed mineral
8 activities demonstrating that the applicant will con-
9 duct reclamation activities in accordance with sec-
10 tion 306;

11 (5) evidence of adequate financial assurance
12 under section 304, including, if required, a trust
13 fund as required under section 304(i);

14 (6) the necessary documentation to demonstrate
15 that the proposed mineral activities will comply with
16 applicable Federal and State environmental laws (in-
17 cluding regulations);

18 (7) a monitoring and evaluation plan to ensure
19 compliance with reclamation and other requirements
20 of this Act; and

21 (8) any other relevant information determined
22 by the Secretary concerned to be necessary to satisfy
23 the requirements of this Act and other applicable
24 law.

25 (c) PERMIT ISSUANCE.—

1 (1) APPROVAL.—

2 (A) IN GENERAL.—Subject to subpara-
3 graph (B), the Secretary concerned shall ap-
4 prove a permit application and issue a mining
5 permit if the Secretary concerned determines
6 that the application is in compliance with—

7 (i) this Act;

8 (ii) any regulations promulgated
9 under this Act; and

10 (iii) other applicable laws.

11 (B) CONDITIONS.—The Secretary con-
12 cerned may reasonably condition the approval
13 of such a permit to satisfy the requirements of
14 this Act and applicable regulations.

15 (2) DENIAL.—The Secretary concerned shall
16 deny the issuance of a mining permit if the Sec-
17 retary concerned determines that the permit does
18 not meet the requirements of—

19 (A) this Act;

20 (B) any regulations promulgated under
21 this Act; or

22 (C) other applicable laws.

23 (3) NOTICE.—Before approving or denying a
24 mining permit under this subsection, the Secretary
25 concerned—

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

3 (B) may hold a public hearing.

4 (d) TERM OF PERMIT; CONTINUATION.—

5 (1) IN GENERAL.—An operations permit
 6 shall—

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

8 (B) continue for so long thereafter as
 9 locatable minerals are produced in commercial
 10 quantities from the permit area in compliance
 11 with the requirements of this Act and other ap-
 12 plicable law.

13 (2) CONTINUATION.—No permit shall expire be-
 14 cause operations or production have ceased pursuant
 15 to an approved temporary cessation or been sus-
 16 pended pursuant to any order of, or with the consent
 17 of, the Secretary concerned.

18 (e) MODIFICATIONS TO PERMIT.—

19 (1) REQUEST FROM PERMIT HOLDER.—

20 (A) IN GENERAL.—A mining permit holder
 21 may submit to the Secretary concerned an ap-
 22 plication to modify the mining permit.

23 (B) APPROVAL.—

24 (i) IN GENERAL.—In determining
 25 whether to approve or disapprove a pro-

posed modification to a mining permit, the Secretary concerned shall make the same determinations as are required in the case of an original mining permit.

(ii) EXCEPTIONS.—Clause (i) shall not apply to minor modifications to a mining permit or instances in which the nature of the modifications make compliance with the requirements unnecessary, as determined by the Secretary concerned.

(2) MODIFICATIONS FROM SECRETARY CONCERNED.—

(A) IN GENERAL.—The Secretary concerned may require reasonable modification to any permit on a determination that the requirements of this Act or other applicable law cannot be met if the permit is followed as approved.

(B) REQUIREMENTS FOR DETERMINATION.—A determination under subparagraph (A) shall be—

(i) based on a written finding; and

(ii) subject to notice and hearing requirements established by the Secretary concerned.

(f) LAND USE FEES.—

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

13 (2) ADDITIONAL FEE.—The land use fee im-
14 posed under this subsection shall be in addition to
15 the claim maintenance fees imposed under section
16 102(a).

17 (3) AUTHORIZED ACTIVITIES.—Upon approval
18 by the Secretary concerned of a mining permit and
19 upon payment of the land use fee as required by this
20 subsection, the operator may use and occupy all
21 Federal land within the mine permit area for such
22 uses as are approved in the mining permit if the
23 uses are undertaken in accordance with all applica-
24 ble law.

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

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

8 (g) TEMPORARY CESSATION OF OPERATIONS.—

9 (1) IN GENERAL.—An operator conducting min-
 10 eral activities under this title may not temporarily
 11 cease mineral activities for a period of greater than
 12 180 days unless—

13 (A) the Secretary concerned has approved
 14 the temporary cessation; or

15 (B) the temporary cessation is permitted
 16 under the exploration or mining permit.

17 (2) MULTIPLE TEMPORARY CESSATIONS.—The
 18 Secretary concerned may approve more than 1 tem-
 19 porary cessation for mineral activities under a per-
 20 mit.

21 (3) INTERIM MANAGEMENT PLAN.—Any oper-
 22 ator temporarily ceasing mineral activities shall fol-
 23 low an interim management plan approved by the
 24 Secretary concerned.

1 **SEC. 304. FINANCIAL ASSURANCES.**

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

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

- 17 (1) all land within the initial permit area;
- 18 (2) all affected water that may require restora-
19 tion, treatment, or other management as a result of
20 mineral activities; and
- 21 (3) all land added and water affected pursuant
22 to any permit modification.

23 (c) REVIEW.—Not later than 3 years after the date
24 on which an operator provides financial assurance in an
25 amount determined under subsection (a) and not later

1 than every 3 years thereafter, the Secretary concerned
2 shall—

3 (1) review the financial assurance to determine
4 if the amount of the financial assurance is adequate
5 for purposes of this section; and

6 (2) if the Secretary concerned determines that
7 the amount of the financial assurance is not ade-
8 quate, adjust the amount of the financial assurance
9 in accordance with this section.

10 (d) REDUCTION.—

11 (1) IN GENERAL.—The Secretary concerned
12 may reduce the amount of the financial assurance
13 required if the Secretary concerned determines that
14 a portion of the reclamation is completed in accord-
15 ance with section 306.

16 (2) NOTICE.—Before reducing or releasing the
17 amount of financial assurance pursuant to this sub-
18 section, the Secretary concerned shall provide public
19 notice and a reasonable opportunity for public notice
20 and comment in accordance with subsection (g).

21 (e) INCREMENTAL FINANCIAL ASSURANCE.—

22 (1) IN GENERAL.—The Secretary concerned
23 may authorize amounts of financial assurance for in-
24 cremental mineral activities if—

1 (A) no mineral activities are allowed be-
2 yond the activities for which financial assurance
3 is provided;

4 (B) the financial assurance for an incre-
5 ment covers all reclamation costs within the
6 permit area for the increment; and

7 (C) the amount and terms of the financial
8 assurance for each increment are reviewed an-
9 nually.

10 (2) REVIEW.—Notwithstanding subsection (c),
11 the Secretary concerned shall—

12 (A) review at least on an annual basis the
13 amount and terms of the financial assurance
14 for any increment; and

15 (B) adjust the financial assurance as ap-
16 propriate.

17 (f) DURATION.—The financial assurance required
18 under this section shall be held for the duration of the
19 mineral activities and for an additional period to cover the
20 responsibility of the operator for reclamation, long-term
21 maintenance, and effluent treatment as specified in sub-
22 section (h).

23 (g) RELEASE.—Subject to subsections (h) and (i),
24 the Secretary concerned may, after public notice and a
25 reasonable opportunity for public comment and after in-

1 spection, release in whole or in part the financial assur-
 2 ance required under this section if the Secretary concerned
 3 determines that—

4 (1) reclamation covered by the financial assur-
 5 ance has been accomplished as required by this Act
 6 and other applicable law; and

7 (2) the terms and conditions of any other appli-
 8 cable Federal and State requirements have been ful-
 9 filled.

10 (h) RELEASE OF FINANCIAL ASSURANCE FOR
 11 WATER.—If the Secretary concerned does not require the
 12 establishment of a trust fund or other long-term funding
 13 mechanism under subsection (i), the portion of the finan-
 14 cial assurance attributable to the estimated cost of treat-
 15 ment of any discharge or other water-related condition re-
 16 sulting from mineral activities shall not be released until
 17 the public has been provided notice and an opportunity
 18 to comment in accordance with subsection (g) and—

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

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

25 (i) LONG-TERM FINANCIAL ASSURANCES.—

1 (1) IN GENERAL.—Notwithstanding subsections
2 (d) and (g), if any discharge or other water-related
3 condition resulting from mineral activities requires
4 treatment in order to meet the applicable effluent
5 limitations and water quality standards, the finan-
6 cial assurance shall cover the estimated cost of
7 maintaining the treatment for the period that will be
8 needed after the cessation of mineral activities.

9 (2) LONG-TERM FUNDING MECHANISMS.—

10 (A) IN GENERAL.—The Secretary con-
11 cerned shall, if determined necessary by the
12 Secretary concerned, require the operator to es-
13 tablish a trust fund or other funding mecha-
14 nism to provide financial assurances to ensure
15 the continuation of long-term treatment or
16 other management to achieve water quality
17 standards and for other long-term, post-mining
18 maintenance or monitoring requirements.

19 (B) AMOUNT.—The amount of funding
20 shall be adequate to provide for construction,
21 long-term operation, maintenance, or replace-
22 ment of any treatment facilities and infrastruc-
23 ture, for as long as the treatment and facilities
24 are needed after mine closure.

1 (C) LIABILITY.—Nothing in this para-
2 graph allows any person to transfer any liability
3 arising from mineral activities to any other per-
4 son.

5 (j) REPORT.—

6 (1) IN GENERAL.—Not later than 3 years after
7 the date of enactment of this Act, the Secretary, in
8 consultation with the Secretary of Agriculture and
9 the Administrator of the Environmental Protection
10 Agency, shall conduct a review and submit to the
11 Committee on Energy and Natural Resources of the
12 Senate and the Committee on Natural Resources of
13 the House of Representatives a report regarding the
14 sufficiency of financial assurances for locatable min-
15 erals activities (including exploration and mining) on
16 Federal land.

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

18 (A) methods for establishing financial as-
19 surances levels;

20 (B) the type, level, and adequacy of finan-
21 cial assurances required for exploration activi-
22 ties;

23 (C) for each mine on Federal land—

24 (i) the dates of approval of any plan
25 of operation or mining permit;

- 1 (ii) the acreage involved;
- 2 (iii) the expected life of the mine;
- 3 (iv) the type, level, and adequacy of fi-
- 4 nancial assurance; and
- 5 (v) whether the mine is expected to
- 6 require long-term water treatment or
- 7 maintenance after mine closure;
- 8 (D) the effectiveness of various types of fi-
- 9 nancial assurances; and
- 10 (E) the availability of and costs associated
- 11 with various types of financial assurances.

12 (3) RECOMMENDATIONS.—The report shall in-

13 clude any recommendations for modifications to

14 Federal law or applicable regulations to improve the

15 effectiveness of financial assurances for locatable

16 mineral activities described in paragraph (1).

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

18 The Secretary concerned shall approve the transfer,

19 assignment, or sale of rights of an exploration or mining

20 permit only if the successor in interest agrees in writing

21 to assume the liability and reclamation responsibilities (in-

22 cluding the financial assurance requirements under section

23 304 (including applicable regulations)) established by the

24 permit under this Act, without affecting the liability of the

1 transferor under any other law or exploration or mining
2 permit.

3 **SEC. 306. OPERATION AND RECLAMATION.**

4 (a) IN GENERAL.—The operator shall restore land
5 and water subject to mineral activities carried out under
6 a permit issued under this title to a condition capable of
7 supporting—

8 (1) the uses that the land and water was capa-
9 ble of supporting before surface disturbance by the
10 operator; or

11 (2) other beneficial uses that conform to appli-
12 cable land use plans (including, if appropriate, the
13 generation of renewable energy), as determined by
14 the Secretary concerned.

15 (b) TIMING.—

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

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

23 (c) ADMINISTRATION OF LAND.—Notwithstanding
24 section 302(b) of the Federal Land Policy and Manage-
25 ment Act of 1976 (43 U.S.C. 1732(b)), the first section

1 of the Act of June 4, 1897 (commonly known as the “Or-
2 ganic Act of 1897”) (16 U.S.C. 478), or the Forest and
3 Rangeland Renewable Resources Planning Act of 1974
4 (16 U.S.C. 1600 et seq.), and in accordance with this title
5 and applicable law, unless expressly stated otherwise in
6 this Act, the Secretary concerned—

7 (1) shall ensure that mineral activities on any
8 Federal land that is subject to a mining claim, mill-
9 site claim, or tunnel site claim are carefully con-
10 trolled to prevent undue degradation of public land
11 and resources; and

12 (2) shall not grant permission to engage in min-
13 eral activities if the Secretary concerned, after con-
14 sidering the evidence, makes a determination that
15 undue degradation would result from those activi-
16 ties.

17 (d) OPERATION AND RECLAMATION STANDARDS.—
18 The Secretary and the Secretary of Agriculture shall joint-
19 ly promulgate regulations that carry out this Act.

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

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

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

3 (3) the Act of June 4, 1897 (commonly known
4 as the “Organic Act of 1897”) (16 U.S.C. 473–482,
5 551).

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

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

9 (1) in paragraph (3), by striking “removed
10 from or restored to the operation of the Mining Law
11 of 1872, as amended (R.S. 2318–2352; 30 U.S.C.
12 21 et seq.) or”; and

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

14 “(4) REVIEW OF LAND.—

15 “(A) DEFINITION OF NATIONAL CON-
16 SERVATION SYSTEM UNIT.—In this paragraph,
17 the term ‘National Conservation System unit’
18 means—

19 “(i) any unit of—

20 “(I) the National Park System;

21 “(II) the National Wildlife Ref-
22 uge System; or

23 “(III) the National Wild and
24 Scenic Rivers System;

25 “(ii) a National Monument; or

1 “(iii) a National Conservation Area.

2 “(B) REVIEW.—Not later than 3 years
3 after the date of enactment of this paragraph,
4 each Secretary concerned, acting through the
5 local Federal land manager, shall, consistent
6 with the respective jurisdiction of each Sec-
7 retary concerned, undertake and complete a re-
8 view of—

9 “(i) public land designated as a wil-
10 derness study area or National Forest Sys-
11 tem land identified as suitable for wilder-
12 ness designation;

13 “(ii) areas of critical environmental
14 concern;

15 “(iii) Federal land in which mineral
16 activities pose a reasonable likelihood of
17 substantial adverse impacts on National
18 Conservation system units;

19 “(iv)(I) areas designated for inclusion
20 in the National Wild and Scenic Rivers
21 System pursuant to the Wild and Scenic
22 Rivers Act (16 U.S.C. 1271 et seq.);

23 “(II) areas designated for potential
24 addition to the System pursuant to section
25 5(a) of that Act (16 U.S.C. 1276(a)); and

1 “(III) areas determined to be eligible
 2 for inclusion in the System pursuant to
 3 section 5(d) of that Act (16 U.S.C.
 4 1276(d)); and

5 “(v)(I) inventoried roadless areas (as
 6 defined in section 294.11 of title 36, Code
 7 of Federal Regulations (or successor regu-
 8 lations));

9 “(II) Idaho Roadless Areas (as de-
 10 fined in section 294.21 of title 36, Code of
 11 Federal Regulations (or successor regula-
 12 tions)); and

13 “(III) Colorado Roadless Areas (as
 14 defined in section 294.41 of title 36, Code
 15 of Federal Regulations (or successor regu-
 16 lations)).

17 “(5) WITHDRAWALS OF LAND.—

18 “(A) IN GENERAL.—Subsequent to review
 19 in accordance with paragraph (4)(B), in addi-
 20 tion to withdrawals made pursuant to section
 21 204 and subject to valid existing rights, tracts
 22 of Federal land may, pursuant to this para-
 23 graph, be removed from operation of sections
 24 2318 through 2352 of the Revised Statutes
 25 (commonly known and referred to in this sub-

1 section as the ‘Mining Law of 1872’) (30
2 U.S.C. 21 et seq.) if the Secretary, based on
3 the analysis of the local Federal land manager,
4 and in the case of National Forest System land,
5 on the recommendation of the Secretary of Ag-
6 riculture based on the analysis of the local Fed-
7 eral land manager, determines that the action is
8 appropriate after application of the criteria es-
9 tablished under subsection (c).

10 “(B) REVISION OF LAND USE PLANS.—
11 The Secretary concerned, acting through the
12 local Federal land manager, shall revise or
13 amend the applicable land use plan, as appro-
14 priate, to provide for removal of land, subject to
15 valid existing rights, from operation of the Min-
16 ing Law of 1872 on a determination by the Sec-
17 retary under subparagraph (A) that the land
18 should be removed from operation of that Act.

19 “(C) SEGREGATION FROM GENERAL MIN-
20 ING LAWS PENDING COMPLETION.—On a deter-
21 mination by the Secretary that the land should
22 be removed from operation of the Mining Law
23 of 1872, the land shall be immediately seg-
24 regated from operation of the Mining Law of

1 1872 until the plan amendment or revision is
 2 completed.

3 “(D) COMPLETION DEADLINE.—Any
 4 amendment or revision of a land use plan shall
 5 be completed not later than 1 year after the
 6 date of the determination of the Secretary
 7 under subparagraph (A).

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

11 “(A) the Secretary concerned to direct the
 12 local Federal land manager to undertake a re-
 13 view under paragraph (4); and

14 “(B) the Secretary to determine whether
 15 land within the State should be removed from
 16 operation of the Mining Law of 1872, subject
 17 to valid existing rights, pursuant to paragraph
 18 (5).”.

19 **SEC. 308. STATE LAW.**

20 Any reclamation, environmental, public health protec-
 21 tion, bonding, or inspection standard or requirement in
 22 State law (including regulations) that meets or exceeds the
 23 requirements of this Act shall not be considered to be in-
 24 consistent with this Act.

1 **SEC. 309. INSPECTION AND MONITORING.**

2 (a) INSPECTIONS.—

3 (1) IN GENERAL.—The Secretary concerned
4 shall make inspections of mineral activities to ensure
5 compliance with this Act.

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

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

15 (4) SEASONAL ACTIVITIES.—The Secretary con-
16 cerned shall have the discretion to modify the in-
17 spection frequency for mineral activities that are
18 conducted on a seasonal basis, except that the Sec-
19 retary concerned shall require not less than 2 com-
20 plete inspections per calendar year.

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

24 (b) MONITORING.—The Secretary concerned shall re-
25 quire all operators—

- 1 (1) to develop and maintain a monitoring and
 2 evaluation system to identify compliance with all re-
 3 quirements of a permit approved under this Act; and
 4 (2) to submit such reports as may be required
 5 by the Secretary concerned.

6 **SEC. 310. TRIBAL CONSULTATION.**

7 (a) IN GENERAL.—Consistent with Executive Order
 8 13175 (25 U.S.C. 5301 note; relating to consultation and
 9 coordination with Indian Tribal governments) and all
 10 other applicable Federal law, the Secretary concerned
 11 shall conduct active, meaningful, and timely consultation
 12 with all applicable Indian Tribes prior to undertaking or
 13 issuing a permit for any mineral activity that may affect—

14 (1) Indian land; or

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

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

19 (B) land to which an Indian Tribe attaches
 20 religious or cultural significance.

21 (b) TIMING.—

22 (1) IN GENERAL.—Except as provided in para-
 23 graph (2), each consultation required for a mineral
 24 activity under subsection (a) shall be completed be-
 25 fore—

1 (A) any Federal funds are expended for
2 the mineral activity; and

3 (B) the issuance of any permit for the
4 mineral activity.

5 (2) EXCEPTION.—Paragraph (1) shall not
6 apply to nondestructive project planning for a min-
7 eral activity.

8 (c) REQUIREMENTS.—The Secretary concerned shall
9 ensure that consultation with an Indian Tribe under this
10 section—

11 (1) provides the Indian Tribe a reasonable op-
12 portunity—

13 (A) to identify any concerns of the Indian
14 Tribe;

15 (B) to advise on the identification and
16 evaluation of other areas that potentially would
17 be impacted by the mineral activities, including
18 areas of traditional religious or cultural impor-
19 tance;

20 (C) to articulate the views of the Indian
21 Tribe regarding the direct and indirect effects
22 of the mineral activities on the areas identified
23 and evaluated under subparagraph (B); and

1 (D) to participate in the resolution of any
 2 potential adverse effects of the mineral activi-
 3 ties;

4 (2) includes consultation with the representa-
 5 tives designated or identified by the Indian Tribe;

6 (3) recognizes that the relationship between the
 7 Federal Government and Indian Tribes—

8 (A) is a government-to-government rela-
 9 tionship; and

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

13 (4) is conducted in a manner—

14 (A) sensitive to the concerns and needs of
 15 the Indian Tribe; and

16 (B) respectful of Tribal sovereignty.

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

18 (1) alters, amends, repeals, interprets, or modi-
 19 fies Tribal sovereignty or the treaty or other rights
 20 of any Indian Tribe; or

21 (2) preempts, modifies, or limits the exercise of
 22 Tribal sovereignty or the treaty or other rights of
 23 any Indian Tribe.

1 **TITLE IV—HARDROCK**
 2 **MINERALS RECLAMATION FUND**

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

4 (a) ESTABLISHMENT.—There is established in the
 5 Treasury of the United States a separate account, to be
 6 known as the “Hardrock Minerals Reclamation Fund”,
 7 consisting of—

8 (1) any amounts authorized to be appropriated
 9 to the Fund under subsection (e);

10 (2) any amounts received by the United States
 11 under section 101;

12 (3) any amounts collected under section 102
 13 (subject to the requirements of section 102(c)(1));

14 (4) any amounts donated to the Fund by per-
 15 sons, corporations, associations, and foundations;

16 (5) any amounts collected under section 201;

17 (6) any amounts collected under section 303(e);

18 (7) any amounts collected under section 402;

19 (8) any amounts collected under sections 203
 20 and 502; and

21 (9) any income on investments under subsection
 22 (b).

23 (b) INVESTMENT.—

24 (1) IN GENERAL.—The Secretary shall notify
 25 the Secretary of the Treasury of any portion of the

1 Fund that the Secretary determines is not required
2 to meet current withdrawals.

3 (2) ELIGIBLE INVESTMENTS.—The Secretary of
4 the Treasury shall invest portions of the Fund iden-
5 tified under paragraph (1) in public debt securities
6 with maturities suitable for the needs of the Fund.

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

13 (c) ADMINISTRATION.—The Fund shall be adminis-
14 tered by the Secretary, acting through the Director of the
15 Bureau of Land Management.

16 (d) USE OF THE FUND.—Without fiscal year limita-
17 tion and without further appropriation, the Secretary shall
18 use amounts in the Fund to carry out section 40704 of
19 the Infrastructure Investment and Jobs Act (30 U.S.C.
20 1245).

21 (e) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated to the Fund such sums
23 as are necessary for fiscal year 2023 and each fiscal year
24 thereafter.

1 **SEC. 402. ABANDONED MINE LAND RECLAMATION FEE.**

2 (a) IMPOSITION OF FEE.—Each operator of a
3 hardrock minerals mining operation shall pay to the Sec-
4 retary, for deposit in the Fund, a reclamation fee in an
5 amount established by the Secretary by regulation of not
6 less than 1 percent, and not more than 3 percent, of the
7 value of the production from the hardrock minerals mining
8 operation for each calendar year.

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

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

16 (d) DEPOSIT OF REVENUES.—Amounts received by
17 the Secretary under subsection (a) shall be deposited into
18 the Fund.

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

1 **TITLE V—TRANSITION RULES,**
2 **ADMINISTRATIVE PROVI-**
3 **SIONS, AND MISCELLANEOUS**
4 **PROVISIONS**

5 **SEC. 501. TRANSITION RULES.**

6 (a) APPLICABILITY.—

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

13 (2) PREEXISTING CLAIM.—If a plan of oper-
14 ations is approved or a notice of operations is filed
15 for mineral activities on any claim or site referred to
16 in paragraph (1) before the date of enactment of
17 this Act—

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

20 (i) mineral activities at the claim or
21 site shall be subject to the plan of oper-
22 ations or notice of operations; and

23 (ii) if the Secretary concerned deter-
24 mines that any modifications to the plan of
25 operations are minor, modification may be

1 made in accordance with the laws applica-
2 ble before the date of enactment of this
3 Act; and

4 (B) the operator shall bring the mineral
5 activities into compliance with this Act (includ-
6 ing implementing regulations) by the end of the
7 10-year period beginning on the date of enact-
8 ment of this Act.

9 (3) FEES.—Except as provided in sections
10 201(b) and 303(f), all fees required to be paid under
11 this Act shall apply beginning on the date of enact-
12 ment of this Act to—

13 (A) any mining claim, millsite, or tunnel
14 site located under the general mining laws (in-
15 cluding production from the claim or site) be-
16 fore, on, or after the date of enactment of this
17 Act;

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

21 (C) with respect to the fee established by
22 section 402, any production on or after the date
23 of enactment of this Act from any hardrock
24 minerals mining operation.

1 (b) APPLICATION OF ACT TO BENEFICIATION AND
2 PROCESSING OF NON-FEDERAL MINERALS ON FEDERAL
3 LAND.—

4 (1) IN GENERAL.—This Act (including the sur-
5 face management and operation requirements of title
6 III) shall apply in the same manner and to the same
7 extent to mining claims, millsites, and tunnel sites
8 used for beneficiation or processing activities for any
9 mineral without regard to whether the legal and ben-
10 efiticial title to the mineral is held by the United
11 States.

12 (2) APPLICABILITY.—This subsection applies
13 only to minerals that—

14 (A) are locatable minerals; or

15 (B) would be locatable minerals if the legal
16 and beneficial title to the minerals were held by
17 the United States.

18 **SEC. 502. ENFORCEMENT.**

19 (a) ORDERS.—

20 (1) NOTICE OF VIOLATION.—

21 (A) IN GENERAL.—If the Secretary con-
22 cerned determines that any person is in viola-
23 tion of any surface management or operation
24 requirement under title III or any regulation
25 promulgated to carry out such a requirement or

1 any permit condition required pursuant to title
2 III, the Secretary concerned shall provide to the
3 person a notice that describes the violation and
4 any necessary corrective actions.

5 (B) ABATEMENT PERIOD.—

6 (i) IN GENERAL.—Subject to clause
7 (ii), a person that receives notice under
8 subparagraph (A) shall have not more than
9 90 days after the date of receipt of the no-
10 tice to abate the violation.

11 (ii) EXTENSION.—The Secretary con-
12 cerned may extend the period described in
13 clause (i) if the person shows good cause
14 for the extension, as determined by the
15 Secretary concerned.

16 (2) CESSATION ORDER.—

17 (A) IN GENERAL.—The Secretary con-
18 cerned shall immediately order a cessation of
19 mineral activities if the Secretary concerned de-
20 termines that any condition or practice exists,
21 or any person is in violation of any requirement
22 of a permit approved, or notice of operations
23 submitted, under this Act, that is causing, or
24 can reasonably be expected to cause—

1 (i) an imminent danger to the health
2 or safety of the public; or

3 (ii) significant, imminent harm to
4 land, air, water, or fish or wildlife re-
5 sources.

6 (B) REQUIREMENTS.—

7 (i) IN GENERAL.—A cessation order
8 issued under subparagraph (A) shall re-
9 main in effect until the Secretary con-
10 cerned—

11 (I) determines that the condition,
12 practice, or violation has been abated;
13 or

14 (II) modifies, vacates, or termi-
15 nates the cessation order.

16 (ii) ABATEMENT.—In any cessation
17 order issued under subparagraph (A), the
18 Secretary concerned shall—

19 (I) identify the steps necessary to
20 abate the violation in the most expedi-
21 tious manner practicable; and

22 (II) require appropriate financial
23 assurances to ensure that the abate-
24 ment obligations are met.

25 (C) ENFORCEMENT.—

1 (i) IN GENERAL.—If the required
2 abatement has not been completed by the
3 date that is 30 days after the date on
4 which an order is issued under subpara-
5 graph (A), the Secretary concerned shall
6 bring against the person failing to com-
7 plete the abatement an enforcement action
8 that is most likely to bring about abate-
9 ment in the most expeditious manner prac-
10 ticable, including seeking appropriate in-
11 junctive relief to bring about abatement.

12 (ii) EFFECT.—Nothing in this sub-
13 paragraph precludes the Secretary con-
14 cerned from taking alternative enforcement
15 action before the date described in clause
16 (i).

17 (3) MODIFICATIONS.—The Secretary concerned
18 may modify, vacate, or terminate any notice or order
19 issued under paragraph (1) or (2).

20 (4) FORFEITURE.—

21 (A) IN GENERAL.—If a person fails to
22 abate a violation or defaults on the terms of the
23 permit, the Secretary concerned shall forfeit the
24 financial assurance for the permit as necessary

1 to ensure abatement and reclamation under this
2 Act.

3 (B) ALTERNATIVES.—The Secretary con-
4 cerned may prescribe conditions under which a
5 surety may perform reclamation in accordance
6 with the approved permit and applicable law in-
7 stead of forfeiture.

8 (C) LIABILITY.—In the event of forfeiture,
9 the claim holder or operator, or a subsidiary,
10 parent company, corporation, or partner of the
11 claim holder, or operator shall be jointly and
12 severally liable for any remaining reclamation
13 obligations under this Act.

14 (b) CIVIL PENALTIES.—

15 (1) IN GENERAL.—Subject to paragraph (2),
16 any person that violates any surface management or
17 operation requirement under title III, any regulation
18 promulgated to carry out such a requirement, or any
19 permit condition required pursuant to title III may
20 be assessed a civil penalty by the Secretary con-
21 cerned.

22 (2) CESSATION ORDER.—If the violation leads
23 to the issuance of a cessation order under subsection
24 (a)(2), the Secretary concerned shall assess the civil
25 penalty.

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

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

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

9 (A) the history of the person of previous
10 violations;

11 (B) the seriousness of the violation, includ-
12 ing any irreparable harm to the environment
13 and any hazard to the health or safety of the
14 public;

15 (C) whether the person was negligent; and

16 (D) the demonstrated good faith of the
17 person charged in attempting to achieve rapid
18 compliance after notification of the violation.

19 (6) CORPORATE LIABILITY.—If a corporate per-
20 mittee is in violation of a requirement of any surface
21 management or operations requirement under title
22 III of this Act, any regulation promulgated to carry
23 out such a requirement, or any permit condition re-
24 quired pursuant to title III, or fails or refuses to
25 comply with a notice or an order issued under sub-

1 section (a), any director, officer, or agent of the cor-
2 poration who willfully and knowingly authorized, or-
3 dered, or carried out the violation, failure, or refusal
4 shall be subject to civil penalties, fines, and impris-
5 onment that may be imposed under a person under
6 this subsection, subsection (d) or (e).

7 (c) ADMINISTRATIVE REVIEW.—

8 (1) COMPLIANCE ORDER.—Any person issued a
9 notice of violation or a cessation order under sub-
10 section (a) may apply to the Secretary concerned for
11 review of the notice or order by the date that is not
12 later than 30 days after receipt of the notice or
13 order.

14 (2) CIVIL PENALTY.—Any person who is sub-
15 ject to a civil penalty assessed by the Secretary con-
16 cerned under this section may apply to the Secretary
17 concerned for review of the penalty by the date that
18 is not later than 30 days after the date on which the
19 person receives notice of the penalty.

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

24 (A) issued a notice of violation under sub-
25 section (a)(1);

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

3 (C) subject to civil penalties under sub-
4 section (b).

5 (d) CIVIL ACTION.—

6 (1) IN GENERAL.—The Secretary concerned
7 may submit to the Attorney General a request to
8 bring a civil action for relief, including a permanent
9 or temporary injunction or restraining order and the
10 imposition of civil penalties, in any appropriate dis-
11 trict court of the United States, if a person—

12 (A) violates, fails, or refuses to comply
13 with any notice or order issued by the Secretary
14 concerned under subsection (a); or

15 (B) interferes with, hinders, or delays the
16 Secretary concerned in carrying out an inspec-
17 tion under section 309.

18 (2) RELIEF.—

19 (A) IN GENERAL.—The court hearing a
20 civil action brought under paragraph (1) shall
21 have the jurisdiction to provide any relief that
22 the court determines to be appropriate.

23 (B) REVIEW.—Any relief granted by the
24 court to enforce an order under paragraph (1)
25 shall continue in effect until the date on which

1 all proceedings for review of the order are com-
2 pleted or terminated unless the court granting
3 the relief sets the relief aside.

4 (e) CRIMINAL PENALTIES.—

5 (1) FALSE STATEMENTS; TAMPERING.—

6 (A) IN GENERAL.—A person shall, on con-
7 viction, be punished by a fine of not more than
8 \$25,000, imprisonment for not more than 1
9 year, or fine and imprisonment if the person
10 willfully and knowingly—

11 (i) makes any false material state-
12 ment, representation, or certification in,
13 omits or conceals material information
14 from, or unlawfully alters, any mining
15 claim, notice of location, application,
16 record, report, plan, or other document
17 filed or required to be maintained under
18 this Act; or

19 (ii) falsifies, tampers with, renders in-
20 accurate, or fails to install any monitoring
21 device or method required to be maintained
22 under this Act.

23 (B) SECOND VIOLATION.—If a conviction
24 of a person under subparagraph (A) is for a
25 violation committed after a first conviction of

1 the person under that subparagraph, punish-
2 ment shall be by a fine of not more than
3 \$50,000, imprisonment of not more than 2
4 years, or fine and imprisonment.

5 (2) KNOWING VIOLATIONS.—

6 (A) IN GENERAL.—A person shall, on con-
7 viction, be punished by a fine of not more than
8 \$25,000, imprisonment for not more than 1
9 year, or both if the person willfully and know-
10 ingly—

11 (i) engages in mineral activities with-
12 out a permit if required under section 302
13 or 303; or

14 (ii) violates any surface management
15 or operation requirement under title III
16 (including any regulation promulgated to
17 carry out the requirement) or any require-
18 ment, condition, or limitation of a permit
19 issued under this Act.

20 (B) SECOND VIOLATION.—If a conviction
21 of a person under subparagraph (A) is for a
22 violation committed after the first conviction of
23 the person under that subparagraph, punish-
24 ment shall be a fine of not more than \$50,000,

1 imprisonment of not more than 2 years, or
2 both.

3 (f) DELEGATION.—Notwithstanding any other provi-
4 sion of law, the Secretary may use personnel of the Office
5 of Surface Mining Reclamation and Enforcement or the
6 Bureau of Land Management to ensure compliance with
7 this Act.

8 **SEC. 503. JUDICIAL REVIEW.**

9 (a) RULEMAKING.—

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

13 (A) Any final action by the Secretary con-
14 cerned in promulgating regulations to carry out
15 this Act.

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

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

23 (b) FINAL AGENCY ACTION.—Except as provided in
24 subsection (a), final agency action under this Act shall be
25 subject to judicial review in the district courts of the

1 United States in accordance with section 1391 of title 28,
 2 United States Code.

3 **SEC. 504. UNCOMMON VARIETIES.**

4 (a) DETERMINATIONS.—Section 3 of the Act of July
 5 23, 1955 (30 U.S.C. 611), is amended—

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

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

9 “(a) IN GENERAL.—No deposit”;

10 (2) in the first sentence—

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

13 (B) by striking “or cinders” and inserting
 14 “cinders, and clay”;

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

17 “(c) DEFINITIONS.—In this Act:

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

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

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

24 (5) by inserting after subsection (a) the fol-
 25 lowing:

1 “(b) DISPOSAL OF MINERAL MATERIALS.—

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

6 “(A) had and still has some property giv-
7 ing mineral material the distinct and special
8 value referred to in this section or, as the case
9 may be, met the definition of block pumice re-
10 ferred to in subsection (c)(1);

11 “(B) was properly located and maintained
12 under the general mining laws prior to the date
13 of enactment of this subsection;

14 “(C) was supported by a discovery of a val-
15 uable mineral deposit within the meaning of the
16 general mining laws as in effect immediately
17 prior to the date of enactment of this sub-
18 section; and

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

20 “(2) DISPOSAL.—Subject to valid existing
21 rights, effective beginning on the date of enactment
22 of this subsection, notwithstanding the references to
23 the term common varieties in this section and to the
24 exception to the term relating to a deposit of mate-
25 rials with some property giving it distinct and spe-

1 cial value, all deposits of mineral materials referred
 2 to in this section (including the block pumice re-
 3 ferred to in subsection (c)(1)) shall be subject to dis-
 4 posal only under the terms and conditions of the Act
 5 of July 31, 1947 (commonly known as the ‘Materials
 6 Act of 1947’) (30 U.S.C. 601 et seq.).”.

7 (b) CONFORMING AMENDMENT.—The first section of
 8 the Act of July 31, 1947 (commonly known as the “Mate-
 9 rials Act of 1947”) (30 U.S.C. 601), is amended in the
 10 first sentence by striking “common varieties of”.

11 **SEC. 505. REVIEW OF URANIUM DEVELOPMENT ON FED-**
 12 **ERAL LAND.**

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

16 (b) REVIEW.—

17 (1) IN GENERAL.—Not later than 90 days after
 18 the date of enactment of this Act, the Secretary, in
 19 consultation with the Secretary of Agriculture, shall
 20 enter into an arrangement under which the National
 21 Academy of Sciences shall conduct a study of ura-
 22 nium development on Federal land.

23 (2) MATTERS TO BE ADDRESSED.—The study
 24 shall describe and analyze—

1 (A) the laws applicable to the development
2 of uranium on Federal land and the agencies
3 responsible for administering and enforcing
4 those laws;

5 (B) the requirements relating to the devel-
6 opment of uranium under sections 2318
7 through 2352 of the Revised Statutes (com-
8 monly known and referred to in this section as
9 the “Mining Law of 1872”) (30 U.S.C. 21 et
10 seq.);

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

14 (D) the uranium leasing program adminis-
15 tered by the Department of Energy under that
16 Act;

17 (E) the requirements relating to the ap-
18 proval of uranium in-situ leasing recovery and
19 the licensing process required by the Nuclear
20 Regulatory Commission;

21 (F) the efficacy of bonds or other forms of
22 financial surety in ensuring the reclamation of
23 Federal land and associated waters impacted by
24 the development of uranium; and

1 (G) the efficacy of Federal law in pro-
2 tecting public health and safety and the envi-
3 ronment from impacts due to the development
4 of uranium on Federal land.

5 (c) RECOMMENDATIONS.—The study shall—

6 (1) analyze the effectiveness of current Federal
7 requirements applicable to the exploration, develop-
8 ment, and production of uranium on Federal land in
9 allowing for the production of uranium while ensur-
10 ing protection of public health and safety and the
11 environment; and

12 (2) make recommendations as to changes, if
13 any, to Federal law (including regulations) and
14 agency procedures relating to the development of
15 uranium resources on Federal land to allow for the
16 production of uranium while ensuring protection of
17 public health and safety and the environment, in-
18 cluding specific recommendations on whether—

19 (A) future development of uranium on
20 Federal land should be—

21 (i) removed from operation of the
22 Mining Law of 1872; and

23 (ii) subject to leasing;

24 (B) additional requirements (including ad-
25 ditional financial assurances or fees) should be

1 applicable to ensure reclamation of uranium
2 mine sites, including abandoned uranium mine
3 sites; and

4 (C) whether additional land should be
5 withdrawn from location and entry of uranium
6 mining claims by the Secretary.

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

9 (1) not later than 18 months after the date of
10 enactment of this Act, submit the findings and rec-
11 ommendations of the study to the Secretary and the
12 Secretary of Agriculture; and

13 (2) on completion of the study, make the results
14 of the study available to the public.

15 (e) REPORT.—Not later than 180 days after receiving
16 the results of the study, the Secretary, in consultation with
17 the Secretary of Agriculture, shall submit to the Com-
18 mittee on Energy and Natural Resources of the Senate
19 and the Committee on Natural Resources of the House
20 of Representatives a report on—

21 (1) the findings and recommendations of the
22 study;

23 (2) the agreement or disagreement of the Secre-
24 taries with each of the findings and recommenda-
25 tions of the study; and

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

4 (B) if the Secretary declines to implement a
5 recommendation, the justification for declining to
6 implement the recommendation.

7 **SEC. 506. EFFECT.**

8 (a) SPECIAL APPLICATION OF GENERAL MINING
9 LAWS.—

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

21 (2) EXISTING LAWS.—Any law described in
22 paragraph (1) shall remain in force and effect with
23 respect to claims and sites located or proposed to be
24 located under this Act.

1 (3) MINERAL INVESTIGATIONS.—Nothing in
 2 this Act applies to or limits mineral investigations,
 3 studies, or other mineral activities conducted by any
 4 Federal or State agency acting in a governmental
 5 capacity under other authorities.

6 (b) ENVIRONMENTAL LAWS.—Nothing in this Act af-
 7 fects or limits any assessment, investigation, evaluation,
 8 or listing under—

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

12 (2) the Solid Waste Disposal Act (42 U.S.C.
 13 3251 et seq.).

14 (c) EFFECT ON GENERAL MINING LAWS.—

15 (1) IN GENERAL.—This Act supersedes the gen-
 16 eral mining laws, except for the provisions of the
 17 general mining laws relating to the location of min-
 18 ing claims that are not expressly modified by this
 19 Act.

20 (2) LIMITATION.—Nothing in this Act super-
 21 sedes, modifies, amends, or repeals any provision of
 22 Federal law not expressly superseded, modified,
 23 amended, or repealed by this Act, other than the
 24 general mining laws.

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