

111TH CONGRESS
1ST SESSION

H. R. 699

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

IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 2009

Mr. RAHALL (for himself, Mr. GEORGE MILLER of California, Mr. WAXMAN, Mr. MARKEY of Massachusetts, Mr. BERMAN, Mr. GRIJALVA, Mr. COSTA, Mrs. CHRISTENSEN, Mr. HOLT, Mr. STARK, Mr. KILDEE, Mr. HINCHEY, Ms. ESHOO, Mr. BLUMENAUER, Mr. KENNEDY, Mr. KIND, Mrs. CAPPES, Mr. SCHIFF, Mr. HONDA, Mr. SALAZAR, and Ms. TSONGAS) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

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

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Hardrock Mining and Reclamation Act of 2009”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions and references.
- Sec. 3. Application rules.

TITLE I—MINERAL EXPLORATION AND DEVELOPMENT

- Sec. 101. Limitation on patents.
- Sec. 102. Royalty.
- Sec. 103. Hardrock mining claim maintenance fee.
- Sec. 104. Effect of payments for use and occupancy of claims.

TITLE II—PROTECTION OF SPECIAL PLACES

- Sec. 201. Lands open to location.
- Sec. 202. Withdrawal petitions by States, political subdivisions, and Indian tribes.

TITLE III—ENVIRONMENTAL CONSIDERATIONS OF MINERAL EXPLORATION AND DEVELOPMENT

- Sec. 301. General standard for hardrock mining on Federal land.
- Sec. 302. Permits.
- Sec. 303. Exploration permit.
- Sec. 304. Operations permit.
- Sec. 305. Persons ineligible for permits.
- Sec. 306. Financial assurance.
- Sec. 307. Operation and reclamation.
- Sec. 308. State law and regulation.
- Sec. 309. Limitation on the issuance of permits.

TITLE IV—MINING MITIGATION

Subtitle A—Locatable Minerals Fund

- Sec. 401. Establishment of Fund.
- Sec. 402. Contents of Fund.
- Sec. 403. Subaccounts.

Subtitle B—Use of Hardrock Reclamation Account

- Sec. 411. Use and objectives of the Account.
- Sec. 412. Eligible lands and waters.
- Sec. 413. Expenditures.
- Sec. 414. Authorization of appropriations.

Subtitle C—Use of Hardrock Community Impact Assistance Account

- Sec. 421. Use and objectives of the Account.
- Sec. 422. Allocation of funds.

TITLE V—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

Subtitle A—Administrative Provisions

Sec. 501. Policy functions.
 Sec. 502. User fees.
 Sec. 503. Inspection and monitoring.
 Sec. 504. Citizens suits.
 Sec. 505. Administrative and judicial review.
 Sec. 506. Enforcement.
 Sec. 507. Regulations.
 Sec. 508. Effective date.

Subtitle B—Miscellaneous Provisions

Sec. 511. Oil shale claims.
 Sec. 512. Purchasing power adjustment.
 Sec. 513. Savings clause.
 Sec. 514. Availability of public records.
 Sec. 515. Miscellaneous powers.
 Sec. 516. Multiple mineral development and surface resources.
 Sec. 517. Mineral materials.

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

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

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

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

8 (B) Any partner of such person.

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

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

14 (3) The term “beneficiation” means the crush-
 15 ing and grinding of locatable mineral ore and such
 16 processes as are employed to free the mineral from

1 other constituents, including but not necessarily lim-
2 ited to, physical and chemical separation techniques.

3 (4) The term “casual use”—

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

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

12 (C) does not include—

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

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

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

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

22 (5) The term “claim holder” means a person
23 holding a mining claim, millsite claim, or tunnel site
24 claim located under the general mining laws and
25 maintained in compliance with such laws and this

1 Act. Such term may include an agent of a claim
2 holder.

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

12 (7) The term “exploration”—

13 (A) subject to subparagraphs (B) and (C),
14 means creating surface disturbance other than
15 casual use, to evaluate the type, extent, quan-
16 tity, or quality of minerals present;

17 (B) includes mineral activities associated
18 with sampling, drilling, and analyzing locatable
19 mineral values; and

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

22 (8) The term “Federal land” means any land,
23 and any interest in land, that is owned by the
24 United States and open to location of mining claims

1 under the general mining laws and title II of this
2 Act.

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

8 (10) The term “Indian tribe” means any Indian
9 tribe, band, nation, pueblo, or other organized group
10 or community, including any Alaska Native village
11 or regional corporation as defined in or established
12 pursuant to the Alaska Native Claims Settlement
13 Act (43 U.S.C. 1601 et seq.), that is recognized as
14 eligible for the special programs and services pro-
15 vided by the United States to Indians because of
16 their status as Indians.

17 (11) The term “locatable mineral”—

18 (A) subject to subparagraph (B), means
19 any mineral, the legal and beneficial title to
20 which remains in the United States and that is
21 not subject to disposition under any of—

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

24 (ii) the Geothermal Steam Act of
25 1970 (30 U.S.C. 1001 et seq.);

1 (iii) the Act of July 31, 1947, com-
2 monly known as the Materials Act of 1947
3 (30 U.S.C. 601 et seq.); or

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

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

9 (i) held in trust by the United States
10 for any Indian or Indian tribe, as defined
11 in section 2 of the Indian Mineral Develop-
12 ment Act of 1982 (25 U.S.C. 2101); or

13 (ii) owned by any Indian or Indian
14 tribe, as defined in that section.

15 (12) The term “mineral activities” means any
16 activity on a mining claim, millsite claim, or tunnel
17 site claim for, related to, or incidental to, mineral
18 exploration, mining, beneficiation, processing, or rec-
19 lamation activities for any locatable mineral.

20 (13) The term “National Conservation System
21 unit” means any unit of the National Park System,
22 National Wildlife Refuge System, National Wild and
23 Scenic Rivers System, or National Trails System, or
24 a National Conservation Area, a National Recreation

1 Area, a National Monument, or any unit of the Na-
2 tional Wilderness Preservation System.

3 (14) The term “operator” means any person
4 proposing or authorized by a permit issued under
5 this Act to conduct mineral activities and any agent
6 of such person.

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

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

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

21 (18) The term “temporary cessation” means a
22 halt in mine-related production activities for a con-
23 tinuous period of no longer than 5 years.

24 (19) The term “undue degradation” means ir-
25 reparable harm to significant scientific, cultural, or

1 environmental resources on public lands that cannot
2 be effectively mitigated.

3 (b) VALID EXISTING RIGHTS.—As used in this Act,
4 the term “valid existing rights” means a mining claim or
5 millsite claim located on lands described in section 201(b),
6 that—

7 (1) was properly located and maintained under
8 the general mining laws prior to the date of enact-
9 ment of this Act;

10 (2) was supported by a discovery of a valuable
11 mineral deposit within the meaning of the general
12 mining laws on the date of enactment of this Act,
13 or satisfied the limitations under existing law for
14 millsite claims; and

15 (3) continues to be valid under this Act.

16 (c) REFERENCES TO OTHER LAWS.—(1) Any ref-
17 erence in this Act to the term general mining laws is a
18 reference to those Acts that generally comprise chapters
19 2, 12A, and 16, and sections 161 and 162, of title 30,
20 United States Code.

21 (2) Any reference in this Act to the Act of July 23,
22 1955, is a reference to the Act entitled “An Act to amend
23 the Act of July 31, 1947 (61 Stat. 681) and the mining
24 laws to provide for multiple use of the surface of the same

1 tracts of the public lands, and for other purposes” (30
2 U.S.C. 601 et seq.).

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

4 (a) IN GENERAL.—This Act applies to any mining
5 claim, millsite claim, or tunnel site claim located under
6 the general mining laws, before, on, or after the date of
7 enactment of this Act, except as provided in subsection
8 (b).

9 (b) PREEXISTING CLAIMS.—(1) Any unpatented min-
10 ing claim or millsite claim located under the general min-
11 ing laws before the date of enactment of this Act for which
12 a plan of operation has not been approved or a notice filed
13 prior to the date of enactment shall, upon the effective
14 date of this Act, be subject to the requirements of this
15 Act, except as provided in paragraph (2).

16 (2)(A) If a plan of operations is approved for mineral
17 activities on any claim or site referred to in paragraph
18 (1) prior to the date of enactment of this Act but such
19 operations have not commenced prior to the date of enact-
20 ment of this Act—

21 (i) during the 10-year period beginning on the
22 date of enactment of this Act, mineral activities at
23 such claim or site shall be subject to such plan of
24 operations;

1 (ii) during such 10-year period, modifications of
2 any such plan may be made in accordance with the
3 provisions of law applicable prior to the enactment
4 of this Act if such modifications are deemed minor
5 by the Secretary concerned; and

6 (iii) the operator shall bring such mineral ac-
7 tivities into compliance with this Act by the end of
8 such 10-year period.

9 (B) Where an application for modification of a plan
10 of operations referred to in subparagraph (A)(ii) has been
11 timely submitted and an approved plan expires prior to
12 Secretarial action on the application, mineral activities
13 and reclamation may continue in accordance with the
14 terms of the expired plan until the Secretary makes an
15 administrative decision on the application.

16 (c) FEDERAL LANDS SUBJECT TO EXISTING PER-
17 MIT.—(1) Any Federal land shall be subject to the require-
18 ments of section 102(a)(2) if the land is—

19 (A) subject to an operations permit; and

20 (B) producing valuable locatable minerals in
21 commercial quantities prior to the date of enactment
22 of this Act.

23 (2) Any Federal land added through a plan modifica-
24 tion to an operations permit on Federal land that is sub-

1 mitted after the date of enactment of this Act shall be
 2 subject to the terms of section 102(a)(3).

3 (d) APPLICATION OF ACT TO BENEFICIATION AND
 4 PROCESSING OF NON-FEDERAL MINERALS ON FEDERAL
 5 LANDS.—The provisions of this Act (including the envi-
 6 ronmental protection requirements of title III) shall apply
 7 in the same manner and to the same extent to mining
 8 claims, millsite claims, and tunnel site claims used for
 9 beneficiation or processing activities for any mineral with-
 10 out regard to whether or not the legal and beneficial title
 11 to the mineral is held by the United States. This sub-
 12 section applies only to minerals that are locatable minerals
 13 or minerals that would be locatable minerals if the legal
 14 and beneficial title to such minerals were held by the
 15 United States.

16 **TITLE I—MINERAL EXPLO-**
 17 **RATION AND DEVELOPMENT**

18 **SEC. 101. LIMITATION ON PATENTS.**

19 (a) MINING CLAIMS.—

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

1 (A) a patent application was filed with the
2 Secretary on or before September 30, 1994;
3 and

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

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

20 (b) MILLSITE CLAIMS.—

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

1 (A) a patent application for such land was
2 filed with the Secretary on or before September
3 30, 1994; and

4 (B) all requirements applicable to such
5 patent application were fully complied with by
6 that date.

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

16 **SEC. 102. ROYALTY.**

17 (a) RESERVATION OF ROYALTY.—

18 (1) IN GENERAL.—Except as provided in para-
19 graph (2) and subject to paragraph (3), production
20 of all locatable minerals from any mining claim lo-
21 cated under the general mining laws and maintained
22 in compliance with this Act, or mineral concentrates
23 or products derived from locatable minerals from
24 any such mining claim, as the case may be, shall be
25 subject to a royalty of 8 percent of the gross income

1 from mining. The claim holder or any operator to
2 whom the claim holder has assigned the obligation
3 to make royalty payments under the claim and any
4 person who controls such claim holder or operator
5 shall be liable for payment of such royalties.

6 (2) ROYALTY FOR FEDERAL LANDS SUBJECT
7 TO EXISTING PERMIT.—The royalty under para-
8 graph (1) shall be 4 percent in the case of any Fed-
9 eral land that—

10 (A) is subject to an operations permit on
11 the date of the enactment of this Act; and

12 (B) produces valuable locatable minerals in
13 commercial quantities on the date of enactment
14 of this Act.

15 (3) FEDERAL LAND ADDED TO EXISTING OPER-
16 ATIONS PERMIT.—Any Federal land added through
17 a plan modification to an operations permit that is
18 submitted after the date of enactment of this Act
19 shall be subject to the royalty that applies to Fed-
20 eral land under paragraph (1).

21 (4) DEPOSIT.—Amounts received by the United
22 States as royalties under this subsection shall be de-
23 posited into the account established under section
24 401.

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

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

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

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

24 (3) A person conducting mineral activities shall—

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

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

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

23 (c) RECORDKEEPING AND REPORTING REQUIRE-
24 MENTS.—(1) A claim holder, operator, or other person di-
25 rectly involved in developing, producing, processing, trans-

1 porting, purchasing, or selling locatable minerals, con-
2 centrates, or products derived therefrom, subject to this
3 Act, through the point of royalty computation shall estab-
4 lish and maintain any records, make any reports, and pro-
5 vide any information that the Secretary may reasonably
6 require for the purposes of implementing this section or
7 determining compliance with rules or orders under this
8 section. Such records shall include, but not be limited to,
9 periodic reports, records, documents, and other data. Such
10 reports may also include, but not be limited to, pertinent
11 technical and financial data relating to the quantity, qual-
12 ity, composition volume, weight, and assay of all minerals
13 extracted from the mining claim. Upon the request of any
14 officer or employee duly designated by the Secretary con-
15 ducting an audit or investigation pursuant to this section,
16 the appropriate records, reports, or information that may
17 be required by this section shall be made available for in-
18 spection and duplication by such officer or employee. Fail-
19 ure by a claim holder, operator, or other person referred
20 to in the first sentence to cooperate with such an audit,
21 provide data required by the Secretary, or grant access
22 to information may, at the discretion of the Secretary, re-
23 sult in involuntary forfeiture of the claim.

24 (2) Records required by the Secretary under this sec-
25 tion shall be maintained for 7 years after release of finan-

1 cial assurance under section 306 unless the Secretary noti-
2 fies the operator that the Secretary has initiated an audit
3 or investigation involving such records and that such
4 records must be maintained for a longer period. In any
5 case when an audit or investigation is underway, records
6 shall be maintained until the Secretary releases the oper-
7 ator of the obligation to maintain such records.

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

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

1 alties, or other payments) activities under this section in
2 cooperation with the Secretary, and to carry out any other
3 activity described in this section.

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

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

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

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

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

13 (3) For the purposes of this subsection, the term
14 “underreporting” means the difference between the roy-
15 alty on the value of the production that should have been
16 reported and the royalty on the value of the production
17 which was reported, if the value that should have been
18 reported is greater than the value that was reported.

19 (4) The Secretary may waive or reduce the assess-
20 ment provided in paragraph (2) of this subsection if the
21 person liable for royalty payments under this section cor-
22 rects the underreporting before the date such person re-
23 ceives notice from the Secretary that an underreporting
24 may have occurred, or before 90 days after the date of
25 the enactment of this section, whichever is later.

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

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

9 (B) such person had substantial authority for
10 reporting royalty on the value of the production on
11 the basis on which it was reported;

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

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

19 (6) All penalties collected under this subsection shall
20 be deposited in the Locatable Minerals Fund established
21 under title IV.

22 (g) DELEGATION.—For the purposes of this section,
23 the term “Secretary” means the Secretary of the Interior
24 acting through the Director of the Minerals Management
25 Service.

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

10 (i) GROSS INCOME FROM MINING DEFINED.—For
11 the purposes of this section, for any locatable mineral, the
12 term “gross income from mining” has the same meaning
13 as the term “gross income” in section 613(c) of the Inter-
14 nal Revenue Code of 1986.

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

21 (k) FAILURE TO COMPLY WITH ROYALTY REQUIRE-
22 MENTS.—Any person who fails to comply with the require-
23 ments of this section or any regulation or order issued to
24 implement this section shall be liable for a civil penalty
25 under section 109 of the Federal Oil and Gas Royalty

1 Management Act (30 U.S.C. 1719) to the same extent as
2 if the claim located under the general mining laws and
3 maintained in compliance with this Act were a lease under
4 that Act.

5 **SEC. 103. HARDROCK MINING CLAIM MAINTENANCE FEE.**

6 (a) FEE.—

7 (1) Except as provided in section 2511(e)(2) of
8 the Energy Policy Act of 1992 (relating to oil shale
9 claims), for each unpatented mining claim, mill or
10 tunnel site on federally owned lands, whether located
11 before, on, or after enactment of this Act, each
12 claimant shall pay to the Secretary, on or before Au-
13 gust 31 of each year, a claim maintenance fee of
14 \$150 per claim to hold such unpatented mining
15 claim, mill or tunnel site for the assessment year be-
16 ginning at noon on the next day, September 1. Such
17 claim maintenance fee shall be in lieu of the assess-
18 ment work requirement contained in the Mining Law
19 of 1872 (30 U.S.C. 28 et seq.) and the related filing
20 requirements contained in section 314(a) and (c) of
21 the Federal Land Policy and Management Act of
22 1976 (43 U.S.C. 1744(a) and (c)).

23 (2)(A) The claim maintenance fee required
24 under this subsection shall be waived for a claimant
25 who certifies in writing to the Secretary that on the

1 date the payment was due, the claimant and all re-
2 lated parties—

3 (i) held not more than 10 mining claims,
4 mill sites, or tunnel sites, or any combination
5 thereof, on public lands; and

6 (ii) have performed assessment work re-
7 quired under the Mining Law of 1872 (30
8 U.S.C. 28 et seq.) to maintain the mining
9 claims held by the claimant and such related
10 parties for the assessment year ending on noon
11 of September 1 of the calendar year in which
12 payment of the claim maintenance fee was due.

13 (B) For purposes of subparagraph (A), with re-
14 spect to any claimant, the term “all related parties”
15 means—

16 (i) the spouse and dependent children (as
17 defined in section 152 of the Internal Revenue
18 Code of 1986), of the claimant; or

19 (ii) a person affiliated with the claimant,
20 including—

21 (I) a person controlled by, controlling,
22 or under common control with the claim-
23 ant; or

24 (II) a subsidiary or parent company
25 or corporation of the claimant.

1 (3)(A) The Secretary shall adjust the fees re-
2 quired by this subsection to reflect changes in the
3 Consumer Price Index published by the Bureau of
4 Labor Statistics of the Department of Labor every
5 5 years after the date of enactment of this Act, or
6 more frequently if the Secretary determines an ad-
7 justment to be reasonable.

8 (B) The Secretary shall provide claimants no-
9 tice of any adjustment made under this paragraph
10 not later than July 1 of any year in which the ad-
11 justment is made.

12 (C) A fee adjustment under this paragraph
13 shall begin to apply the calendar year following the
14 calendar year in which it is made.

15 (4) Moneys received under this subsection that
16 are not otherwise allocated for the administration of
17 the mining laws by the Department of the Interior
18 shall be deposited in the Locatable Minerals Fund
19 established by this Act.

20 (b) LOCATION.—

21 (1) Notwithstanding any provision of law, for
22 every unpatented mining claim, mill or tunnel site
23 located after the date of enactment of this Act and
24 before September 30, 1998, the locator shall, at the
25 time the location notice is recorded with the Bureau

1 of Land Management, pay to the Secretary a loca-
2 tion fee, in addition to the fee required by subsection
3 (a) of \$50 per claim.

4 (2) Moneys received under this subsection that
5 are not otherwise allocated for the administration of
6 the mining laws by the Department of the Interior
7 shall be deposited in the Locatable Minerals Fund
8 established by this Act.

9 (c) CO-OWNERSHIP.—The co-ownership provisions of
10 the Mining Law of 1872 (30 U.S.C. 28 et seq.) will remain
11 in effect except that the annual claim maintenance fee,
12 where applicable, shall replace applicable assessment re-
13 quirements and expenditures.

14 (d) FAILURE TO PAY.—Failure to pay the claim
15 maintenance fee as required by subsection (a) shall conclu-
16 sively constitute a forfeiture of the unpatented mining
17 claim, mill or tunnel site by the claimant and the claim
18 shall be deemed null and void by operation of law.

19 (e) OTHER REQUIREMENTS.—

20 (1) Nothing in this section shall change or mod-
21 ify the requirements of section 314(b) of the Federal
22 Land Policy and Management Act of 1976 (43
23 U.S.C. 1744(b)), or the requirements of section
24 314(c) of the Federal Land Policy and Management

1 Act of 1976 (43 U.S.C. 1744(c)) related to filings
2 required by section 314(b), which remain in effect.

3 (2) Section 2324 of the Revised Statutes of the
4 United States (30 U.S.C. 28) is amended by insert-
5 ing “or section 103(a) of the Hardrock Mining and
6 Reclamation Act of 2009” after “Act of 1993”.

7 **SEC. 104. EFFECT OF PAYMENTS FOR USE AND OCCUPANCY**
8 **OF CLAIMS.**

9 Timely payment of the claim maintenance fee re-
10 quired by section 103 of this Act or any related law relat-
11 ing to the use of Federal land, asserts the claimant’s au-
12 thority to use and occupy the Federal land concerned for
13 prospecting and exploration, consistent with the require-
14 ments of this Act and other applicable law.

15 **TITLE II—PROTECTION OF**
16 **SPECIAL PLACES**

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

18 (a) LANDS OPEN TO LOCATION.—Except as provided
19 in subsection (b), mining claims may be located under the
20 general mining laws only on such lands and interests as
21 were open to the location of mining claims under the gen-
22 eral mining laws immediately before the enactment of this
23 Act.

24 (b) LANDS NOT OPEN TO LOCATION.—Notwith-
25 standing any other provision of law and subject to valid

1 existing rights, each of the following shall not be open to
2 the location of mining claims under the general mining
3 laws on or after the date of enactment of this Act:

4 (1) Wilderness study areas.

5 (2) Areas of critical environmental concern.

6 (3) Areas designated for inclusion in the Na-
7 tional Wild and Scenic Rivers System pursuant to
8 the Wild and Scenic Rivers Act (16 U.S.C. 1271 et
9 seq.), areas designated for potential addition to such
10 system pursuant to section 5(a) of that Act (16
11 U.S.C. 1276(a)), and areas determined to be eligible
12 for inclusion in such system pursuant to section 5(d)
13 of such Act (16 U.S.C. 1276(d)).

14 (4) Any area identified in the set of inventoried
15 roadless areas maps contained in the Forest Service
16 Roadless Area Conservation Final Environmental
17 Impact Statement, Volume 2, dated November 2000.

18 (c) EXISTING AUTHORITY NOT AFFECTED.—Noth-
19 ing in this Act limits the authority granted the Secretary
20 in section 204 of the Federal Land Policy and Manage-
21 ment Act of 1976 (43 U.S.C. 1714) to withdraw public
22 lands.

1 **SEC. 202. WITHDRAWAL PETITIONS BY STATES, POLITICAL**
2 **SUBDIVISIONS, AND INDIAN TRIBES.**

3 (a) IN GENERAL.—Subject to valid existing rights,
4 any State or political subdivision of a State or an Indian
5 tribe may submit a petition to the Secretary for the with-
6 drawal of a specific tract of Federal land from the oper-
7 ation of the general mining laws, in order to protect spe-
8 cific values identified in the petition that are important
9 to the State or political subdivision or Indian tribe. Such
10 values may include the value of a watershed to supply
11 drinking water, wildlife habitat value, cultural or historic
12 resources, or value for scenic vistas important to the local
13 economy, and other similar values. In the case of an In-
14 dian tribe, the petition may also identify religious or cul-
15 tural values that are important to the Indian tribe. The
16 petition shall contain the information required by section
17 204 of the Federal Land Policy and Management Act of
18 1976 (43 U.S.C. 1714).

19 (b) CONSIDERATION OF PETITION.—The Secretary—

20 (1) shall solicit public comment on the petition;

21 (2) shall make a final decision on the petition
22 within 180 days after receiving it; and

23 (3) shall grant the petition subject to valid ex-
24 isting rights, unless the Secretary makes and pub-
25 lishes in the Federal Register specific findings why

1 a decision to grant the petition would be against the
2 national interest.

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

7 **SEC. 301. GENERAL STANDARD FOR HARDROCK MINING ON**
8 **FEDERAL LAND.**

9 Notwithstanding section 302(b) of the Federal Land
10 Policy and Management Act of 1976 (43 U.S.C. 1732(b)),
11 the first section of the Act of June 4, 1897 (chapter 2;
12 30 Stat. 36 16 U.S.C. 478), and the National Forest Man-
13 agement Act of 1976 (16 U.S.C. 1600 et seq.), and in
14 accordance with this title and applicable law, unless ex-
15 pressly stated otherwise in this Act, the Secretary—

16 (1) shall ensure that mineral activities on any
17 Federal land that is subject to a mining claim, mill-
18 site claim, or tunnel site claim is carefully controlled
19 to prevent undue degradation of public lands and re-
20 sources; and

21 (2) shall not grant permission to engage in min-
22 eral activities if the Secretary, after considering the
23 evidence, makes and publishes in the Federal Reg-
24 ister a determination that undue degradation would
25 result from such activities.

1 **SEC. 302. PERMITS.**

2 (a) PERMITS REQUIRED.—No person may engage in
3 mineral activities on Federal land that may cause a dis-
4 turbance of surface resources, including but not limited
5 to land, air, ground water and surface water, and fish and
6 wildlife, unless—

7 (1) the claim was properly located under the
8 general mining laws and maintained in compliance
9 with such laws and this Act; and

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

12 (b) NEGLIGIBLE DISTURBANCE.—Notwithstanding
13 subsection (a)(2), a permit under this title shall not be
14 required for mineral activities that are a casual use of the
15 Federal land.

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

22 **SEC. 303. EXPLORATION PERMIT.**

23 (a) AUTHORIZED EXPLORATION ACTIVITY.—Any
24 claim holder may apply for an exploration permit for any
25 mining claim authorizing the claim holder to remove a rea-
26 sonable amount of the locatable minerals from the claim

1 for analysis, study and testing. Such permit shall not au-
2 thorize the claim holder to remove any mineral for sale
3 nor to conduct any activities other than those required for
4 exploration for locatable minerals and reclamation.

5 (b) PERMIT APPLICATION REQUIREMENTS.—An ap-
6 plication for an exploration permit under this section shall
7 be submitted in a manner satisfactory to the Secretary
8 or, for National Forest System lands, the Secretary of Ag-
9 riculture, and shall contain an exploration plan, a reclama-
10 tion plan for the proposed exploration, and such docu-
11 mentation as necessary to ensure compliance with applica-
12 ble Federal and State environmental laws and regulations.

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

18 (d) PERMIT ISSUANCE OR DENIAL.—The Secretary,
19 or for National Forest System lands, the Secretary of Ag-
20 riculture, shall issue an exploration permit pursuant to an
21 application under this section unless such Secretary makes
22 any of the following determinations:

23 (1) The permit application, the exploration plan
24 and reclamation plan are not complete and accurate.

1 (2) The applicant has not demonstrated that
2 proposed reclamation can be accomplished.

3 (3) The proposed exploration activities and con-
4 dition of the land after the completion of exploration
5 activities and final reclamation would not conform
6 with the land use plan applicable to the area subject
7 to mineral activities.

8 (4) The area subject to the proposed permit is
9 included within an area not open to location under
10 section 201.

11 (5) The applicant has not demonstrated that
12 the exploration plan and reclamation plan will be in
13 compliance with the requirements of this Act and all
14 other applicable Federal requirements, and any
15 State requirements agreed to by the Secretary of the
16 Interior (or Secretary of Agriculture, as appro-
17 priate).

18 (6) The applicant has not demonstrated that
19 the requirements of section 306 (relating to financial
20 assurance) will be met.

21 (7) The applicant is eligible to receive a permit
22 under section 305.

23 (e) TERM OF PERMIT.—An exploration permit shall
24 be for a stated term. The term shall be no greater than

1 that necessary to accomplish the proposed exploration,
2 and in no case for more than 10 years.

3 (f) PERMIT MODIFICATION.—During the term of an
4 exploration permit the permit holder may submit an appli-
5 cation to modify the permit. To approve a proposed modi-
6 fication to the permit, the Secretary concerned shall make
7 the same determinations as are required in the case of
8 an original permit, except that the Secretary and the Sec-
9 retary of Agriculture may specify by joint rule the extent
10 to which requirements for initial exploration permits under
11 this section shall apply to applications to modify an explo-
12 ration permit based on whether such modifications are
13 deemed significant or minor.

14 (g) TRANSFER, ASSIGNMENT, OR SALE OF
15 RIGHTS.—(1) No transfer, assignment, or sale of rights
16 granted by a permit issued under this section shall be
17 made without the prior written approval of the Secretary
18 or for National Forest System lands, the Secretary of Ag-
19 riculture.

20 (2) Such Secretary shall allow a person holding a per-
21 mit to transfer, assign, or sell rights under the permit to
22 a successor, if the Secretary finds, in writing, that the suc-
23 cessor—

24 (A) is eligible to receive a permit in accordance
25 with section 304(d);

1 (B) has submitted evidence of financial assur-
2 ance satisfactory under section 306; and

3 (C) meets any other requirements specified by
4 the Secretary.

5 (3) The successor in interest shall assume the liability
6 and reclamation responsibilities established by the existing
7 permit and shall conduct the mineral activities in full com-
8 pliance with this Act, and the terms and conditions of the
9 permit as in effect at the time of transfer, assignment,
10 or sale.

11 (4) Each application for approval of a permit trans-
12 fer, assignment, or sale pursuant to this subsection shall
13 be accompanied by a fee payable to the Secretary of the
14 Interior in such amount as may be established by such
15 Secretary. Such amount shall be equal to the actual or
16 anticipated cost to the Secretary or the Secretary of Agri-
17 culture, as appropriate, of reviewing and approving or dis-
18 approving such transfer, assignment, or sale, as deter-
19 mined by the Secretary of the Interior.

20 **SEC. 304. OPERATIONS PERMIT.**

21 (a) OPERATIONS PERMIT.—(1) Any claim holder that
22 is in compliance with the general mining laws and section
23 103 of this Act may apply to the Secretary, or for National
24 Forest System lands, the Secretary of Agriculture, for an

1 operations permit authorizing the claim holder to carry
2 out mineral activities, other than casual use, on—

3 (A) any valid mining claim, valid millsite claim,
4 or valid tunnel site claim; and

5 (B) such additional Federal land as the Sec-
6 retary may determine is necessary to conduct the
7 proposed mineral activities, if the operator obtains a
8 right-of-way permit for use of such additional lands
9 under title V of the Federal Land Policy and Man-
10 agement Act of 1976 (43 U.S.C. 1761 et seq.) and
11 agrees to pay all fees required under that title for
12 the permit under that title.

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

16 (b) PERMIT APPLICATION REQUIREMENTS.—An ap-
17 plication for an operations permit under this section shall
18 be submitted in a manner satisfactory to the Secretary
19 concerned and shall contain site characterization data, an
20 operations plan, a reclamation plan, monitoring plans,
21 long-term maintenance plans, to the extent necessary, and
22 such documentation as necessary to ensure compliance
23 with applicable Federal and State environmental laws and
24 regulations. If the proposed mineral activities will be car-
25 ried out in conjunction with mineral activities on adjacent

1 non-Federal lands, information on the location and nature
2 of such operations may be required by the Secretary.

3 (c) PERMIT ISSUANCE OR DENIAL.—(1) After pro-
4 viding for public participation pursuant to subsection (i),
5 the Secretary, or for National Forest System lands the
6 Secretary of Agriculture, shall issue an operations permit
7 if such Secretary makes each of the following determina-
8 tions in writing, and shall deny a permit if such Secretary
9 finds that the application and applicant do not fully meet
10 the following requirements:

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

17 (B) The applicant has demonstrated that the
18 proposed reclamation in the operation and reclama-
19 tion plan can be and is likely to be accomplished by
20 the applicant and will not cause undue degradation.

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

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

3 (D) The area subject to the proposed plan is
4 open to location for the types of mineral activities
5 proposed.

6 (E) The proposed operation has been designed
7 to prevent material damage to the hydrologic bal-
8 ance outside the permit area.

9 (F) The applicant will fully comply with the re-
10 quirements of section 306 (relating to financial as-
11 surance) prior to the initiation of operations.

12 (G) Neither the applicant nor operator, nor any
13 subsidiary, affiliate, or person controlled by or under
14 common control with the applicant or operator, is in-
15 eligible to receive a permit under section 305.

16 (H) The reclamation plan demonstrates that 10
17 years following mine closure, no treatment of surface
18 or ground water for carcinogens or toxins will be re-
19 quired to meet water quality standards at the point
20 of discharge.

21 (2) With respect to any activities specified in the rec-
22 lamation plan referred to in subsection (b) that constitutes
23 a removal or remedial action under section 101 of the
24 Comprehensive Environmental Response, Compensation,
25 and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the

1 Secretary shall consult with the Administrator of the En-
2 vironmental Protection Agency prior to the issuance of an
3 operations permit. The Administrator shall ensure that
4 the reclamation plan does not require activities that would
5 increase the costs or likelihood of removal or remedial ac-
6 tions under the Comprehensive Environmental Response,
7 Compensation, and Liability Act of 1980 (42 U.S.C. 9601
8 et seq.) or corrective actions under the Solid Waste Dis-
9 posal Act (42 U.S.C. 6901 et seq.).

10 (d) TERM OF PERMIT; RENEWAL.—

11 (1) An operations permit—

12 (A) shall be for a term that is no longer
13 than the shorter of—

14 (i) the period necessary to accomplish
15 the proposed mineral activities subject to
16 the permit; and

17 (ii) 20 years; and

18 (B) shall be renewed for an additional 20-
19 year period if the operation is in compliance
20 with the requirements of this Act and other ap-
21 plicable law.

22 (2) Failure by the operator to commence min-
23 eral activities within 2 years of the date scheduled
24 in an operations permit shall require a modification
25 of the permit if the Secretary concerned determines

1 that modifications are necessary to comply with sec-
2 tion 201.

3 (e) PERMIT MODIFICATION.—

4 (1) During the term of an operations permit
5 the operator may submit an application to modify
6 the permit (including the operations plan or rec-
7 lamation plan, or both).

8 (2) The Secretary, or for National Forest Sys-
9 tem lands the Secretary of Agriculture, may, at any
10 time, require reasonable modification to any oper-
11 ations plan or reclamation plan upon a determina-
12 tion that the requirements of this Act cannot be met
13 if the plan is followed as approved. Such determina-
14 tion shall be based on a written finding and subject
15 to public notice and hearing requirements estab-
16 lished by the Secretary concerned.

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

21 (A) development of acid or toxic drainage;

22 (B) loss of springs or water supplies;

23 (C) water quantity, water quality, or other
24 resulting water impacts that are significantly

1 different than those predicted in the applica-
2 tion;

3 (D) the need for long-term water treat-
4 ment;

5 (E) significant reclamation difficulties or
6 reclamation failure;

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

10 (G) the discovery of hazards to public safe-
11 ty.

12 (f) TEMPORARY CESSATION OF OPERATIONS.—(1)

13 An operator conducting mineral activities under an oper-
14 ations permit in effect under this title may not temporarily
15 cease mineral activities for a period greater than 180 days
16 unless the Secretary concerned has approved such tem-
17 porary cessation or unless the temporary cessation is per-
18 mitted under the original permit. Any operator tempo-
19 rarily ceasing mineral activities for a period greater than
20 90 days under an operations permit issued before the date
21 of the enactment of this Act shall submit, before the expi-
22 ration of such 90-day period, a complete application for
23 temporary cessation of operations to the Secretary con-
24 cerned for approval unless the temporary cessation is per-
25 mitted under the original permit.

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

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

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

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

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

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

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

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

19 (h) TRANSFER, ASSIGNMENT, OR SALE OF
20 RIGHTS.—(1) No transfer, assignment, or sale of rights
21 granted by a permit under this section shall be made with-
22 out the prior written approval of the Secretary, or for Na-
23 tional Forest System lands the Secretary of Agriculture.

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

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

4 (A) has submitted information required and is
5 eligible to receive a permit in accordance with sec-
6 tion 305;

7 (B) has submitted evidence of financial assur-
8 ance satisfactory under section 306; and

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

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

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

1 Agriculture, of reviewing and approving or disapproving
2 such transfer, assignment, or sale, as determined by such
3 Secretary.

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

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

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

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

23 (2) An applicable State or Federal toxic sub-
24 stance, solid waste, air, water quality, or fish and
25 wildlife conservation law or regulation at any site

1 where mining, beneficiation, or processing activities
2 are occurring or have occurred.

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

8 (b) SUSPENSION.—The Secretary, or for National
9 Forest System lands the Secretary of Agriculture, shall
10 suspend an operations permit, in whole or in part, if such
11 Secretary determines that any of the entities described in
12 subsection (a) were in violation of any requirement listed
13 in subsection (a) at the time the permit was issued.

14 (c) CORRECTION.—(1) The Secretary, or for National
15 Forest System lands the Secretary of Agriculture, may
16 issue or reinstate a permit under this title if the applicant
17 submits proof that the violation referred to in subsection
18 (a) or (b) has been corrected or is in the process of being
19 corrected to the satisfaction of such Secretary and the reg-
20 ulatory authority involved or if the applicant submits proof
21 that the violator has filed and is presently pursuing, a di-
22 rect administrative or judicial appeal to contest the exist-
23 ence of the violation. For purposes of this section, an ap-
24 peal of any applicant's relationship to an affiliate shall not

1 constitute a direct administrative or judicial appeal to con-
2 test the existence of the violation.

3 (2) Any permit which is issued or reinstated based
4 upon proof submitted under this subsection shall be condi-
5 tionally approved or conditionally reinstated, as the case
6 may be. If the violation is not successfully abated or the
7 violation is upheld on appeal, the permit shall be sus-
8 pended or revoked.

9 (d) PATTERN OF WILLFUL VIOLATIONS.—No permit
10 under this Act may be issued to any applicant if there
11 is a demonstrated pattern of willful violations of the envi-
12 ronmental protection requirements of this Act by the ap-
13 plicant, any affiliate of the applicant, or the operator or
14 claim holder if different than the applicant.

15 **SEC. 306. FINANCIAL ASSURANCE.**

16 (a) FINANCIAL ASSURANCE REQUIRED.—(1) After a
17 permit is issued under this title and before any exploration
18 or operations begin under the permit, the operator shall
19 file with the Secretary, or for National Forest System
20 lands the Secretary of Agriculture, evidence of financial
21 assurance payable to the United States. The financial as-
22 surance shall be provided in the form of a surety bond,
23 a trust fund, letters of credits, government securities, cer-
24 tificates of deposit, cash, or an equivalent form approved
25 by such Secretary.

1 (2) The financial assurance shall cover all lands with-
2 in the initial permit area and all affected waters that may
3 require restoration, treatment, or other management as a
4 result of mineral activities, and shall be extended to cover
5 all lands and waters added pursuant to any permit modi-
6 fication made under section 303(f) (relating to exploration
7 permits) or section 304(e) (relating to operations per-
8 mits), or affected by mineral activities.

9 (b) AMOUNT.—The amount of the financial assur-
10 ance required under this section shall be sufficient to as-
11 sure the completion of reclamation and restoration satis-
12 fying the requirements of this Act if the work were to be
13 performed by the Secretary concerned in the event of for-
14 feiture, including the construction and maintenance costs
15 for any treatment facilities necessary to meet Federal and
16 State environmental requirements. The calculation of such
17 amount shall take into account the maximum level of fi-
18 nancial exposure which shall arise during the mineral ac-
19 tivity and administrative costs associated with a govern-
20 ment agency reclaiming the site.

21 (c) DURATION.—The financial assurance required
22 under this section shall be held for the duration of the
23 mineral activities and for an additional period to cover the
24 operator's responsibility for reclamation, restoration, and

1 long-term maintenance, and effluent treatment as speci-
2 fied in subsection (g).

3 (d) ADJUSTMENTS.—The amount of the financial as-
4 surance and the terms of the acceptance of the assurance
5 may be adjusted by the Secretary concerned from time to
6 time as the area requiring coverage is increased or de-
7 creased, or where the costs of reclamation or treatment
8 change, or pursuant to section 304(f) (relating to tem-
9 porary cessation of operations), but the financial assur-
10 ance shall otherwise be in compliance with this section.
11 The Secretary concerned shall review the financial guar-
12 antee every 3 years and as part of the permit application
13 review under section 304(c).

14 (e) RELEASE.—Upon request, and after notice and
15 opportunity for public comment, and after inspection by
16 the Secretary, or for National Forest System lands, the
17 Secretary of Agriculture, such Secretary may, after con-
18 sultation with the Administrator of the Environmental
19 Protection Agency, release in whole or in part the financial
20 assurance required under this section if the Secretary
21 makes both of the following determinations:

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

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

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

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

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

1 of this Act have been fully met, the remaining por-
2 tion of the financial assurance may be released.

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

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

22 (h) ENVIRONMENTAL HAZARDS.—If the Secretary,
23 or for National Forest System lands, the Secretary of Ag-
24 riculture, determines, after final release of financial assur-
25 ance, that an environmental hazard resulting from the

1 mineral activities exists, or the terms and conditions of
2 the explorations or operations permit of this Act were not
3 fulfilled in fact at the time of release, such Secretary shall
4 issue an order under section 506 requiring the claim hold-
5 er or operator (or any person who controls the claim hold-
6 er or operator) to correct the condition such that applica-
7 ble laws and regulations and any conditions from the plan
8 of operations are met.

9 **SEC. 307. OPERATION AND RECLAMATION.**

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

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

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

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

1 (b) OPERATION AND RECLAMATION STANDARDS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (c) SURFACE OR GROUNDWATER WITHDRAWALS.—

16 The Secretary shall work with State and local govern-
17 ments with authority over the allocation and use of surface
18 and groundwater in the area around the mine site as nec-
19 essary to ensure that any surface or groundwater with-
20 draws made as a result of mining activities approved
21 under this section do not cause undue degradation.

22 (d) SPECIAL RULE.—Reclamation activities for a
23 mining claim that has been forfeited, relinquished, or
24 lapsed, or a plan that has expired or been revoked or sus-
25 pended, shall continue subject to review and approval by

1 the Secretary, or for National Forest System lands the
2 Secretary of Agriculture.

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

4 (a) STATE LAW.—(1) Any reclamation, land use, en-
5 vironmental, or public health protection standard or re-
6 quirement in State law or regulation that meets or exceeds
7 the requirements of this Act shall not be construed to be
8 inconsistent with any such standard.

9 (2) Any bonding standard or requirement in State
10 law or regulation that meets or exceeds the requirements
11 of this Act shall not be construed to be inconsistent with
12 such requirements.

13 (3) Any inspection standard or requirement in State
14 law or regulation that meets or exceeds the requirements
15 of this Act shall not be construed to be inconsistent with
16 such requirements.

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

23 (2) Nothing in this Act shall be construed as affecting
24 in any way the right of any person to enforce or protect,
25 under applicable law, such person's interest in water re-

1 sources affected by mineral activities on lands subject to
2 this Act.

3 (c) COOPERATIVE AGREEMENTS.—(1) Any State
4 may enter into a cooperative agreement with the Sec-
5 retary, or for National Forest System lands the Secretary
6 of Agriculture, for the purposes of such Secretary applying
7 such standards and requirements referred to in subsection
8 (a) and subsection (b) to mineral activities or reclamation
9 on lands subject to this Act.

10 (2) In such instances where the proposed mineral ac-
11 tivities would affect lands not subject to this Act in addi-
12 tion to lands subject to this Act, in order to approve a
13 plan of operations the Secretary concerned shall enter into
14 a cooperative agreement with the State that sets forth a
15 common regulatory framework consistent with the require-
16 ments of this Act for the purposes of such plan of oper-
17 ations. Any such common regulatory framework shall not
18 negate the authority of the Federal Government to inde-
19 pendently inspect mines and operations and bring enforce-
20 ment actions for violations.

21 (3) The Secretary concerned shall not enter into a
22 cooperative agreement with any State under this section
23 until after notice in the Federal Register and opportunity
24 for public comment and hearing.

1 (d) PRIOR AGREEMENTS.—Any cooperative agree-
2 ment or such other understanding between the Secretary
3 concerned and any State, or political subdivision thereof,
4 relating to the management of mineral activities on lands
5 subject to this Act that was in existence on the date of
6 enactment of this Act may only continue in force until 1
7 year after the date of enactment of this Act. During such
8 1-year period, the State and the Secretary shall review the
9 terms of the agreement and make changes that are nec-
10 essary to be consistent with this Act.

11 **SEC. 309. LIMITATION ON THE ISSUANCE OF PERMITS.**

12 No permit shall be issued under this title that author-
13 izes mineral activities that would impair the land or re-
14 sources of a National Park or a National Monument. For
15 purposes of this section, the term “impair” shall include
16 any diminution of the affected land including wildlife, sce-
17 nic assets, water resources, air quality, and acoustic quali-
18 ties, or other changes that would impair a citizen’s experi-
19 ence at the National Park or National Monument.

20 **TITLE IV—MINING MITIGATION**

21 **Subtitle A—Locatable Minerals**

22 **Fund**

23 **SEC. 401. ESTABLISHMENT OF FUND.**

24 (a) ESTABLISHMENT.—There is established on the
25 books of the Treasury of the United States a separate ac-

1 count to be known as the Locatable Minerals Fund (here-
2 inafter in this subtitle referred to as the “Fund”).

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

13 **SEC. 402. CONTENTS OF FUND.**

14 The following amounts shall be credited to the Fund:

15 (1) All moneys collected pursuant to section
16 506 (relating to enforcement) and section 504 (relat-
17 ing to citizens suits).

18 (2) All fees received under section
19 304(a)(1)(B).

20 (3) All donations by persons, corporations, as-
21 sociations, and foundations for the purposes of this
22 subtitle.

23 (4) All amounts deposited in the Fund under
24 section 102 (relating to royalties and penalties for
25 underreporting).

1 (5) All amounts received by the United States
2 pursuant to section 101 from issuance of patents.

3 (6) All amounts received by the United States
4 pursuant to section 103 as claim maintenance and
5 location fees minus the moneys allocated for admin-
6 istration of the mining laws by the Department of
7 the Interior.

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

10 **SEC. 403. SUBACCOUNTS.**

11 There shall be in the Fund 2 subaccounts, as follows:

12 (1) The Hardrock Reclamation Account, which
13 shall consist of two-thirds of the amounts credited to
14 the Fund under section 402 and which shall be ad-
15 ministered by the Secretary acting through the Di-
16 rector of the Office of Surface Mining and Enforce-
17 ment.

18 (2) The Hardrock Community Impact Assist-
19 ance Account, which shall consist of one-third of the
20 amounts credited to the Fund under section 402 and
21 which shall be administered by the Secretary acting
22 through the Director of the Bureau of Land Man-
23 agement.

1 **Subtitle B—Use of Hardrock**
2 **Reclamation Account**

3 **SEC. 411. USE AND OBJECTIVES OF THE ACCOUNT.**

4 (a) IN GENERAL.—The Secretary is authorized, sub-
5 ject to appropriations, to use moneys in the Hardrock Rec-
6 lamation Account for the reclamation and restoration of
7 land and water resources adversely affected by past min-
8 eral activities on lands the legal and beneficial title to
9 which resides in the United States, land within the exte-
10 rior boundary of any national forest system unit, or other
11 lands described in subsection (d) or section 412, including
12 any of the following:

13 (1) Protecting public health and safety.

14 (2) Preventing, abating, treating, and control-
15 ling water pollution created by abandoned mine
16 drainage, including in river watershed areas.

17 (3) Reclaiming and restoring abandoned surface
18 and underground mined areas.

19 (4) Reclaiming and restoring abandoned milling
20 and processing areas.

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

23 (6) Revegetating land adversely affected by past
24 mineral activities in order to prevent erosion and

1 sedimentation, to enhance wildlife habitat, and for
2 any other reclamation purpose.

3 (7) Controlling of surface subsidence due to
4 abandoned underground mines.

5 (b) ALLOCATION.—Of the amounts deposited into the
6 Hardrock Reclamation Account, 50 percent shall be allo-
7 cated by the Secretary among the States within the bound-
8 aries of which occurs production of locatable minerals
9 from mining claims located under the general mining laws
10 and maintained in compliance with this Act, or mineral
11 concentrates or products derived from locatable minerals
12 from mining claims located under the general mining laws
13 and maintained in compliance with this Act, as the case
14 may be, in proportion to the amount of such production
15 in each such State. Expenditures of the remainder of such
16 amounts shall reflect the following priorities in the order
17 stated:

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

22 (2) The protection of public health and safety,
23 from the adverse effects of past mineral activities.

24 (3) The restoration of land, water, and fish and
25 wildlife resources previously degraded by the adverse

1 effects of past mineral activities, which may include
2 restoration activities in river watershed areas.

3 (c) HABITAT.—Reclamation and restoration activities
4 under this subtitle, particularly those identified under sub-
5 section (a)(4), shall include appropriate mitigation meas-
6 ures to provide for the continuation of any established
7 habitat for wildlife in existence prior to the commencement
8 of such activities.

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

22 (e) RESPONSE OR REMOVAL ACTIONS.—Reclamation
23 and restoration activities under this subtitle which con-
24 stitute a removal or remedial action under section 101 of
25 the Comprehensive Environmental Response, Compensa-

1 tion, and Liability Act of 1980 (42 U.S.C. 9601), shall
2 be conducted with the concurrence of the Administrator
3 of the Environmental Protection Agency. The Secretary
4 and the Administrator shall enter into a Memorandum of
5 Understanding to establish procedures for consultation,
6 concurrence, training, exchange of technical expertise and
7 joint activities under the appropriate circumstances, that
8 provide assurances that reclamation or restoration activi-
9 ties under this subtitle shall not be conducted in a manner
10 that increases the costs or likelihood of removal or reme-
11 dial actions under the Comprehensive Environmental Re-
12 sponse, Compensation, and Liability Act of 1980 (42
13 U.S.C. 9601 et seq.), and that avoid oversight by multiple
14 agencies to the maximum extent practicable.

15 **SEC. 412. ELIGIBLE LANDS AND WATERS.**

16 (a) **ELIGIBILITY.**—Reclamation expenditures under
17 this subtitle may only be made with respect to Federal
18 lands or Indian lands or water resources that traverse or
19 are contiguous to Federal lands or Indian lands where
20 such lands or water resources have been affected by past
21 mineral activities, including any of the following:

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

1 (2) Lands for which the Secretary makes a de-
2 termination that there is no continuing reclamation
3 responsibility of a claim holder, operator, or other
4 person who abandoned the site prior to completion
5 of required reclamation under State or other Federal
6 laws.

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

13 (b) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—
14 The provisions of section 411(d) of the Surface Mining
15 Control and Reclamation Act of 1977 (30 U.S.C.
16 1240a(d)) shall apply to expenditures made from the
17 Hardrock Reclamation Account.

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

1 **SEC. 413. EXPENDITURES.**

2 Moneys available from the Hardrock Reclamation Ac-
3 count may be expended for the purposes specified in sec-
4 tion 411 directly by the Director of the Office of Surface
5 Mining Reclamation and Enforcement. The Director may
6 also make such money available for such purposes to the
7 Director of the Bureau of Land Management, the Chief
8 of the United States Forest Service, the Director of the
9 National Park Service, or Director of the United States
10 Fish and Wildlife Service, to any other agency of the
11 United States, to an Indian tribe, or to any public entity
12 that volunteers to develop and implement, and that has
13 the ability to carry out, all or a significant portion of a
14 reclamation program under this subtitle.

15 **SEC. 414. AUTHORIZATION OF APPROPRIATIONS.**

16 Amounts credited to the Hardrock Reclamation Ac-
17 count are authorized to be appropriated for the purpose
18 of this subtitle without fiscal year limitation.

19 **Subtitle C—Use of Hardrock Com-**
20 **munity Impact Assistance Ac-**
21 **count**

22 **SEC. 421. USE AND OBJECTIVES OF THE ACCOUNT.**

23 Amounts in the Hardrock Community Impact Assist-
24 ance Account shall be available to the Secretary, subject
25 to appropriations, to provide assistance for the planning,
26 construction, and maintenance of public facilities and the

1 provision of public services to States, political subdivisions
2 and Indian tribes that are socially or economically im-
3 pacted by mineral activities conducted under the general
4 mining laws.

5 **SEC. 422. ALLOCATION OF FUNDS.**

6 Moneys deposited into the Hardrock Community Im-
7 pact Assistance Account shall be allocated by the Sec-
8 retary for purposes of section 421 among the States within
9 the boundaries of which occurs production of locatable
10 minerals from mining claims located under the general
11 mining laws and maintained in compliance with this Act,
12 or mineral concentrates or products derived from locatable
13 minerals from mining claims located under the general
14 mining laws and maintained in compliance with this Act,
15 as the case may be, in proportion to the amount of such
16 production in each such State.

17 **TITLE V—ADMINISTRATIVE AND**
18 **MISCELLANEOUS PROVISIONS**

19 **Subtitle A—Administrative**
20 **Provisions**

21 **SEC. 501. POLICY FUNCTIONS.**

22 (a) MINERALS POLICY.—Section 101 of the Mining
23 and Minerals Policy Act of 1970 (30 U.S.C. 21a) is
24 amended—

1 (1) in the first sentence by inserting before the
2 period at the end the following: “and to ensure that
3 mineral extraction and processing not cause undue
4 degradation of the natural and cultural resources of
5 the public lands”; and

6 (2) by adding at the end thereof the following:
7 “‘It shall also be the responsibility of the Secretary
8 of Agriculture to carry out the policy provisions of
9 paragraphs (1) and (2) of this section.’”.

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

18 **SEC. 502. USER FEES.**

19 (a) **IN GENERAL.**—The Secretary and the Secretary
20 of Agriculture may each establish and collect from persons
21 subject to the requirements of this Act such user fees as
22 may be necessary to reimburse the United States for the
23 expenses incurred in administering such requirements.
24 Fees may be assessed and collected under this section only
25 in such manner as may reasonably be expected to result

1 in an aggregate amount of the fees collected during any
2 fiscal year which does not exceed the aggregate amount
3 of administrative expenses referred to in this section.

4 (b) ADJUSTMENT.—(1) The Secretary shall adjust
5 the fees required by this section to reflect changes in the
6 Consumer Price Index published by the Bureau of Labor
7 Statistics of the Department of Labor every 5 years after
8 the date of enactment of this Act, or more frequently if
9 the Secretary determines an adjustment to be reasonable.

10 (2) The Secretary shall provide claimants notice of
11 any adjustment made under this subsection not later than
12 July 1 of any year in which the adjustment is made.

13 (3) A fee adjustment under this subsection shall
14 begin to apply the calendar year following the calendar
15 year in which it is made.

16 **SEC. 503. INSPECTION AND MONITORING.**

17 (a) INSPECTIONS.—(1) The Secretary, or for Na-
18 tional Forest System lands the Secretary of Agriculture,
19 shall make inspections of mineral activities so as to ensure
20 compliance with the requirements of this Act.

21 (2) The Secretary concerned shall establish a fre-
22 quency of inspections for mineral activities conducted
23 under a permit issued under title III, but in no event shall
24 such inspection frequency be less than one complete in-
25 spection per calendar quarter or, two per calendar quarter

1 in the case of a permit for which the Secretary concerned
2 approves an application under section 304(f) (relating to
3 temporary cessation of operations). After revegetation has
4 been established in accordance with a reclamation plan,
5 such Secretary shall conduct annually 2 complete inspec-
6 tions. Such Secretary shall have the discretion to modify
7 the inspection frequency for mineral activities that are
8 conducted on a seasonal basis. Inspections shall continue
9 under this subsection until final release of financial assur-
10 ance.

11 (3)(A) Any person who has reason to believe he or
12 she is or may be adversely affected by mineral activities
13 due to any violation of the requirements of a permit ap-
14 proved under this Act may request an inspection. The Sec-
15 retary, or for National Forest System lands the Secretary
16 of Agriculture, shall determine within 10 working days of
17 receipt of the request whether the request states a reason
18 to believe that a violation exists. If the person alleges and
19 provides reason to believe that an imminent threat to the
20 environment or danger to the health or safety of the public
21 exists, the 10-day period shall be waived and the inspec-
22 tion shall be conducted immediately. When an inspection
23 is conducted under this paragraph, the Secretary con-
24 cerned shall notify the person requesting the inspection,
25 and such person shall be allowed to accompany the Sec-

1 retary concerned or the Secretary's authorized representa-
2 tive during the inspection. The Secretary shall not incur
3 any liability for allowing such person to accompany an au-
4 thorized representative. The identity of the person sup-
5 plying information to the Secretary relating to a possible
6 violation or imminent danger or harm shall remain con-
7 fidential with the Secretary if so requested by that person,
8 unless that person elects to accompany an authorized rep-
9 resentative on the inspection.

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

18 (b) MONITORING.—(1) The Secretary, or for Na-
19 tional Forest System lands the Secretary of Agriculture,
20 shall require all operators to develop and maintain a moni-
21 toring and evaluation system that shall identify compli-
22 ance with all requirements of a permit approved under this
23 Act. The Secretary concerned may require additional mon-
24 itoring to be conducted as necessary to assure compliance
25 with the reclamation and other environmental standards

1 of this Act. Such plan must be reviewed and approved by
2 the Secretary and shall become a part of the explorations
3 or operations permit.

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

17 (3) The Secretary, or for National Forest System
18 lands the Secretary of Agriculture, shall determine what
19 information shall be reported by the operator pursuant to
20 paragraph (3). A failure to report as required by the Sec-
21 retary concerned shall constitute a violation of this Act
22 and subject the operator to enforcement action pursuant
23 to section 506.

1 **SEC. 504. CITIZENS SUITS.**

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

5 (1) against any person (including the Secretary
6 or the Secretary of Agriculture) who is alleged to be
7 in violation of any of the provisions of this Act or
8 any regulation promulgated pursuant to title III of
9 this Act or any term or condition of any permit
10 issued under title III of this Act; or

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

17 The United States district courts shall have jurisdiction
18 over actions brought under this section, without regard to
19 the amount in controversy or the citizenship of the parties,
20 including actions brought to apply any civil penalty under
21 this Act. The district courts of the United States shall
22 have jurisdiction to compel agency action unreasonably de-
23 layed, except that an action to compel agency action re-
24 viewable under section 505 may only be filed in a United
25 States district court within the circuit in which such action
26 would be reviewable under section 505.

1 (b) EXCEPTIONS.—(1) No action may be commenced
2 under subsection (a) before the end of the 60-day period
3 beginning on the date the plaintiff has given notice in writ-
4 ing of such alleged violation to the alleged violator and
5 the Secretary, or for National Forest System lands the
6 Secretary of Agriculture, except that any such action may
7 be brought immediately after such notification if the viola-
8 tion complained of constitutes an imminent threat to the
9 environment or to the health or safety of the public.

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

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

22 (c) VENUE.—Venue of all actions brought under this
23 section shall be determined in accordance with section
24 1391 of title 28, United States Code.

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

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

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

24 (a) REVIEW BY SECRETARY.—(1)(A) Any person
25 issued a notice of violation or cessation order under sec-

1 tion 506, or any person having an interest which is or
2 may be adversely affected by such notice or order, may
3 apply to the Secretary, or for National Forest System
4 lands the Secretary of Agriculture, for review of the notice
5 or order within 30 days after receipt thereof, or as the
6 case may be, within 30 days after such notice or order
7 is modified, vacated, or terminated.

8 (B) Any person who is subject to a penalty assessed
9 under section 506 may apply to the Secretary concerned
10 for review of the assessment within 45 days of notification
11 of such penalty.

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

14 (D) Pending a review by the Secretary or resolution
15 of an administrative appeal, final decisions (except en-
16 forcement actions under section 506) shall be stayed.

17 (2) The Secretary concerned shall provide an oppor-
18 tunity for a public hearing at the request of any party
19 to the proceeding as specified in paragraph (1). The filing
20 of an application for review under this subsection shall not
21 operate as a stay of any order or notice issued under sec-
22 tion 506.

23 (3) For any review proceeding under this subsection,
24 the Secretary concerned shall make findings of fact and
25 shall issue a written decision incorporating therein an

1 order vacating, affirming, modifying, or terminating the
2 notice, order, or decision, or with respect to an assess-
3 ment, the amount of penalty that is warranted. Where the
4 application for review concerns a cessation order issued
5 under section 506 the Secretary concerned shall issue the
6 written decision within 30 days of the receipt of the appli-
7 cation for review or within 30 days after the conclusion
8 of any hearing referred to in paragraph (2), whichever is
9 later, unless temporary relief has been granted by the Sec-
10 retary concerned under paragraph (4).

11 (4) Pending completion of any review proceedings
12 under this subsection, the applicant may file with the Sec-
13 retary, or for National Forest System lands the Secretary
14 of Agriculture, a written request that the Secretary grant
15 temporary relief from any order issued under section 506
16 together with a detailed statement giving reasons for such
17 relief. The Secretary concerned shall expeditiously issue
18 an order or decision granting or denying such relief. The
19 Secretary concerned may grant such relief under such con-
20 ditions as he or she may prescribe only if such relief shall
21 not adversely affect the health or safety of the public or
22 cause imminent environmental harm to land, air, or water
23 resources.

1 (5) The availability of review under this subsection
2 shall not be construed to limit the operation of rights
3 under section 504 (relating to citizen suits).

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

21 (2) Final agency action under this subsection, includ-
22 ing such final action on those matters described under
23 subsection (a), shall be subject to judicial review in accord-
24 ance with paragraph (4) and pursuant to section 1391 of
25 title 28, United States Code, on or before 60 days from

1 the date of such final action. Any action subject to judicial
2 review under this subsection shall be affirmed unless the
3 court concludes that such action is arbitrary, capricious,
4 or otherwise inconsistent with law.

5 (3) The availability of judicial review established in
6 this subsection shall not be construed to limit the oper-
7 ations of rights under section 504 (relating to citizens
8 suits).

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

15 (5) The commencement of a proceeding under this
16 section shall not, unless specifically ordered by the court,
17 operate as a stay of the action, order, or decision of the
18 Secretary or Secretaries concerned.

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

1 view of the proceeding, may be assessed against either
2 party as the court, in the case of judicial review, or the
3 Secretary or Secretaries concerned in the case of adminis-
4 trative proceedings, deems proper if it is determined that
5 such party prevailed in whole or in part, achieving some
6 success on the merits, and that such party made a sub-
7 stantial contribution to a full and fair determination of
8 the issues.

9 **SEC. 506. ENFORCEMENT.**

10 (a) ORDERS.—(1) If the Secretary, or for National
11 Forest System lands the Secretary of Agriculture, or an
12 authorized representative of such Secretary, determines
13 that any person is in violation of any environmental pro-
14 tection requirement under title III or any regulation
15 issued by the Secretaries to implement this Act, such Sec-
16 retary or authorized representative shall issue to such per-
17 son a notice of violation describing the violation and the
18 corrective measures to be taken. The Secretary concerned,
19 or the authorized representative of such Secretary, shall
20 provide such person with a period of time not to exceed
21 30 days to abate the violation. Such period of time may
22 be extended by the Secretary concerned upon a showing
23 of good cause by such person. If, upon the expiration of
24 time provided for such abatement, the Secretary con-
25 cerned, or the authorized representative of such Secretary,

1 finds that the violation has not been abated he or she shall
2 immediately order a cessation of all mineral activities or
3 the portion thereof relevant to the violation.

4 (2) If the Secretary concerned, or the authorized rep-
5 resentative of the Secretary concerned, determines that
6 any condition or practice exists, or that any person is in
7 violation of any requirement under a permit approved
8 under this Act, and such condition, practice or violation
9 is causing, or can reasonably be expected to cause—

10 (A) an imminent danger to the health or safety
11 of the public; or

12 (B) significant, imminent environmental harm
13 to land, air, water, or fish or wildlife resources,

14 such Secretary or authorized representative shall imme-
15 diately order a cessation of mineral activities or the por-
16 tion thereof relevant to the condition, practice, or viola-
17 tion.

18 (3)(A) A cessation order pursuant to paragraphs (1)
19 or (2) shall remain in effect until such Secretary, or au-
20 thorized representative, determines that the condition,
21 practice, or violation has been abated, or until modified,
22 vacated or terminated by the Secretary or authorized rep-
23 resentative. In any such order, the Secretary or authorized
24 representative shall determine the steps necessary to abate
25 the violation in the most expeditious manner possible and

1 shall include the necessary measures in the order. The
2 Secretary concerned shall require appropriate financial as-
3 surances to ensure that the abatement obligations are met.

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

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

23 (5) If a claim holder or operator (or any person who
24 controls the claim holder or operator) fails to abate a vio-
25 lation or defaults on the terms of the permit, the Sec-

1 retary, or for National Forest System lands the Secretary
2 of Agriculture, shall forfeit the financial assurance for the
3 plan as necessary to ensure abatement and reclamation
4 under this Act. The Secretary concerned may prescribe
5 conditions under which a surety may perform reclamation
6 in accordance with the approved plan in lieu of forfeiture.

7 (6) The Secretary, or for National Forest System
8 lands the Secretary of Agriculture, shall not cause for-
9 feiture of the financial assurance while administrative or
10 judicial review is pending.

11 (7) In the event of forfeiture, the claim holder, oper-
12 ator, or any affiliate thereof, as appropriate as determined
13 by the Secretary by rule, shall be jointly and severally lia-
14 ble for any remaining reclamation obligations under this
15 Act.

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

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

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

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

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

17 (d) PENALTIES.—(1) Any person who fails to comply
18 with any requirement of a permit approved under this Act
19 or any regulation issued by the Secretaries to implement
20 this Act shall be liable for a penalty of not more than
21 \$25,000 per violation. Each day of violation may be
22 deemed a separate violation for purposes of penalty assess-
23 ments.

24 (2) A person who fails to correct a violation for which
25 a cessation order has been issued under subsection (a)

1 within the period permitted for its correction shall be as-
2 sessed a civil penalty of not less than \$1,000 per violation
3 for each day during which such failure continues.

4 (3) Whenever a corporation is in violation of a re-
5 quirement of a permit approved under this Act or any reg-
6 ulation issued by the Secretaries to implement this Act
7 or fails or refuses to comply with an order issued under
8 subsection (a), any director, officer, or agent of such cor-
9 poration who knowingly authorized, ordered, or carried
10 out such violation, failure, or refusal shall be subject to
11 the same penalties as may be imposed upon the person
12 referred to in paragraph (1).

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

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

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

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

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

3 (5) fails to maintain an adequate financial as-
4 surance under section 306;

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

7 (7) with regard to plans conditionally approved
8 under section 305(c)(2), fails to abate a violation to
9 the satisfaction of the Secretary concerned, or if the
10 validity of the violation is upheld on the appeal
11 which formed the basis for the conditional approval.

12 (f) FALSE STATEMENTS; TAMPERING.—Any person
13 who knowingly—

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

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

23 shall upon conviction, be punished by a fine of not more
24 than \$10,000, or by imprisonment for not more than 2
25 years, or by both. If a conviction of a person is for a viola-

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

7 (g) KNOWING VIOLATIONS.—Any person who know-
8 ingly—

9 (1) engages in mineral activities without a per-
10 mit required under title III; or

11 (2) violates any other requirement of a permit
12 issued under this Act, or any condition or limitation
13 thereof,

14 shall upon conviction be punished by a fine of not less
15 than \$5,000 nor more than \$50,000 per day of violation,
16 or by imprisonment for not more than 3 years, or both.

17 If a conviction of a person is for a violation committed
18 after the first conviction of such person under this sub-
19 section, punishment shall be a fine of not less than
20 \$10,000 per day of violation, or by imprisonment of not
21 more than 6 years, or both.

22 (h) KNOWING AND WILLFUL VIOLATIONS.—Any per-
23 son who knowingly and willfully commits an act for which
24 a civil penalty is provided in paragraph (1) of subsection
25 (g) shall, upon conviction, be punished by a fine of not

1 more than \$50,000, or by imprisonment for not more than
2 2 years, or both.

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

6 **SEC. 507. REGULATIONS.**

7 The Secretary and the Secretary of Agriculture shall
8 issue such regulations as are necessary to implement this
9 Act. The regulations implementing title II, title III, title
10 IV, and title V that affect the Forest Service shall be joint
11 regulations issued by both Secretaries, and shall be issued
12 no later than 180 days after the date of enactment of this
13 Act.

14 **SEC. 508. EFFECTIVE DATE.**

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

17 **Subtitle B—Miscellaneous**
18 **Provisions**

19 **SEC. 511. OIL SHALE CLAIMS.**

20 Section 2511(f) of the Energy Policy Act of 1992
21 (Public Law 102–486) is amended—

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

24 (2) by inserting before the period the following:

25 “in the same manner as required by title II and title

1 III of the Hardrock Mining and Reclamation Act of
2 2009”.

3 **SEC. 512. PURCHASING POWER ADJUSTMENT.**

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

14 **SEC. 513. SAVINGS CLAUSE.**

15 (a) SPECIAL APPLICATION OF MINING LAWS.—Noth-
16 ing in this Act shall be construed as repealing or modi-
17 fying any Federal law, regulation, order, or land use plan,
18 in effect prior to the date of enactment of this Act that
19 prohibits or restricts the application of the general mining
20 laws, including laws that provide for special management
21 criteria for operations under the general mining laws as
22 in effect prior to the date of enactment of this Act, to
23 the extent such laws provide for protection of natural and
24 cultural resources and the environment greater than re-
25 quired under this Act, and any such prior law shall remain

1 in force and effect with respect to claims located (or pro-
2 posed to be located) or converted under this Act. Nothing
3 in this Act shall be construed as applying to or limiting
4 mineral investigations, studies, or other mineral activities
5 conducted by any Federal or State agency acting in its
6 governmental capacity pursuant to other authority. Noth-
7 ing in this Act shall affect or limit any assessment, inves-
8 tigation, evaluation, or listing pursuant to the Comprehen-
9 sive Environmental Response, Compensation, and Liabil-
10 ity Act of 1980 (42 U.S.C. 9601 et seq.), or the Solid
11 Waste Disposal Act (42 U.S.C. 3251 et seq.).

12 (b) EFFECT ON OTHER FEDERAL LAWS.—The provi-
13 sions of this Act shall supersede the general mining laws,
14 except for those parts of the general mining laws respect-
15 ing location of mining claims that are not expressly modi-
16 fied by this Act. Except for the general mining laws, noth-
17 ing in this Act shall be construed as superseding, modi-
18 fying, amending, or repealing any provision of Federal law
19 not expressly superseded, modified, amended, or repealed
20 by this Act. Nothing in this Act shall be construed as al-
21 tering, affecting, amending, modifying, or changing, di-
22 rectly or indirectly, any law which refers to and provides
23 authorities or responsibilities for, or is administered by,
24 the Environmental Protection Agency or the Adminis-
25 trator of the Environmental Protection Agency, including

1 the Federal Water Pollution Control Act, title XIV of the
2 Public Health Service Act (the Safe Drinking Water Act),
3 the Clean Air Act, the Pollution Prevention Act of 1990,
4 the Toxic Substances Control Act, the Federal Insecticide,
5 Fungicide, and Rodenticide Act, the Federal Food, Drug,
6 and Cosmetic Act, the Motor Vehicle Information and
7 Cost Savings Act, the Federal Hazardous Substances Act,
8 the Endangered Species Act of 1973, the Atomic Energy
9 Act, the Noise Control Act of 1972, the Solid Waste Dis-
10 posal Act, the Comprehensive Environmental Response,
11 Compensation, and Liability Act of 1980, the Superfund
12 Amendments and Reauthorization Act of 1986, the Ocean
13 Dumping Act, the Environmental Research, Development,
14 and Demonstration Authorization Act, the Pollution Pros-
15 ecution Act of 1990, and the Federal Facilities Compli-
16 ance Act of 1992, or any statute containing an amend-
17 ment to any of such Acts. Nothing in this Act shall be
18 construed as modifying or affecting any provision of the
19 Native American Graves Protection and Repatriation Act
20 (Public Law 101–601) or any provision of the American
21 Indian Religious Freedom Act (42 U.S.C. 1996), the Na-
22 tional Historic Preservation Act (16 U.S.C. 470 et seq.),
23 and the Religious Freedom Restoration Act of 1993 (42
24 U.S.C. 2000bb et seq.).

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

8 (d) SOVEREIGN IMMUNITY OF INDIAN TRIBES.—
9 Nothing in this section shall be construed so as to waive
10 the sovereign immunity of any Indian tribe.

11 **SEC. 514. AVAILABILITY OF PUBLIC RECORDS.**

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

21 **SEC. 515. MISCELLANEOUS POWERS.**

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

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

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

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

15 (2) Administer oaths.

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

20 (4) Order testimony to be taken by deposition
21 before any person who is designated by such Sec-
22 retary and who has the power to administer oaths,
23 and to compel testimony and the production of evi-
24 dence in the same manner as authorized under para-
25 graph (3) of this subsection.

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

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

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

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

23 (2) may at reasonable times, and without delay,
24 have access to records, inspect any monitoring

1 equipment, or review any method of operation re-
2 quired under this Act;

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

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

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

1 inspection shall be for the purpose of determining
2 whether the operator of such vehicle has the docu-
3 mentation required by law, if such documentation is
4 required under this Act.

5 **SEC. 516. MULTIPLE MINERAL DEVELOPMENT AND SUR-**
6 **FACE RESOURCES.**

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

14 **SEC. 517. MINERAL MATERIALS.**

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

17 (1) by inserting “(a)” before the first sentence;

18 (2) by inserting “mineral materials, including
19 but not limited to” after “varieties of” in the first
20 sentence;

21 (3) by striking “or cinders” and inserting in
22 lieu thereof “cinders, and clay”; and

23 (4) by adding the following new subsection at
24 the end thereof:

1 “(b)(1) Subject to valid existing rights, after the date
2 of enactment of the Hardrock Mining and Reclamation
3 Act of 2009, notwithstanding the reference to common va-
4 rieties in subsection (a) and to the exception to such term
5 relating to a deposit of materials with some property giv-
6 ing it distinct and special value, all deposits of mineral
7 materials referred to in such subsection, including the
8 block pumice referred to in such subsection, shall be sub-
9 ject to disposal only under the terms and conditions of
10 the Materials Act of 1947.

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

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

18 “(B) was properly located and maintained
19 under the general mining laws prior to the date of
20 enactment of the Hardrock Mining and Reclamation
21 Act of 2009;

22 “(C) was supported by a discovery of a valuable
23 mineral deposit within the meaning of the general
24 mining laws as in effect immediately prior to the

1 date of enactment of the Hardrock Mining and Rec-
2 lamation Act of 2009; and

3 “(D) that such claim continues to be valid
4 under this Act.”.

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

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

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

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

17 (d) SHORT TITLES.—

18 (1) SURFACE RESOURCES.—The Act of July
19 23, 1955, is amended by inserting after section 7
20 the following new section:

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

23 (2) MINERAL MATERIALS.—The Act of July 31,
24 1947, entitled “An Act to provide for the disposal of
25 materials on the public lands of the United States”

1 (30 U.S.C. 601 et seq.) is amended by inserting
2 after section 4 the following new section:

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

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

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

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