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S. 1102

To amend the general mining laws to provide a reasonable royalty from mineral activities on Federal lands, to specify reclamation requirements for mineral activities on Federal lands, to create a State program for the reclamation of abandoned hard rock mining sites on Federal lands, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 31, 1997

Mr. CRAIG (for himself, Mr. MURKOWSKI, Mr. REID, Mr. BRYAN, Mr. BENNETT, Mr. BURNS, Mr. HATCH, Mr. THOMAS, Mr. CAMPBELL, Mr. STEVENS, and Mr. KEMPTHORNE) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the general mining laws to provide a reasonable royalty from mineral activities on Federal lands, to specify reclamation requirements for mineral activities on Federal lands, to create a State program for the reclamation of abandoned hard rock mining sites on Federal lands, 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,*

1 **SECTION 101. SHORT TITLE.**

2 This Act may be cited as the “Mining Law Reform
3 Act of 1997”.

4 **SEC. 102. FINDINGS AND PURPOSE.**

5 (a) FINDINGS.—Congress finds and declares that—

6 (1) a secure and reliable supply of locatable
7 minerals is essential to the industrial base of the
8 United States, national security, and balance of
9 trade;

10 (2) many of the deposits of locatable minerals
11 that may be commercially developed are on Federal
12 lands as that term is defined in this Act, and are
13 difficult and expensive to discover, mine, extract and
14 process;

15 (3) the national need for locatable minerals will
16 continue to expand, and without a strong mining in-
17 dustry the demand for the minerals will exceed do-
18 mestic sources of supply;

19 (4) mining of locatable minerals is an extremely
20 high-risk, capital-intensive endeavor, which, to at-
21 tract necessary investment, requires certainty and
22 predictability in access to Federal lands in establish-
23 ment of mining titles, and in the rights of owners of
24 mining claims or sites to develop minerals;

25 (5) it is in the national interest to foster and
26 encourage private enterprise in the development of a

1 domestic minerals industry to maintain and create
2 high-paying jobs and the various Federal, State, and
3 local taxes paid by the mining industry in the
4 United States;

5 (6) the diversity in terrain, climate, biological,
6 chemical, and other physical conditions, and vari-
7 ation among the locatable minerals mined and the
8 methods of mining and processing, require that rec-
9 lamation standards be tailored to local and regional
10 conditions;

11 (7) there are extensive Federal and State envi-
12 ronmental standards that apply to mining operations
13 on Federal lands, including State programs for the
14 protection of groundwater quality;

15 (8) every State containing Federal lands has
16 enacted laws and regulations governing the reclama-
17 tion of mined lands and, subject to the Supremacy
18 Clause of the United States Constitution, these laws
19 and regulations, including financial assurance re-
20 quirements, apply to mineral activities on Federal
21 lands;

22 (9) changes in the general mining laws of the
23 United States to provide more direct economic re-
24 turn to the United States and greater protection of
25 public resources are desirable, so long as the

1 changes do not act as a disincentive to development
2 of minerals, adversely affect employment in the min-
3 ing industry or in industries that provide goods and
4 services required for mining activities, interfere with
5 a secure and reliable domestic supply of minerals, or
6 adversely affect the balance of trade of the United
7 States; and

8 (10) mining claims, mill sites and tunnel sites
9 located under the general mining laws are property
10 interests, and any law or regulation that impairs ex-
11 isting property rights may expose the Federal Gov-
12 ernment to taking claims under the fifth amendment
13 to the United States Constitution.

14 (b) PURPOSE.—It is the purpose of this Act to—

15 (1) promote exploration for and the develop-
16 ment of a secure and reliable domestic source of
17 locatable minerals;

18 (2) provide for increased Federal revenue from
19 the location and production of locatable minerals
20 from Federal lands through fees, patent payments
21 and royalties;

22 (3) ensure that mineral activities on Federal
23 lands are conducted in compliance with all applicable
24 Federal and State environmental regulations and

1 standards, including standards governing mined land
2 reclamation;

3 (4) ensure that all Federal lands affected by
4 mineral activities under the general mining laws are
5 reclaimed as required by applicable laws;

6 (5) establish a program to reclaim abandoned
7 locatable mine sites on Federal lands; and

8 (6) recognize that unpatented mining claims,
9 mill sites and tunnel sites are property rights in the
10 fullest sense and avoid, to the greatest extent possible,
11 claims of takings of existing property rights
12 under the general mining laws that could require
13 compensation under the fifth amendment to the
14 United States Constitution.

15 **SEC. 103. DEFINITIONS.**

16 When used in this Act:

17 (1) “Assessment year” means the annual period
18 commencing at 12 o’clock noon on the first day of
19 September and ending at 12 o’clock noon on the
20 first day of September of the following year.

21 (2) “Federal lands” means, except as provided
22 otherwise in title III, lands and interests in lands
23 owned by the United States that are open to mineral
24 location, or that were open to mineral location when

1 a mining claim or site was located and which have
2 not been patented under the general mining laws.

3 (3) “General mining laws” means those Acts
4 which generally comprise chapters 2, 11, 12, 12A,
5 15, and 16, and sections 161 and 162, of title 30
6 of the United States Code, all Acts heretofore en-
7 acted which are amendatory of or supplementary to
8 any of the foregoing Acts, and the judicial and ad-
9 ministrative decisions interpreting such Acts.

10 (4) “Locatable minerals” means those minerals
11 owned by the United States and subject to location
12 and disposition under the general mining laws on or
13 after the effective date of this Act, but not including
14 any mineral held in trust by the United States for
15 any Indian or Indian tribe, as defined in section 2
16 of the Indian Mineral Development Act of 1982 (25
17 U.S.C. 2101), or any mineral owned by any Indian
18 or Indian tribe, as defined in that section, that is
19 subject to a restriction against alienation imposed by
20 the United States, or any mineral owned by any in-
21 corporated Native group, village corporation, or re-
22 gional corporation and acquired by the group or cor-
23 poration under the provisions of the Alaska Native
24 Claims Settlement Act (43 U.S.C. 1601 et seq.).

1 (5) “Mineral activities” means any activity on
2 Federal lands related to, or incidental to, exploration
3 for or development, mining, production,
4 beneficiation, or processing of any locatable mineral
5 or mineral that would be locatable if it were subject
6 to disposition under the general mining laws, or rec-
7 lamation of the impacts of such activities.

8 (6) “Mining claim or site”, except where pro-
9 vided otherwise, means a lode mining claim, placer
10 mining claim, mill site or tunnel site.

11 (7) “Operator” means any person conducting
12 mineral activities subject to this Act.

13 (8) “Person” means an individual, Indian tribe,
14 partnership, association, society, joint venture, joint
15 stock company, firm, company, limited liability com-
16 pany, corporation, cooperative or other organization,
17 and any instrumentality of State or local govern-
18 ment, including any publicly owned utility or publicly
19 owned corporation of State or local government.

20 (9) “Secretary” means (i) in titles II and V, the
21 Secretary of the Interior acting through the Bureau
22 of Land Management, (ii) in title IV, the Secretary
23 of the Interior acting through the Bureau of Land
24 Management or the Minerals Management Service,
25 or both, and (iii) elsewhere in this Act, the Secretary

1 of Agriculture, acting through the Forest Service,
2 with respect to lands under the jurisdiction of the
3 Secretary of Agriculture, and the Secretary of the
4 Interior, acting through the Bureau of Land Man-
5 agement, with respect to all other lands subject to
6 the requirements of this Act.

7 **TITLE II—DISPOSITION OF**
8 **LOCATABLE MINERAL DEPOSITS**

9 **SEC. 201. CLAIM MAINTENANCE REQUIREMENTS.**

10 (a) MAINTENANCE FEE.—After the date of enact-
11 ment of this Act, the owner of each unpatented mining
12 claim or site located pursuant to the general mining laws,
13 whether located before or after the enactment of this Act,
14 shall pay in advance to the Secretary annually on or before
15 September 1, and until a patent has been issued therefor,
16 a maintenance fee of \$100 per mining claim or site. The
17 owner of each unpatented mining claim or site located
18 after the date of enactment of this Act pursuant to the
19 general mining laws shall pay to the Secretary, at the time
20 the copy of the notice or certificate of location is filed with
21 the Bureau of Land Management pursuant to section
22 314(b) of the Federal Land Policy and Management Act
23 of 1976 (43 U.S.C. 1744(b)), in addition to the location
24 fee required under subsection (f) of this section, an initial
25 maintenance fee of \$100 per mining claim or site for the

1 assessment year which includes the date of location of
2 such mining claim or site. If a mining claim or site is lo-
3 cated within ninety days before September 1 and the copy
4 of the notice or certificate of location is timely filed with
5 the Bureau of Land Management under subsection 314(b)
6 of the Federal Land Policy and Management Act of 1976
7 after September 1, the annual maintenance fee payable
8 under the first sentence of this subsection, for the follow-
9 ing assessment year, shall be paid at the time such notice
10 or certificate of location is filed, in addition to the location
11 fee and the initial \$100 maintenance fee. No maintenance
12 fee shall be required if the fee is waived or the owner of
13 the mining claim or site is exempt as provided in section
14 202 of this Act.

15 (b) ASSESSMENT WORK REQUIREMENTS.—

16 (1) For the first five assessment years following
17 the assessment year which includes the date of loca-
18 tion of any unpatented mining claim or site located
19 on or after the date of enactment of this Act, or for
20 the first five assessment years following the assess-
21 ment year which includes the date of enactment of
22 this Act for any unpatented mining claim or site lo-
23 cated before the date of enactment, the annual
24 maintenance fee under subsection (a) of this section
25 shall be in lieu of the assessment work requirements

1 of the general mining laws and of any other Federal
2 law. Beginning with the sixth assessment year fol-
3 lowing the assessment year which includes such date
4 of location or enactment, such assessment work re-
5 quirements shall apply in addition to such annual
6 maintenance fee, subject to any suspension or
7 deferment of annual assessment work provided by
8 law.

9 (2)(A) Section 1 of the Act of September 2,
10 1958 (30 U.S.C. 28-1), is amended by inserting
11 “mineral activities, environmental baseline monitor-
12 ing, and” after “without being limited to” and be-
13 fore “geological, geochemical and geophysical sur-
14 veys”.

15 (B) Section 2(d) of the Act of September 2,
16 1958 (30 U.S.C. 28-2(d)), is amended by inserting
17 “environmental baseline monitoring or” after “expe-
18 rience to conduct” and before “geological, geo-
19 chemical or geophysical surveys”.

20 (C) Section 2 of the Act of September 2, 1958
21 (30 U.S.C. 28-2), is amended by adding at the end
22 the following new subsection:

23 “(e) The term ‘environmental baseline monitoring’
24 means activities for collecting, reviewing and analyzing in-
25 formation concerning soil, vegetation, wildlife, mineral,

1 air, water, cultural, historical, archeological or other re-
2 sources related to planning for or complying with Federal
3 and State environmental or permitting requirements appli-
4 cable to potential or proposed mineral activities on the
5 claim(s).”.

6 (c) MAINTENANCE FEE STATEMENT.—Each pay-
7 ment under subsection (a) of this section shall be accom-
8 panied by a statement which reasonably identifies the min-
9 ing claim or site for which the maintenance fee is being
10 paid. Such statement may include the name of the mining
11 claim or site, the serial number assigned by the Secretary
12 to such mining claim or site, the description of the book
13 and page in which the notice or certificate of location for
14 such mining claim or site is recorded under State law, any
15 combination of the foregoing, or any other information
16 that reasonably identifies the mining claim or site for
17 which the maintenance fee is being paid. The statement
18 required under this subsection shall be in lieu of any an-
19 nual filing requirements for mining claims or sites, under
20 any other Federal law, but shall not supersede any such
21 filing requirement under applicable State law.

22 (d) EFFECT OF COMPLIANCE AS AGAINST SUBSE-
23 QUENT LOCATORS.—

24 (1) Except as provided in paragraph (d)(2) of
25 this subsection, after the date of enactment of this

1 Act, compliance with the requirements of this section
2 and sections 202 and 203(a) shall, from the time the
3 location notice or certificate is posted on the land
4 under applicable State law, confer upon the owner of
5 any unpatented mining claim or site, whether lo-
6 cated before or after the date of enactment of this
7 Act, an exclusive right of possession, as against sub-
8 sequent locators, of the land included in such mining
9 claim or site for the purposes described in subsection
10 203(a). If more than one mining claim or site owned
11 or controlled by the same claim or site owner covers
12 substantially the same land, by reason of the loca-
13 tion of one or more mining claims or sites on such
14 land, the amendment or relocation of any such min-
15 ing claim or site, or otherwise, such exclusive right
16 of possession shall extend to all such mining claims
17 or sites, effective from the time the location notice
18 or certificate for the initial mining claim or site was
19 posted on such land under applicable State law. The
20 order of location, amendment, or relocation of any
21 such mining claims or sites on such land shall not
22 affect the validity of any such mining claim or site.
23 Such owner of the mining claim or site shall not be
24 required to be in actual, physical occupation of such
25 land and shall not be required to exclude rival loca-

1 tors from such land. Such exclusive right of posses-
2 sion shall be subject to applicable Federal law, in-
3 cluding the Multiple Mineral Development Act of
4 1954 (30 U.S.C. 521–31), the Materials Act of 1947
5 (30 U.S.C. 601–604) and the Surface Resources Act
6 of 1955 (30 U.S.C. 611–15) to the extent applicable,
7 and shall neither enlarge nor diminish any rights of
8 such owner of the mining claim or site as against
9 the United States in such land. This paragraph shall
10 supersede the common law doctrine of pedis
11 possessio.

12 (2) Conflicts over the right of exclusive posses-
13 sion of land included in any mining claim or site
14 shall be determined in proceedings between owners
15 of mining claims or sites under the provisions of sec-
16 tion 910 of the Revised Statutes (30 U.S.C. 53) and
17 other applicable law, including but not limited to the
18 following:

19 (A) Any conflict based upon circumstances
20 existing as of the date of enactment of this Act
21 between mining claims or sites located before
22 the date of enactment of this Act, which shall
23 be resolved under the law in effect on the day
24 prior to the date of enactment of this Act, in-

1 including the common law doctrine of pedis
2 possessio.

3 (B) Any conflict arising on or after the
4 date of enactment of this Act between mining
5 claims or sites located before, on or after the
6 date of enactment over whether either owner of
7 the mining claim or site has complied with the
8 requirements of this section or section 202 or
9 203(a), shall be resolved under this Act.

10 (e) FAILURE OF CO-OWNER TO CONTRIBUTE.—

11 Upon the failure of any one or more of several co-owners
12 of any mining claim or site to contribute such co-owner
13 or owners' portion of the location or maintenance fee
14 under this section, any co-owner who has paid such fee
15 may, after the payment due date, serve the delinquent co-
16 owner or owners with notice of such failure in writing or,
17 if such delinquent co-owner or owners cannot be located
18 after reasonable efforts, by publication in a general cir-
19 culation newspaper published in a location nearest the
20 mining claim or site at least once a week for at least ninety
21 days. If at the expiration of ninety days after such notice
22 in writing or by publication, any delinquent co-owner fails
23 or refuses to contribute the owed portion, such co-owner
24 or owners' interest shall become the property of the owner
25 or co-owners who have paid the required fee.

1 (f) LOCATION FEE.—The owner of each unpatented
2 mining claim or site located on or after the date of enact-
3 ment of this Act pursuant to the general mining laws shall
4 pay to the Secretary, at the time the notice or certificate
5 of location is filed with the Bureau of Land Management
6 pursuant to subsection 314(b) of the Federal Land Policy
7 and Management Act of 1976 (43 U.S.C. 1744(b)), a loca-
8 tion fee of \$25 per claim.

9 (g) CREDIT AGAINST ROYALTY.—The annual claim
10 maintenance fee paid for any unpatented mining claim or
11 site on or before September 1 of any year shall be credited
12 against the amount of royalty required to be paid under
13 title IV for such mining claim or site during the following
14 assessment year.

15 (h) FEE ADJUSTMENTS AND DISPOSITION.—

16 (1) At the end of each period of five assessment
17 years after the date of enactment of this Act, the
18 Secretary shall adjust the maintenance fee and the
19 location fee required by this section by an amount
20 equal to the net adjustment in the implicit price
21 deflator for the gross national product established by
22 the United States Department of Commerce over the
23 preceding five-year period, rounded up or down to
24 the nearest dollar.

1 (2) The Secretary shall provide owners of min-
2 ing claims or sites with notice by publication in the
3 Federal Register and in local widely circulated news-
4 papers of any adjustment made under paragraph (1)
5 not later than January 1 of any assessment year in
6 which the adjustment is made.

7 (3) A fee adjustment under paragraph (1) shall
8 apply to the payment due for the next assessment
9 year after the assessment year in which notice is
10 given under paragraph (2).

11 (4) Subject to appropriations, all maintenance
12 and location fees received by the Secretary under
13 this section shall be paid into a State Fund or Fed-
14 eral Fund in accordance with sections 501 and 502,
15 until termination as provided in section 506 of this
16 Act.

17 (i) OIL SHALE CLAIMS SUBJECT TO CLAIM MAINTENANCE FEE UNDER ENERGY POLICY ACT OF 1992.—
18 This section shall not apply to any oil shale claims for
19 which a fee is required to be paid under paragraph
20 2511(e)(2) of the Energy Policy Act of 1992 (30 U.S.C.
21 242(e)(2)).

22 (j) FAILURE TO COMPLY.—The failure of the owner
23 of the mining claim or site to pay the claim maintenance
24 fee or location fee for a mining claim or site on or before
25

1 the date such payment is due under subsection (a) or sub-
2 section (f) of this section shall constitute forfeiture of the
3 mining claim or site and such mining claim or site shall
4 be null and void, effective as of the day after the date
5 such payment is due: *Provided, however,* That, if such
6 maintenance fee or location fee is paid or tendered on or
7 before the thirtieth day after such payment was due under
8 subsection (a) or subsection (f) of this section, such min-
9 ing claim or site shall not be forfeited or null or void, and
10 such maintenance fee or location fee shall be deemed time-
11 ly paid.

12 (k) REPEAL OF OMNIBUS BUDGET RECONCILIATION
13 ACT FEE REQUIREMENTS.—Sections 10101 through
14 10106 of the Omnibus Budget Reconciliation Act of 1993
15 (30 U.S.C. 28f–28k) are hereby repealed.

16 (l) CONFORMING AMENDMENT.—The third sentence
17 of section 2324 of the Revised Statutes (30 U.S.C. 28)
18 is amended by adding the words “Except as provided in
19 paragraph 201(b)(1) of the Mining Law Reform Act of
20 1997,” at the beginning of such sentence and deleting the
21 words “that is granted a waiver under section 10101 of
22 the Omnibus Budget Reconciliation Act of 1993,”.

23 (m) AMENDMENT OF FLPMA FILING REQUIRE-
24 MENTS.—

1 (1) Section 314(a) of the Federal Land Policy
2 and Management Act of 1976 (43 U.S.C. 1744(a))
3 is hereby repealed.

4 (2) Section 314(c) of the Federal Land Policy
5 and Management Act of 1976 (43 U.S.C. 1744(c))
6 is amended to read as follows:

7 “(c) FAILURE TO FILE AS CONSTITUTING FORFEIT-
8 URE; DEFECTIVE OR UNTIMELY FILING.—The failure to
9 timely file the copy of the notice or certificate of location
10 as required by subsection (b) shall constitute forfeiture of
11 the mining claim and such claim shall be null and void
12 by operation of law: *Provided, however,* That it shall not
13 be considered a failure to file if the notice or certificate
14 of location is defective or not timely filed for record under
15 other State or Federal laws permitting or requiring the
16 filing or recording thereof, or if the copy of the notice or
17 certificate is filed by or on behalf of some but not all of
18 the owners of the claim.”.

19 **SEC. 202. WAIVER AND EXEMPTION.**

20 (a) WAIVER OF FEE.—The maintenance fee provided
21 for in subsection 201(a) shall be waived for the owner of
22 a mining claim or site who certifies in writing to the Sec-
23 retary, on or before the date the payment is due, that,
24 as of the date such payment is due, such owner and all
25 related persons own not more than twenty-five unpatented

1 mining claims or sites. Any owner of a mining claim or
2 site that is not required to pay a maintenance fee under
3 this subsection shall continue to be subject to the assess-
4 ment work requirements of the general mining laws or of
5 any other State or Federal law, subject to any suspension
6 or deferment of annual assessment work provided by law,
7 for the assessment year following the filing of the certifi-
8 cation, and paragraph 201(b)(1) of this Act shall not
9 apply.

10 (b) RELATED PERSONS.—As used in subsection (a),
11 the term “related persons” includes—

12 (1) the spouse and dependent children (as de-
13 fined in section 152 of the Internal Revenue Code of
14 1986), of the owner of the mining claim or site; and

15 (2) a person controlled by, controlling, or under
16 common control with the owner of the mining claim
17 or site.

18 (c) EXEMPTION.—The owner of any mining claim or
19 site who certifies in writing to the Secretary on or before
20 the first day of any assessment year that access to such
21 mining claim or site was denied or in any way impeded
22 during the prior assessment year by the action or inaction
23 of any local, State, or Federal governmental officer, agen-
24 cy, or court, or by any Indian tribal authority, shall be
25 exempt from the maintenance fee and assessment work re-

1 requirements of subsections (a) and (b) of section 201 for
2 the assessment year following the filing of the certifi-
3 cation.

4 **SEC. 203. GOOD FAITH REQUIREMENT AND RESIDENTIAL**
5 **OCCUPANCY; DIVESTMENT.**

6 (a) GOOD FAITH HOLDING OF MINING CLAIM OR
7 SITE.—The location, maintenance, and use of an
8 unpatented mining claim or site, whether located before
9 or after enactment of this Act, shall be for the purpose
10 of conducting mineral activities in good faith.

11 (b) RESIDENTIAL OCCUPANCY.—The Secretary shall
12 not prohibit residential occupancy of an unpatented min-
13 ing claim or site and shall not require removal of equip-
14 ment or facilities until mineral activities are completed,
15 if such occupancy is shown in a notice of intent or plan
16 of operations to be reasonably required to accomplish the
17 mineral activities described therein.

18 **SEC. 204. PATENTS.**

19 (a) IN GENERAL.—Except as provided in subsection
20 (c), any patent issued by the United States under the gen-
21 eral mining laws after the date of enactment of this Act
22 shall be issued only—

23 (1) upon payment by the owner of the claim of
24 the fair market value for the interest in the land
25 owned by the United States exclusive of and without

1 regard to the mineral deposits in the land or the use
2 of the land for mineral activities; and

3 (2) subject to reservation by the United States
4 of the royalty provided in title IV.

5 (b) RIGHT OF REENTRY.—

6 (1) Except as provided in subsection (c), and
7 notwithstanding any other provision of law, the
8 United States shall retain a right of reentry in lands
9 patented under this section.

10 (2) Such right of reentry of the United States
11 shall ripen if—

12 (A) the Secretary, after engaging in good
13 faith discussions with the patentee, or any sub-
14 sequent owners, about the use of the land, con-
15 cludes that the patentee, or any subsequent
16 owners, has used the land for any purpose other
17 than conducting mineral activities in good faith;

18 (B) the Secretary has served on the pat-
19 entee, or subsequent owners, in the manner pre-
20 scribed for service of summons and complaint
21 under the Federal Rule of Civil Procedure, no-
22 tice specifying such unauthorized use and pro-
23 viding at least 90 days in which such unauthor-
24 ized use must be terminated. The giving of such
25 notice shall constitute final agency action ap-

1 pealable by the patentee, or any subsequent
2 owners;

3 (C) such use is not discontinued within the
4 time period specified by the Secretary in the no-
5 tice provided under subparagraph (B) or within
6 sixty days after all appeal rights have expired
7 and any appeals of such notice have been finally
8 determined; and

9 (D) the Secretary elects to assert the right
10 of reentry in accordance with paragraph (3).

11 (3) The ripened right of reentry retained by the
12 United States pursuant to subparagraph (2) shall
13 vest and all right, title and interest in such patented
14 estate shall revert to the United States only if—

15 (A) the Secretary files a declaration of re-
16 entry within 6 months of the requisite occur-
17 rences under paragraph (2) with the Office of
18 the Bureau of Land Management in the state
19 where the lands subject to such right of reentry
20 are situated; and

21 (B) the Secretary records such declaration
22 in the office of the county recorder of the coun-
23 ty in which the lands subject to such right of
24 reentry are situated within 30 days of the filing
25 under subparagraph (A).

1 (4) One year after the patentee, or any subse-
2 quent owners, provides written notice to the Sec-
3 retary that all mineral activities are completed and
4 applicable reclamation is completed, the right of re-
5 entry held by the United States and created under
6 this subsection shall expire unless within such period
7 the Secretary notifies the patentee, or any subse-
8 quent owners, in writing that the right of reentry
9 held by the United States will be exercised. At such
10 time, ownership of the patented lands shall auto-
11 matically revert to the United States, notwithstand-
12 ing the provisions of paragraph (2). The Secretary
13 may decline to exercise the right of reentry and such
14 rights shall continue if—

15 (A) solid waste or hazardous substances
16 released on or from the patented estate may
17 pose a threat to public safety or the environ-
18 ment; or

19 (B) acceptance of title would expose the
20 United States to liability for past mineral ac-
21 tivities on the patented estate.

22 (c) PROTECTION OF VALID EXISTING RIGHTS.—Not-
23 withstanding any other provision of law, the requirements
24 of this Act (except with respect to claim maintenance fees
25 in accordance with section 201)—

1 (1) shall not apply to the mining claims and
2 sites contained within those mineral patent applica-
3 tions pending at the Department as of September
4 30, 1997, which shall be processed under the general
5 mining laws in effect immediately prior to the date
6 of enactment of this Act; and

7 (2) likewise shall not apply to the mining claims
8 or sites for which there is on the date of enactment
9 of this Act a vested possessory property right
10 against the United States under the general mining
11 laws in effect immediately prior to the date of enact-
12 ment of this Act.

13 **TITLE III—SURFACE MANAGE-**
14 **MENT OF MINERAL ACTIVI-**
15 **TIES**

16 **SEC. 301. PURPOSE; APPLICABILITY; OPERATING AND REC-**
17 **LAMATION STANDARDS.**

18 (a) PURPOSE.—It is the purpose of this title to pro-
19 vide for mineral entry, exploration, location and operations
20 pursuant to the general mining laws in a manner that will
21 not unduly hinder such activities or diminish rights, in-
22 cluding but not limited to all statutory and common law
23 rights of access, obtained under the general mining laws
24 or other authorities, but will assure that such activities
25 are conducted in a manner that will prevent unnecessary

1 and undue degradation of nonmineral surface resources on
2 Federal lands. Compliance with the provisions of this title
3 shall constitute a compliance with (i) the final sentence
4 of subsection 302(b) of the Federal Land Policy and Man-
5 agement Act (43 U.S.C. 1732(b)); and (ii) any standard
6 related to the management of surface resources within the
7 National Forest System contained in or derived from the
8 Organic Administration Act (16 U.S.C. 473 et seq.), the
9 Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528
10 et seq.), the Forest and Rangeland Renewable Resources
11 Planning Act of 1974 (16 U.S.C. 1601 et seq.), or any
12 other law applicable to Federal lands subject to this title
13 within the National Forest System.

14 (b) APPLICABILITY.—This title shall apply only to
15 mineral activities on those Federal lands where the surface
16 estate is managed by the Bureau of Land Management
17 or the Forest Service.

18 (c) OPERATIONS.—All mineral activities on Federal
19 lands shall be conducted so as to prevent unnecessary and
20 undue degradation of Federal lands by complying with ap-
21 plicable requirements of Federal and State environmental
22 protection laws, including but not limited to—

23 (1) the Atomic Energy Act of 1952 (42 U.S.C.
24 2011 et seq.);

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

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

4 (4) the Endangered Species Act of 1973 (14
5 U.S.C. 1531 et seq.);

6 (5) the Federal Land Policy and Management
7 Act of 1976 (43 U.S.C. 1701 et seq.);

8 (6) the Federal Mine Safety and Health Act of
9 1977 (30 U.S.C. 801 et seq.);

10 (7) the Federal Water Pollution Control Act
11 (commonly referred to as the “Clean Water Act”)
12 (33 U.S.C. 1251 et seq.);

13 (8) the Forest and Rangeland Renewable Re-
14 sources Planning Act of 1974 (16 U.S.C. 1600 et
15 seq.);

16 (9) the Migratory Bird Treaty Act (16 U.S.C.
17 703 et seq.);

18 (10) the National Environmental Policy Act of
19 1969 (42 U.S.C. 4321 et seq.);

20 (11) the National Historic Preservation Act (16
21 U.S.C. 470 et seq.);

22 (12) title XIV of the Public Health Service Act
23 (commonly referred to as the “Safe Drinking Water
24 Act”) (42 U.S.C. 300f et seq.);

1 (13) the Solid Waste Disposal Act (42 U.S.C.
2 6901 et seq.);

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

5 (15) the Uranium Mill Tailings Radiation Con-
6 trol Act of 1978 (42 U.S.C. 7901 et seq.).

7 (d) RECLAMATION.—In order to prevent unnecessary
8 and undue degradation of surface resources, Federal lands
9 disturbed by mineral activities shall be reclaimed, to the
10 extent economically and technically practicable, in compli-
11 ance with the provisions of section 304.

12 (e) DESIGNATED LANDS.—Where any mineral activi-
13 ties are to be conducted on Federal lands administered
14 by the Bureau of Land Management or the Forest Service
15 specifically designated by any special Act of Congress that
16 applies a specific land management, resource protection
17 or reclamation standard (such as wild and scenic rivers
18 and designated wilderness) to such lands, such manage-
19 ment or protection standard shall apply to the extent of
20 any conflict with the provisions of this title.

21 **SEC. 302. AUTHORIZATION FOR MINERAL ACTIVITIES.**

22 (a) IN GENERAL.—Except as otherwise provided in
23 subsections (b) and (c) of this section, no person may en-
24 gage in mineral activities on Federal lands unless that per-
25 son has filed a plan of operations with, and received ap-

1 proval of the plan from, the Secretary in accordance with
2 section 303.

3 (b) NOTICE REQUIRED.—

4 (1) A person may engage in mineral activities
5 on Federal lands that cause only minor, short term,
6 readily reclaimable impacts on surface resources, in-
7 cluding but not limited to initial exploratory test
8 hole drilling and road limited to initial exploratory
9 test hole drilling and road construction, only after
10 filing with the Secretary a notice of intent to con-
11 duct such activities.

12 (2) Such notice shall include—

13 (A) the name and mailing address of the
14 operator;

15 (B) when applicable, the name of the min-
16 ing claim(s) or site(s), and serial number(s) as-
17 signed to the mining claim(s) or site(s) on
18 which mineral activities are proposed;

19 (C) a statement describing the activities
20 proposed and their location in sufficient detail
21 to locate the operations on the ground, and giv-
22 ing the approximate date when activities will
23 begin. The statement shall include a description
24 and the location of any access routes to be con-

1 structured or improved and the type of equipment
2 to be used in their construction;

3 (D) a statement that reclamation of all
4 areas will be completed as required by sub-
5 section 301(d), and that mineral activities will
6 comply with the operations standard as re-
7 quired by subsection 301(c); and

8 (E) evidence of financial assurance as re-
9 quired by section 306.

10 (3) Failure of the operator to conduct mineral
11 activities in conformance with the notice and the re-
12 quirements of this title may cause the operator to be
13 subject to enforcement pursuant to section 308.

14 (4) The Secretary shall review the notice within
15 thirty days of receipt. If the Secretary determines
16 that the proposed mineral activities will, or are likely
17 to cause more than minor, short term, readily re-
18 claimable impacts on surface resources, the Sec-
19 retary shall provide a statement of reasons explain-
20 ing why the mineral activities cannot proceed under
21 notice and shall require in writing that the operator
22 submit a proposed plan of operations in accordance
23 with the requirements of section 303. Failure of the
24 Secretary to respond in writing within thirty days of

1 receipt of the notice shall be deemed to be approval
2 of the mineral activities proposed in the notice.

3 (5) The Secretary shall establish by regulation
4 from time to time additional categories of mineral
5 activities which may be conducted under notice
6 based on the amount of surface to be disturbed, the
7 type of equipment to be used, the time required for
8 reclamation, and other relevant factors.

9 (c) OTHER MINERAL ACTIVITIES.—Notwithstanding
10 the provisions of subsections (a) and (b), any person may
11 conduct mineral activities on Federal lands which cause
12 only a minimal disturbance of surface resources, including
13 but not limited to claim location; exploration; geological,
14 geophysical or geochemical surveys; environmental base-
15 line monitoring; activities related to the gathering of data
16 related to the preparation or analysis of a notice or plan
17 of operations under this title, or required under any other
18 applicable Federal or State environmental law or regula-
19 tion; and other activities designated by the Secretary,
20 without filing a notice or plan of operations with the Sec-
21 retary.

22 (d) TRANSFER OF RIGHTS.—An operator may trans-
23 fer, assign or sell any rights associated with a notice with-
24 out approval by the Secretary: *Provided*, That the succes-
25 sor in interest agrees in writing to assume the liabilities

1 and reclamation responsibilities established under sub-
2 section (b) and provides evidence of financial assurance
3 as required under section 306. The transfer, assignment
4 or sale shall not become effective prior to the filing of such
5 writing and evidence of financial assurance with the Sec-
6 retary. The financial assurance of the transferee shall be
7 substituted for the assurance previously submitted by the
8 transferor and the financial assurance of the transferor
9 shall be fully released.

10 **SEC. 303. PLAN OF OPERATIONS; CONTENT, REVIEW AND**
11 **APPROVAL.**

12 (a) **PLAN OF OPERATIONS REQUIREMENTS.**—A plan
13 of operations required under this title shall contain—

14 (1) the name and mailing address of the opera-
15 tor;

16 (2) when applicable, the name of the mining
17 claim(s) or site(s), and serial number(s) assigned to
18 the mining claim(s) or site(s) on which mineral ac-
19 tivities are proposed;

20 (3) a general description of the mineral activi-
21 ties proposed, including the anticipated periods dur-
22 ing which the proposed mineral activities will occur;

23 (4) a map showing existing and/or proposed
24 routes of surface access, or other means of access,

1 and identifying areas where surface disturbance will
2 occur;

3 (5) information describing the land and water
4 resources of the area expected to be disturbed by the
5 proposed mineral activities and any proposed mitiga-
6 tion measures necessary to comply with the require-
7 ments of this title;

8 (6) a reclamation plan which includes proposed
9 measures to reclaim Federal lands disturbed by the
10 proposed mineral activities as required under sub-
11 section 301(d);

12 (7) evidence of adequate financial assurance as
13 required under section 306; and

14 (8) a monitoring plan to assure compliance with
15 the requirements of the plan of operations.

16 (b) PLAN OF OPERATIONS REVIEW.—A proposed
17 plan of operations shall be submitted to the Secretary, who
18 shall promptly acknowledge receipt thereof to the opera-
19 tor. The Secretary shall promptly review the proposed plan
20 of operations and shall notify the operator within thirty
21 days—

22 (1) that the plan of operations has been ap-
23 proved as submitted;

1 (2) of all changes in, or additions to the pro-
2 posed plan of operations necessary to comply with
3 the requirements of this title; or

4 (3) that a specified reasonable amount of time
5 is necessary to complete the review, setting forth the
6 circumstances which justify the additional time.

7 (c) MINERAL ACTIVITIES PENDING REVIEW.—Any
8 operator who has submitted a plan of operations under
9 this section may continue to conduct mineral activities
10 otherwise authorized pursuant to subsections (b) and (c)
11 of section 302 within the geographic area covered by the
12 proposed plan of operations pending its approval.

13 (d) PLAN OF OPERATIONS APPROVAL.—

14 (1) The Secretary shall approve a proposed
15 plan of operations within a reasonable period of time
16 if—

17 (A) the proposed plan of operations sub-
18 stantially complies with the requirements of this
19 title; and

20 (B) the applicant has complied with the re-
21 quirements of section 306 concerning financial
22 assurance.

23 (2) If, after review, the Secretary determines
24 that a proposed plan of operations will not substan-
25 tially comply with the requirements of this title, the

1 Secretary shall specify all deficiencies in the pro-
2 posed plan, shall request the operator to modify the
3 proposed plan to comply with the requirements of
4 this title and shall specify all necessary modifications
5 to the proposed plan.

6 (e) MODIFICATIONS TO AN APPROVED PLAN OF OP-
7 ERATIONS.—

8 (1) MINOR MODIFICATIONS.—At any time dur-
9 ing which mineral activities are being conducted
10 under an approved plan of operations, an operator
11 may make minor modifications to the approved plan
12 of operations by notifying the Secretary. Failure of
13 the Secretary to respond in writing within thirty
14 days of receipt of the proposed minor modification
15 shall be deemed to be approval of the minor modi-
16 fication. For purposes of this title, a “minor modi-
17 fication” is a change to the approved plan of oper-
18 ations that is not likely to result in significant im-
19 pacts to surface resources different from those pre-
20 viously considered in the approved plan of oper-
21 ations.

22 (2) REVIEW OF MINOR MODIFICATIONS.—If the
23 Secretary determines that a proposed minor modi-
24 fication may be significant, the Secretary shall pro-
25 vide a statement of reasons and may require the op-

1 erator to submit a significant modification to the
2 plan of operations pursuant to paragraph (3) of this
3 subsection.

4 (3) SIGNIFICANT MODIFICATION.—At any time
5 during activities under an approved plan of oper-
6 ations, the operator may propose a significant modi-
7 fication to the approved plan of operations. A sig-
8 nificant modification must be submitted, reviewed
9 and approved in the same manner as a plan of oper-
10 ations under this section, except that the modifica-
11 tion need not include information required under
12 subsection 303(a) if the modification requires no
13 change to such information: *Provided, however,* That
14 approval of such modification shall neither require
15 nor be denied or conditioned upon retrofit, redesign,
16 reconstruction, closure or change in the operation of
17 any facility, structure or mineral activity previously
18 approved. For purposes of this title, a “significant
19 modification” is a change to the approved plan of
20 operations which is likely to result in significant im-
21 pacts to surface resources different from those pre-
22 viously considered in the approved plan of oper-
23 ations.

24 (4) REQUEST BY SECRETARY.—At any time
25 during which mineral activities are being conducted

1 under an approved plan of operations, the Secretary
2 may request that an operator submit a modification
3 to the approved plan of operations together with a
4 written determination that such modification is nec-
5 essary to prevent unnecessary and undue degrada-
6 tion of Federal lands as required by section 301.
7 The Secretary's determination that a modification is
8 necessary shall be subject to notice to the operator
9 and a right to a hearing at the request of the opera-
10 tor. If the Secretary has requested a modification
11 under this paragraph, mineral activities may con-
12 tinue in accordance with the approved plan of oper-
13 ations until the modification is submitted, reviewed
14 and approved.

15 (f) TERM.—An approved plan of operations shall re-
16 main in effect as approved until the mineral activities sub-
17 ject to the approved plan of operations are completed or
18 until the plan of operations are completed or until the plan
19 of operations is modified.

20 (g) TRANSFER OF RIGHTS.—An operator may trans-
21 fer, assign or sell any rights associated with an approved
22 plan of operations without approval by the Secretary, pro-
23 vided that the successor in interest agrees in writing to
24 assume the liabilities and reclamation responsibilities es-
25 tablished by the approved plan of operations and provide

1 evidence of financial assurance as required under section
2 306. The transfer, assignment or sale shall not become
3 effective prior to the filing of such writing and evidence
4 of financial assurance with the Secretary. The financial
5 assurance of the transferee shall be substituted for the as-
6 surance previously submitted by the transferor, and the
7 financial assurance of the transferor shall be fully re-
8 leased.

9 **SEC. 304. RECLAMATION.**

10 A reclamation plan submitted with a proposed plan
11 of operations pursuant to section 303 shall include appro-
12 priate measures to comply with substantive reclamation
13 requirements of the State in which the proposed mineral
14 activities will be located to the extent that those require-
15 ments are not in conflict with the purposes of the general
16 mining laws and this Act, and the applicable provisions
17 of State and Federal environmental protection laws, in-
18 cluding those Federal laws listed in subsection 301(c). A
19 proposed reclamation plan that complies with such State
20 and Federal requirements shall be deemed sufficient to
21 prevent unnecessary and undue degradation and to comply
22 with subsection 301(d), and certification or other approval
23 issued by a State or Federal agency of compliance with
24 such laws shall be deemed compliance with this section.

1 **SEC. 305. TRANSITION RULES.**

2 (a) **APPLICABILITY TO EXISTING OPERATIONS.—**

3 Mineral activities for which an operator is authorized to
4 proceed under notice or for which a plan of operations has
5 been approved prior to the date of enactment of this Act
6 shall continue under the terms and conditions of such no-
7 tice or plan. Notices which were filed within thirty days
8 of the effective date of enactment of this Act, and plans
9 of operations which have been submitted before but not
10 approved on the date of enactment of this Act, shall be
11 reviewed based on the law existing on the day prior to
12 the date of enactment of this Act. Significant modifica-
13 tions to approved plans of operations shall be submitted,
14 reviewed, and approved pursuant to the applicable require-
15 ments of this title: *Provided, however,* That approval of
16 such modifications shall neither require nor be conditioned
17 upon retrofit, redesign, reconstruction, closure or change
18 in the operation of any facility, structure or mineral activ-
19 ity previously approved.

20 (b) **ENFORCEMENT AND FINANCIAL ASSURANCE.—**

21 Notwithstanding the provisions of subsection (a), the en-
22 forcement provisions of section 308 shall apply to all min-
23 eral activities on the effective date of this Act and, within
24 one year after the effective date of this Act, all operators
25 operating under notice or a plan of operations shall submit

1 to the Secretary evidence of adequate financial assurance
2 as may be required under section 306.

3 **SEC. 306. FINANCIAL ASSURANCE.**

4 (a) EVIDENCE OF FINANCIAL ASSURANCE.—

5 (1) Prior to the commencement of any mineral
6 activities requiring a plan of operations, an operator
7 shall furnish evidence to the Secretary of a bond,
8 surety, self-insurance or other financial assurance
9 (including the use of bonding pools or a financial as-
10 surance instrument posted with a State or another
11 Federal agency) in an amount sufficient to cover the
12 reasonably estimated cost to complete reclamation as
13 required by the plan of operations.

14 (2)(A) Prior to conducting notice activities sub-
15 ject to subsection 302(b), the operator shall comply
16 with the financial assurance requirements promul-
17 gated by the Secretary applicable to such notice ac-
18 tivities. Such requirements shall allow operators or
19 owners of mining claims or sites to use bonding
20 pools or statewide or nationwide bonds. Statewide or
21 nationwide bonds shall be in amounts fixed by regu-
22 lation that cover notice activities at multiple loca-
23 tions statewide or nationwide, as appropriate.

24 (B) For such notice activities conducted be-
25 tween the date of enactment of this Act and the ef-

1 fective date of such regulations, the operator or
2 owner of the mining claim or site shall provide evi-
3 dence of financial assurance, in the form and man-
4 ner authorized by the Secretary's regulations in ef-
5 fect on the date of enactment of this Act, in an
6 amount sufficient to cover the reasonable estimated
7 cost of reclamation required as a result of such no-
8 tice activities.

9 (b) REVIEW AND ADJUSTMENT.—Not later than five
10 years after the financial assurance is provided, and each
11 five years thereafter, or at the request of the operator,
12 the Secretary shall review its adequacy and may increase
13 or decrease the amount of the financial assurance based
14 upon changed circumstances, including a determination by
15 the Secretary that a portion of the reclamation has been
16 completed.

17 (c) FINANCIAL ASSURANCE FOR INCREMENTS.—Fi-
18 nancial assurance for increments of mineral activities may
19 be authorized if the financial assurance for an increment
20 covers all reclamation costs within the area covered by the
21 notice or plan of operations for that increment. After rec-
22 lamation is completed, an operator may apply for, and the
23 Secretary may grant, release of the financial assurance for
24 the completed increment.

1 **SEC. 307. FEDERAL AND STATE AUTHORITY AND COOPERA-**
2 **TION.**

3 (a) COOPERATIVE AGREEMENT.—

4 (1) Upon request from a State, the Secretary
5 shall enter into a cooperative agreement with that
6 State for joint administration of the requirements of
7 this title relating to mineral activities requiring a no-
8 tice or plan of operations, financial assurances, rec-
9 lamation, inspection and enforcement if the Sec-
10 retary determines in writing that such State has the
11 capability to implement the agreement in a manner
12 consistent with the purposes of this title. A coopera-
13 tive agreement may cover (i) some or all of the re-
14 sponsibilities enumerated in this paragraph, and (ii)
15 some or all mineral activities on Federal lands with-
16 in a State.

17 (2) Under a cooperative agreement, a State and
18 the Secretary may jointly administer mineral activi-
19 ties on Federal lands. The State and the Secretary
20 shall make an independent and timely decision re-
21 garding individual plans of operation under this
22 title, but in no event shall the State's authority
23 under applicable Federal environmental protection
24 statutes be restricted.

25 (3) Under a cooperative agreement, the State
26 may conduct inspections and monitoring activities,

1 and take enforcement actions deemed necessary to
2 determine or require compliance with the require-
3 ments of this Act, other than recommending civil ac-
4 tions under section 308. The Secretary may not take
5 enforcement action where a State under a coopera-
6 tive agreement already has initiated appropriate en-
7 forcement action unless the State requests that the
8 Secretary recommend initiation of a civil action
9 under section 308.

10 (4) Under a cooperative agreement, the finan-
11 cial assurance sufficient to cover reclamation of Fed-
12 eral lands shall be calculated based on the comple-
13 tion of both the Federal and State reclamation re-
14 quirements, and may be held as one bond. The fi-
15 nancial assurance shall be approved by both the Sec-
16 retary and the State prior to approval of a plan of
17 operations, and the Secretary and the State may
18 agree that the financial assurance may not be re-
19 leased without Federal and State concurrence. Fi-
20 nancial assurance that duplicates financial assurance
21 required under other State or Federal law shall not
22 be required under this title.

23 (5) If a cooperative agreement is entered into
24 pursuant to this section, the Secretary shall, subject
25 to appropriations, reimburse the State for its regu-

1 latory costs in an amount approximating, but not ex-
2 ceeding, the reasonably estimated amount the Sec-
3 retary would have reasonably expended absent a co-
4 operative agreement.

5 (6) Each cooperative agreement entered into
6 pursuant to this section shall provide that (i) the
7 Secretary shall take appropriate action, including
8 termination of the agreement, upon a determination
9 that State performance under the agreement is not
10 in substantial compliance with the agreement or the
11 requirements of this title, and (ii) prior to taking
12 any such action, the Secretary shall provide notice to
13 the State allowing the State a reasonable time to
14 come into substantial compliance.

15 (b) EXISTING AGREEMENTS.—Any cooperative
16 agreement or memorandum of understanding between the
17 Secretary and any State related to the surface manage-
18 ment of mineral activities on Federal lands subject to this
19 Act in existence on the date of enactment of this Act shall
20 continue in force unless the Secretary determines such
21 agreement or memorandum of understanding is inconsis-
22 tent with the provisions of this title.

1 **SEC. 308. ENFORCEMENT, ADMINISTRATIVE AND JUDICIAL**
2 **REVIEW.**

3 (a) INSPECTIONS.—The Secretary, or a State if the
4 State has entered into a cooperative agreement pursuant
5 to section 307, shall conduct a minimum of one complete
6 inspection each year of mineral activities for which a plan
7 of operations or notice is required under section 302 to
8 ensure compliance with the terms of the plan or notice.
9 The operator shall grant access at reasonable times and
10 under reasonable circumstances to the appropriate des-
11 ignated representative of the Secretary or State when re-
12 quested. The Secretary or the State must give reasonable
13 notice to the operator before commencing any inspection.
14 The Secretary or the State may inspect more frequently,
15 if warranted, and may modify the inspection schedule as
16 necessary for mineral activities that are conducted on a
17 seasonal basis.

18 (b) COMPLIANCE ORDERS.—

19 (1) Whenever, on the basis of any inspection
20 authorized by subsection (a), the Secretary finds
21 that the operator is in violation of any term or con-
22 dition of a plan of operations or notice, the Sec-
23 retary may issue an order requiring the operator to
24 comply with such requirement, or may request the
25 Attorney General to bring a civil action in accord-
26 ance with subsection (c): *Provided, however, That*

1 the Secretary shall not request commencement of a
2 civil action if (i) the violation is corrected within
3 thirty days, and (ii) the violation is neither causing
4 nor likely to cause irreparable harm to the environ-
5 ment or a threat to human health or safety.

6 (2) Any order issued under this subsection shall
7 state with reasonable specificity the nature of the
8 violation and shall require compliance within a rea-
9 sonable period of time specified in the order. The
10 Secretary may extend the time specified for compli-
11 ance for a reasonable period, considering the serious-
12 ness of the violation and any good faith efforts to
13 comply with the terms and conditions of the plan of
14 operation.

15 (c) CIVIL ACTIONS.—At the request of the Secretary,
16 the Attorney General may institute a civil action in the
17 district court of the United States for the district in which
18 the affected operation is located for a temporary restrain-
19 ing order, injunction, civil penalties as provided in sub-
20 section (d), or other appropriate remedy, when the opera-
21 tor (i) violates or refuses to comply with an order issued
22 by the Secretary under subsection (b), or (ii) refuses to
23 allow an inspection authorized under subsection (a).

24 (d) CIVIL PENALTIES.—An operator that fails to
25 comply with the requirements applicable to mineral activi-

1 ties conducted under notice pursuant to section 302 or the
2 terms or conditions of a plan of operations approved under
3 section 302, after notice of such failure and expiration of
4 a reasonable period allowed for abatement as specified
5 pursuant to subsection (b), is subject to a civil penalty
6 of not more than \$5,000 for each day of the continuance
7 of such noncompliance. In determining the amount of the
8 penalty, the court shall consider the existence of previous
9 violations at the operation, the seriousness of the violation,
10 the likelihood of irreparable harm to the environment and
11 any hazard to the health or safety of the public, whether
12 the operator was negligent, and the good faith of the oper-
13 ator.

14 (e) ADMINISTRATIVE REVIEW.—

15 (1) Any operator issued a compliance order
16 under this section may apply to the Secretary for re-
17 view of the order within thirty days of receipt there-
18 of, or as the case may be, within thirty days of such
19 order being modified.

20 (2) The Secretary shall provide an opportunity
21 for a hearing on the record at the request of the op-
22 erator.

23 (3) Pending completion of any review proceed-
24 ings under this subsection, the operator may file
25 with the Secretary a written request that the Sec-

1 retary grant temporary relief from any order issued
2 under this section, supported by a detailed statement
3 of reasons for such relief. The Secretary shall exped-
4 ditiously issue an order or decision granting or deny-
5 ing such relief.

6 (f) FINAL AGENCY ACTION.— Final agency action
7 under this title shall be subject to judicial review pursuant
8 to 5 U.S.C. 701–706 and 28 U.S.C. 1331.

9 **SEC. 309. SAVINGS CLAUSE.**

10 The provisions of this title shall supersede any provi-
11 sion of the general mining laws or the Federal Land Policy
12 and Management Act, and any standard related to the
13 management of surface resources within the National For-
14 est System contained in or derived from the Organic Ad-
15 ministration Act (16 U.S.C. 473 et seq.), the Multiple-
16 Use Sustained-Yield Act of 1960 (16 U.S.C. 528 et seq.),
17 the Forest and Rangeland Renewable Resources Planning
18 Act of 1974 (16 U.S.C. 1601 et seq.), or any other law
19 applicable to Federal lands subject to this title within the
20 National Forest System, and any rules promulgated under
21 such laws, only to the extent that such laws or rules con-
22 flict or are inconsistent with the provisions of this title.
23 Orders, rules and regulations in effect as of the date of
24 enactment of this Act which govern surface management

1 of mineral activities shall remain in effect under the au-
2 thority of this title.

3 **TITLE IV—ROYALTY**

4 **SEC. 401. ROYALTY.**

5 (a) IN GENERAL.—The production and sale of
6 locatable minerals (including associated minerals) from
7 any unpatented mining claim (other than those from Fed-
8 eral lands to which subsection 204(b) applies) or any min-
9 ing claim patented under subsection 204(a) shall be sub-
10 ject to a royalty of 5 percent of the Net Proceeds from
11 such production mined and sold from such claim.

12 (b) ROYALTY EXCLUSION.—

13 (1) The royalty payable under this title shall be
14 waived for any person with annual Net Proceeds
15 from mineral production subject to subsection (a) of
16 less than \$50,000.

17 (2) The obligation to pay royalties hereunder
18 shall accrue only upon the sale of locatable minerals
19 or mineral products produced from a mining claim
20 subject to such royalty, and not upon the stockpiling
21 of the same for future processing.

22 (3) Where mining operations subject to this sec-
23 tion are conducted in two or more places by the
24 same person and qualify for a waiver under sub-
25 section 202(a) the operations shall be considered a

1 single operation the aggregate Net Proceeds from
2 which shall be subject to the \$50,000 limitation set
3 forth in this subsection.

4 (4) No royalty shall be payable pursuant to this
5 title with respect to minerals processed at a facility
6 by the same person or entity which extracted the
7 minerals if an urban development action grant has
8 been made under section 119 of the Housing and
9 Community Development Act of 1974 with respect
10 to any portion of such facility.

11 (c) DEFINITIONS.—For the purposes of this title, the
12 term:

13 (1) “Gross Yield” shall mean—

14 (A) in the case of sales of gold and silver
15 ore, concentrates or bullion, or the sales of
16 other locatable minerals in the form of ore or
17 concentrates, the actual proceeds of sale of such
18 ore, concentrates or bullion;

19 (B) in the case of sales of beneficiated
20 products from locatable minerals other than
21 those subject to section 401(c)(1)(A), such as
22 cathode, anode or copper rod or wire, or other
23 products fabricated from the locatable minerals,
24 the gross income from mining derived from the
25 first commercially marketable product deter-

1 mined in the same manner as under section 613
2 of the Internal Revenue Code of 1986;

3 (C) in the event that ore, concentrates,
4 beneficiated or fabricated products or locatable
5 minerals are used or consumed and are not sold
6 in an arms length transaction, the reasonable
7 fair market value of the ore, concentrates,
8 beneficiated or fabricated products at the mine
9 or wellhead determined from the first applicable
10 of the following:

11 (i) published or other competitive sell-
12 ing prices of locatable minerals of like kind
13 and grade;

14 (ii) any proceeds of sale;

15 (iii) value received in exchange for any
16 thing or service; or

17 (iv) the value of any locatable min-
18 erals in kind or used or consumed in a
19 manufacturing process or in providing a
20 service; and

21 (D) without limiting the foregoing, the
22 profits or losses incurred in connection with for-
23 ward sales, futures or commodity options trad-
24 ing, metal loans, or any other price hedging or

1 speculative activity or arrangement shall not be
2 included in Gross yield.

3 (2) “Net Proceeds” shall mean Gross Yield, less
4 the sum of the following allowable deductions for
5 costs incurred prior to sale or value determination,
6 and none other:

7 (A) The actual cost of extracting the
8 locatable mineral.

9 (B) The actual cost of transporting the
10 locatable mineral from the claim to the place or
11 places of reduction, beneficiation, refining, and
12 sale.

13 (C) The actual cost of reduction,
14 beneficiation, refining, and sale of the locatable
15 mineral.

16 (D) The actual cost of marketing and de-
17 livering the locatable mineral and the conver-
18 sion of the locatable mineral into money.

19 (E) The actual cost of maintenance and re-
20 pairs of—

21 (i) all machinery, equipment, appara-
22 tus, and facilities used in the mine;

23 (ii) all crushing, milling, leaching, re-
24 fining, smelting, and reduction works,
25 plants, and facilities; and

1 (iii) all facilities and equipment for
2 transportation.

3 (F) The actual cost for support personnel
4 and support services at the mine site, including
5 without limitation, accounting, assaying, draft-
6 ing and mapping, computer services surveying,
7 housing, camp, and office expenses, safety, and
8 security.

9 (G) The actual cost of engineering, sam-
10 pling, and assaying pertaining to development
11 and production.

12 (H) The actual cost of permitting, rec-
13 lamation, environmental compliance and mon-
14 itoring.

15 (I) The actual cost of fire and other insur-
16 ance on the machinery, equipment, apparatus,
17 works, plants, and facilities mentioned in sub-
18 paragraph (E).

19 (J) Depreciation of the original capitalized
20 cost of the machinery, equipment, apparatus,
21 works, plants, and facilities listed in subpara-
22 graph (E). The annual depreciation charge shall
23 consist of amortization of the original cost in a
24 manner consistent with the Internal Revenue
25 Code of 1986, as amended from time to time.

1 The probable life of the property represented by
2 the original cost must be considered in comput-
3 ing the depreciation charge.

4 (K) All money expended for premiums for
5 industrial insurance, and the owner paid cost of
6 hospital and medical attention and accident
7 benefits and group insurance for all employees
8 engaged in the production or processing of
9 locatable minerals.

10 (L) All money paid as contributions or
11 payments under State unemployment com-
12 pensation law, all money paid as contributions
13 under the Federal Social Security Act, and all
14 money paid to State government in real prop-
15 erty taxes and severance or other taxes meas-
16 ured or levied on production, or Federal excise
17 tax payments and payments as fees or charges
18 for use of the Federal lands from which the
19 locatable minerals are produced.

20 (M) The actual cost of developmental work
21 in or about the mine or upon a group of mines
22 when operated as a unit.

23 (d) LIMITATIONS AND ALLOCATIONS OF NET PRO-
24 CEEDS, GROSS YIELD, AND ALLOWABLE DEDUCTIONS.—

1 (1) The several deductions listed in subpara-
2 graph (c)(2) are intended to allow a reasonable al-
3 lowance for overhead: *Provided*, That they do not in-
4 clude any expenditures for salaries, or any portion of
5 salaries, of any person not actually engaged in—

6 (A) the working of the mine;

7 (B) the operating of the leach pads, ponds,
8 plants, mills, smelters, or reduction works;

9 (C) the operating of the facilities or equip-
10 ment for transportation; or

11 (D) superintending the management of any
12 of those operations described in subparagraphs
13 (A)–(C).

14 (2) Ores or solutions of locatable minerals, sub-
15 ject to the royalty requirements of this title, may be
16 extracted from mines comprised of mining claims
17 and lands other than mining claims. Ore or solutions
18 of locatable minerals, subject to the royalty require-
19 ments of this section, may be commingled with ores
20 or solutions from lands other than mining claims. In
21 any such case, for the purposes of determining the
22 amount of royalties payable under this title—

23 (A) the operator shall first sample, weigh
24 or measure, and assay the same in accordance
25 with accepted industry standards; and

1 (B) Gross Yield, allowable costs and Net
2 Proceeds for royalty purposes shall be allocated
3 in proportion to mineral products recovered
4 from the mining claims in accordance with ac-
5 cepted industry standards.

6 (e) LIABILITY FOR ROYALTY PAYMENTS.—The
7 owner or co-owners of a mining claim subject to a royalty
8 under this title shall be liable for such royalty to the extent
9 of the interest in such claim owned. As used in this sub-
10 section, “owner” and “co-owner” mean the person or per-
11 sons owning the right to mine locatable minerals from
12 such claim and receiving the Net Proceeds of such sale.
13 No person who makes any royalty payment attributable
14 to the interest of the owner or co-owners liable therefor
15 shall become liable to the United States for such royalty
16 as a result of making such payment on behalf of such
17 owner or co-owners.

18 (f) TIME AND MANNER OF PAYMENTS.—

19 (1) Royalty payments for production from any
20 mining claim subject to a royalty under this title
21 shall be due to the United States at the end of the
22 month following the end of the calendar quarter in
23 which the Net Proceeds from the sale of such pro-
24 duction are received by the owner or co-owners. Roy-
25 alty payments may be made based upon good faith

1 estimates of the Gross Yield, Net Proceeds and the
2 quantity of ore, concentrates, or other beneficiated
3 or fabricated products of locatable minerals, subject
4 to adjustment when the actual annual Gross Yield,
5 Net Proceeds and quantity are determined by the
6 owner or co-owners of the mining claim.

7 (2) Each royalty payment or adjustment shall
8 be accompanied by a statement containing each of
9 the following:

10 (A) the name and Bureau of Land Man-
11 agement serial number of the mining claim or
12 claims from which ores, concentrates, solutions
13 or beneficiated products of locatable minerals
14 subject to the royalty required in this section
15 were produced and sold for the period covered
16 by such payment or adjustment;

17 (B) the estimated (or actual, if deter-
18 mined) quantity of such ore, concentrates, solu-
19 tions or beneficiated or fabricated products pro-
20 duced and sold from such mining claim or
21 claims for such period;

22 (C) the estimated (or actual, if deter-
23 mined) Gross Yield from the production and
24 sale of such ore, concentrates, solutions or
25 beneficiated products for such period;

1 (D) the estimated (or actual, if deter-
2 mined) Net Proceeds from the production and
3 sale of such ores, concentrates, solutions or
4 beneficiated products for such period, including
5 an itemization of the applicable deductions de-
6 scribed in paragraph (c)(2); and

7 (E) the estimated (or actual, if deter-
8 mined) royalty due to the United States, or ad-
9 justment due to the United States from such
10 owner or co-owners, for such period.

11 (3) In lieu of receiving a refund under sub-
12 section (h)(2), the owner or co-owners may elect to
13 apply any adjustment due to such owner or co-own-
14 ers as an offset against royalties due from such
15 owner or co-owners to the United States under this
16 Act, regardless of whether such royalties are due for
17 production and sale from the same mining claim or
18 claims.

19 (g) RECORDKEEPING AND REPORTING REQUIRE-
20 MENTS.—

21 (1) An owner, operator, or other person directly
22 involved in conducting mineral activities,
23 transportating, purchasing, or selling of locatable
24 minerals, concentrates, or products derived there-
25 from, subject to a royalty under this title, through

1 the point of royalty computation, shall establish and
2 maintain any records, make any reports, and provide
3 any information that the Secretary may reasonably
4 require for the purposes of implementing this title or
5 determining compliance with regulations or orders
6 under this title. Upon the request of the Secretary
7 when conducting an audit or investigation pursuant
8 to subsection (i), the appropriate records, reports, or
9 information which may be required by this title shall
10 be made available for inspection and duplication by
11 the Secretary.

12 (2) Records required by the Secretary under
13 this title shall be maintained for three years after
14 the records are generated unless the Secretary noti-
15 fies the record holder that he or she has initiated an
16 audit or investigation specifically identifying and in-
17 volving such records and that such records must be
18 maintained for a longer period. When an audit or in-
19 vestigation is under way, such records shall be main-
20 tained until the earlier of the date that the Secretary
21 releases the record holder of the obligation to main-
22 tain such records or the date that the limitations pe-
23 riod applicable to such audit or investigation under
24 subsection (i) expires.

25 (h) INTEREST ASSESSMENTS.—

1 (1) If any royalty payments under this title are
2 not received by the Secretary on the date that such
3 payments are due, or if such payments are less than
4 the amount due, the Secretary shall charge interest
5 on such unpaid amount. Interest under this sub-
6 section shall be computed at the rate published by
7 the Department of the Treasury as the “Treasury
8 Current Value of Funds Rate”. In the case of an
9 underpayment or partial payment, interest shall be
10 computed and charged only on the amount of the de-
11 ficiency and not on the total amount, and only for
12 the number of days such payment is late. No other
13 late payment or underpayment charge or penalty
14 shall be charged with respect to royalties under this
15 title.

16 (2) In any case in which royalty payments are
17 made in excess of the amount due, or amounts are
18 held by the Secretary pending the outcome of any
19 appeal in which the Secretary does not prevail, the
20 Secretary shall promptly refund such overpayments
21 or pay such amounts to the person or persons enti-
22 tled thereto, together with interest thereon for the
23 number of days such overpayment or amounts were
24 held by the Secretary, with the addition of interest
25 charged against the United States computed at the

1 rate published by the Department of the Treasury as
2 the “Treasury Current Value of Funds Rate”.

3 (i) AUDITS, PAYMENT DEMANDS, AND LIMITA-
4 TIONS.—

5 (1) The Secretary may conduct, after notice,
6 any audit reasonably necessary and appropriate to
7 verify the royalty payment required under this title.
8 Notice of such audit shall be provided to all owners,
9 co-owners, and mine managers.

10 (2) The Secretary shall send or issue any billing
11 or demand letter for royalty due on locatable min-
12 erals produced and sold from any mining claim sub-
13 ject to a royalty under this title not later than three
14 years after the date such royalty was due and must
15 specifically identify the production involved, the roy-
16 alty allegedly due and the basis for the claim. No ac-
17 tion, proceeding or claim for royalty due on locatable
18 minerals produced and sold, or relating to such pro-
19 duction, may be brought by the United States, in-
20 cluding but not limited to any claim for additional
21 royalties or claim of the right to offset the amount
22 of such additional royalties against amounts owed to
23 any person by the United States, unless judicial suit
24 or administrative proceedings are commenced to re-
25 cover specific amounts claimed to be due prior to the

1 expiration of three years from the date such royalty
2 is alleged to have been due.

3 (j) CONFIDENTIALTY.—The Secretary shall maintain
4 the confidentiality of all information obtained under this
5 title.

6 (k) TRANSITIONAL RULES.—Any mining claim for
7 which a patent is issued pursuant to subsection 204(c)
8 shall not be subject to the obligation to pay the royalty
9 pursuant to this section. Royalty payments for any claim
10 processed under subsection 204(c) shall be suspended
11 pending final determination of the right to patent. For
12 any claim that does not qualify for the issuance of a patent
13 under subsection 204(c), royalties shall be payable under
14 this title on production after the date of enactment of this
15 Act, plus interest computed at the rate published by the
16 Department of the Treasury as the “Treasury Current
17 Value of Funds Rate” on production after such date of
18 enactment and before the date of such determination.

19 (l) DISBURSEMENT OF REVENUES.—Subject to ap-
20 propriations, all receipts from royalties collected under
21 this section shall be paid into a State Fund or Federal
22 Fund in accordance with sections 501 and 502; until ter-
23 mination as provided in section 506 of this Act.

24 (m) NO IMPLIED COVENANTS.—The owner of a min-
25 ing claim subject to the provisions of this title shall have

1 no obligation, expressed or implied, to explore for, develop,
 2 produce or market locatable minerals as a result of the
 3 obligation to pay royalty hereunder, and the timing, na-
 4 ture, extent and manner of exploring, developing, mining
 5 and marketing such locatable minerals shall be in the sole
 6 discretion of the claim owner.

7 (n) PENALTIES.—Any person who withholds payment
 8 or royalties under this title after a final, nonappealable
 9 determination of liability may be liable for civil penalties
 10 of up to \$5,000 per day that payment is withheld after
 11 becoming due.

12 **TITLE V—ABANDONED LOCAT-**
 13 **ABLE MINERALS MINE REC-**
 14 **LAMATION PROGRAM**

15 **SEC. 501. ABANDONED LOCATABLE MINERAL MINE REC-**
 16 **LAMATION FUND.**

17 (a) STATE FUND.—Any State within which royalties,
 18 maintenance fees or location fees are collected pursuant
 19 to this Act from a mining claim and which elects to be-
 20 come eligible to receive such funds shall establish and
 21 maintain an interest-bearing abandoned locatable mineral
 22 mine reclamation fund (referred to in this Act as the
 23 “State Fund”) to accomplish the purposes of this title.
 24 States with existing abandoned locatable mineral mine rec-

1 lamation programs shall qualify to receive funds under
2 this Act.

3 (b) FEDERAL FUND.—There is established on the
4 books of the Treasury of the United States an interest-
5 bearing fund to be known as the Abandoned Locatable
6 Minerals Mine Reclamation Fund (referred to in this Act
7 as the “Federal Fund”) which shall consist of royalty pro-
8 ceeds, maintenance fees and location fees collected from
9 mining claims in a State where a State Fund has not been
10 established or maintained under subsection (a).

11 **SEC. 502. ALLOCATION AND PAYMENTS.**

12 (a) STATE FUND.—Royalties, maintenance fees and
13 location fees collected pursuant to this Act shall be paid
14 by the Secretary of the Treasury to the State Fund estab-
15 lished pursuant to subsection 501(a) for the State where
16 the mining is located. Payments to States under this sub-
17 section with respect to any funds received by the United
18 States, shall be made not later than the last business day
19 of the month in which such funds are warranted by the
20 United States Treasury to the Secretary of the Interior
21 as having been received, except for any portion of such
22 funds which is under challenge, which shall be placed in
23 a suspense account pending resolution of such challenge.
24 Such warrants shall be issued by the United States Treas-
25 ury not later than ten days after receipt of such funds

1 by the Treasury. Funds placed in a suspense account
2 which are determined to be due the United States shall
3 be payable to a State Fund not later than fifteen days
4 after such challenge is resolved. Any such amount placed
5 in a suspense account pending resolution shall bear inter-
6 est until the challenge is resolved. In determining the
7 amount of payments to State Funds under this section,
8 the amount of such payments shall not be reduced by any
9 administrative or other costs incurred by the United
10 States.

11 (b) FEDERAL FUND.—Royalties, maintenance fees
12 and location fees collected pursuant to this Act from min-
13 ing claims located in a State which has not established
14 or maintained a State Fund, and such proceeds from min-
15 ing claims located in a State for which the Secretary's au-
16 thority has expired under subsection 506(a), shall be cred-
17 ited to the Federal Fund and distributed in accordance
18 with subsection (c).

19 (c) TRANSITION.—Prior to the time a State estab-
20 lishes a State Fund pursuant to subsection 501(a), any
21 funds collected from a mining claim within such State
22 shall be deposited into the Federal Fund and allocated to
23 such State. Once a State establishes a State Fund under
24 subsection 501(a), the State allocation in the Federal
25 Fund with accrued interest shall be paid by the Secretary

1 of the Treasury to the State Fund in accordance with sub-
2 section (a). Commencing three years after the date of en-
3 actment of this Act, the Secretary of the Treasury shall
4 distribute funds then accrued or which are thereafter cred-
5 ited to the Federal Fund equally among all States which
6 maintain a State Fund established under subsection
7 501(a), and for which the Secretary of the Treasury's au-
8 thority has not expired under subsection 506(a).

9 **SEC. 503. ELIGIBLE AREA.**

10 (a) IN GENERAL.—Subject to subsection (b), lands
11 and water eligible for reclamation under this title shall be
12 Federal lands that—

13 (1) have been adversely affected by past min-
14 eral activities on lands abandoned and left inad-
15 equately reclaimed prior to the date of enactment of
16 this Act; and

17 (2) for which the State determines there is no
18 identifiable party with a continuing reclamation re-
19 sponsibility under State or Federal laws.

20 (b) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—

21 The following areas shall not be eligible for expenditures
22 from a State Fund:

23 (1) Any area subject to a plan of operations
24 submitted or approved prior to, on or after the date
25 of enactment of this Act which includes remaining or

1 reclamation of the area adversely affected by past
2 locatable mineral activities.

3 (2) Any area affected by coal mining eligible for
4 reclamation expenditures pursuant to section 404 of
5 the Surface Mining Control and Reclamation Act
6 (30 U.S.C. 1234),

7 (3) Any area designated for remedial action
8 pursuant to the Uranium Mill Tailings Radiation
9 Control Act of 1978 (42 U.S.C. 7912), and

10 (4) Any area that was listed on the National
11 Priorities List pursuant to the Comprehensive Envi-
12 ronmental Response, Compensation and Liability
13 Act of 1980 (42 U.S.C. 9605) prior to the date of
14 enactment of this Act, or where the Environmental
15 Protection Agency has initiated or caused to be initi-
16 ated a response action pursuant to that Act.

17 **SEC. 504. USES AND OBJECTIVES OF FUNDS.**

18 (a) USE OF FUNDS.— Moneys in a State Fund shall
19 be used for the reclamation of eligible areas. For purposes
20 of this section, reclamation includes—

21 (1) backfilling, fencing, sealing, or otherwise
22 controlling abandoned underground mine entries to
23 protect public health and safety;

24 (2) abatement, treatment or control of water
25 pollution;

1 (3) shaping, grading, contouring and revegeta-
2 tion of land to prevent erosion and sedimentation, or
3 to enhance fish and wildlife habitat;

4 (4) removal or control of toxic or hazardous
5 materials;

6 (5) analysis, curation and preservation of struc-
7 tures, buildings, sites or objects listed or eligible for
8 listing pursuant to the National Historic Preserva-
9 tion Act (16 U.S.C. 470a); and

10 (6) control or reclamation of surface subsidence
11 due to abandoned underground mines.

12 (b) PRIORITIES.— Expenditures of moneys from a
13 State Fund shall reflect the following priorities in the
14 order stated, but shall not preclude, where feasible and
15 appropriate, a combination of these priorities for cost-ef-
16 fective reclamation:

17 (1) The protection of public health, safety, gen-
18 eral welfare and property from extreme danger from
19 the adverse effects of past mineral activities.

20 (2) The protection of public health, safety, and
21 general welfare from the adverse effects of past min-
22 eral activities.

23 (c) LIABILITY.—No State, or a contractor for such
24 State engaged in approved reclamation work under this
25 title, or any other entity authorized by a State to conduct

1 approved reclamation activities, shall be liable under any
2 provision of Federal law for any costs or damages as a
3 result of action taken or omitted in the course of carrying
4 out reclamation pursuant to this section. This subsection
5 shall not preclude liability for costs and damages as a re-
6 sult of gross negligence or intentional misconduct. For
7 purposes of the preceding sentence, reckless, willful or
8 wanton misconduct shall constitute gross negligence.

9 **SEC. 505. REPORT TO CONGRESS.**

10 Annually, each State with a State Fund shall submit
11 a report to the Congress providing an accounting of the
12 State Fund, including identifying sites for which moneys
13 in the State Fund have been spent during the preceding
14 year and sites for which moneys shall be allocated in the
15 following year, the amounts spent or expected to be spent
16 on each such site, and an estimate of the number of eligi-
17 ble areas that remain to be reclaimed in the State.

18 **SEC. 506. SUNSET PROVISIONS.**

19 (a) **TERMINATION OF AUTHORITY.**— The Secretary
20 of the Treasury's authority to allocate funds to a State
21 Fund under section 502 shall expire on the date that the
22 State submits a report to the Congress pursuant to section
23 505 which reports that there are no areas in the State
24 which remain to be reclaimed and the Secretary of the
25 Interior has verified such report.

1 (b) TERMINATION OF FUND.— Upon the termination
2 of authority as provided in subsection (a) with respect to
3 all State Funds, the Federal Fund shall also be termi-
4 nated, and all funds thereafter shall be disbursed as fol-
5 lows:

6 (1) 50 percent of such funds shall be paid into
7 the Treasury of the United States and deposited as
8 miscellaneous receipts; and

9 (2) the remaining 50 percent of such funds
10 shall be paid by the Secretary of the Treasury to the
11 state in which the mining claim is located.

12 **TITLE VI—MINERAL MATERIALS**

13 **SEC. 601. DETERMINATIONS.**

14 Section 3 of the Act of July 23, 1955 (30 U.S.C.
15 611), is amended as follows: Insert “(a)” before the first
16 sentence. Add the following new subsection at the end
17 thereof:

18 “(1) Subject to valid existing rights, after the
19 date of enactment of this subsection, notwithstand-
20 ing the reference to common varieties in subsection
21 (a) and to the exception to such term relating to a
22 deposit of materials with some property giving it dis-
23 tinct and special value, all deposits of mineral mate-
24 rials referred to in such subsection, including the
25 block pumice referred to in such subsection, shall be

1 subject to disposal only under the terms and condi-
2 tions of the Materials Act of 1947.

3 “(2) For purposes of paragraph (1), the term
4 ‘valid existing rights’ means that a mining claim lo-
5 cated for any such mineral material had some prop-
6 erty giving it the distinct and special value referred
7 to in subsection (a), or as the case may be, met the
8 definition of block pumice referred to in such sub-
9 section, was properly located and maintained under
10 the general mining laws prior to the date of the en-
11 actment of this subsection, and was supported by a
12 discovery of a valuable mineral deposit within the
13 meaning of the general mining laws as in effect im-
14 mediately prior to such date of enactment and that
15 such claim continues to be valid under this Act.”.

16 **SEC. 602. IDENTIFIED DEPOSITS.**

17 The Act entitled “An Act to provide for the disposal
18 of materials on the public lands of the United States”,
19 approved July 31, 1947 (30 U.S.C. 602), is amended by
20 adding at the end the following:

21 “(b) IDENTIFIED DEPOSITS.—

22 “(1) Lands known to contain valuable deposits
23 of mineral materials subject to this Act and subse-
24 quent amendments and not covered by any contract,
25 permit, or lease, for uncommon varieties of mineral

1 materials under this section or by a valid mining
2 claim for an uncommon variety of a mineral material
3 under the general mining laws shall be subject to
4 disposition by lease under this Act by the Secretary
5 through advertisement, competitive bidding, or such
6 other methods as he may by general regulations
7 adopt, and in such reasonably compact areas as he
8 shall fix.

9 “(2) All leases will be conditioned upon—

10 “(A) the payment by the lessee of such
11 royalty as may be fixed in the lease, not less
12 than two percent of the quantity or gross value
13 of the output of mineral materials, and

14 “(B) the payment in advance of a rental of
15 25 cents per acre for the first calendar year or
16 fraction thereof; 50 cents per acre for the sec-
17 ond, third, fourth, and fifth years, respectively;
18 and \$1 per acre per annum thereafter during
19 the continuance of the lease, such rental for
20 that year being credited against royalties accru-
21 ing for that year.

22 “(3)(A) Any lease issued under this subsection
23 shall be for a term of 20 years and so long there-
24 after as the lessee complies with the terms and con-
25 ditions of the lease and upon the further condition

1 that at the end of each 20-year period succeeding
2 the date of the lease such reasonable adjustment of
3 the terms and conditions thereof may be made there-
4 in as may be prescribed by the Secretary unless oth-
5 erwise provided by law at the expiration of such pe-
6 riods.

7 “(B) Leases shall be conditioned upon a mini-
8 mum annual production or the payment of a mini-
9 mum royalty in lieu thereof, except when production
10 is interrupted by strikes, the elements, or casualties
11 not attributable to the lessee.

12 “(C) The Secretary may permit suspension of
13 operations under any such leases when marketing
14 conditions are such that the leases cannot be oper-
15 ated except at a loss.

16 “(D) The Secretary upon application by the les-
17 see prior to the expiration of any existing lease in
18 good standing shall amend such lease to provide for
19 the same tenure and to contain the same conditions,
20 including adjustment at the end of each 20-year pe-
21 riod succeeding the date of said lease, as provided
22 for in this subsection.

23 “(c) OTHER LANDS.—

24 “(1) The Secretary is hereby authorized, under
25 such rules and regulations as he may prescribe, to

1 grant to any qualified applicant a prospecting permit
2 which shall give the exclusive right to prospect for
3 mineral materials in lands belonging to the United
4 States which are not subject to subsection (b), and
5 are not covered by a contract, permit, or lease under
6 this Act, except that a prospecting permit shall not
7 exceed a period of 2 years and the area to be in-
8 cluded in such a permit shall not exceed 2,560 acres
9 of land in reasonably compact form.

10 “(2) The Secretary shall reserve and may exer-
11 cise the authority to cancel any prospecting permit
12 upon failure by the permittee to exercise due dili-
13 gence in the prosecution of the prospecting work in
14 accordance with the terms and conditions stated in
15 the permit, and shall insert in every such permit is-
16 sued under the provisions of this Act appropriate
17 provisions for its cancellation by him,

18 “(3)(A) Upon showing to the satisfaction of the
19 Secretary that valuable deposits of one of the min-
20 eral materials subject to the Materials Act of 1947
21 have been discovered by the permittee within the
22 area covered by his permit, and that such land is
23 valuable therefor, the permittee shall be entitled to
24 a lease for any or all of the land embraced in the
25 prospecting permit, at a royalty of not less than two

1 percent of the quantity or gross value of the output
2 of the mineral materials at the point of shipment to
3 market, such lease to be taken in compact form by
4 legal subdivisions of the public land surveys, or if
5 the land be not surveyed, by survey executed at the
6 cost of the permittee in accordance with regulations
7 prescribed by the Secretary.

8 “(B) Persons holding valid mining claims for
9 uncommon varieties of mineral materials shall be en-
10 titled to receive a lease under this subsection.

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

14 “(1) In subsection (b) insert ‘and mineral mate-
15 rial’ after ‘vegetative’.

16 “(2) In subsection (c) insert ‘and mineral mate-
17 rial’ after ‘vegetative’.

18 “(e) AUTHORIZATION FOR DISPOSAL OF MINERAL
19 MATERIALS BY CONTRACT.—Section 2(a) of the Act enti-
20 tled ‘An Act to provide for the disposal of materials on
21 the public lands of the United States’, approved July 31,
22 1947 (30 U.S.C. 602(a)), is amended—

23 “(1) by striking the period at the end of para-
24 graph (3) and inserting ‘or, if’, and

1 “(2) by adding after paragraph (3) the follow-
2 ing:

3 ““(4) the material is a mineral material.’.”.

4 **TITLE VII—ADMINISTRATIVE**
5 **PROVISIONS**

6 **SEC. 701. EFFECTIVE DATE.**

7 The provisions of this Act shall take effect on the
8 date of enactment of this Act, except as otherwise provided
9 in this Act.

10 **SEC. 702. EFFECT ON FEDERAL AND STATE LAWS.**

11 (a) **EFFECT ON THE GENERAL MINING LAWS.**—The
12 provisions of this Act shall supersede the general mining
13 laws only to the extent such laws conflict with the require-
14 ments of this Act. Where so such conflict exists, the gen-
15 eral mining laws, including all judicial and administrative
16 decisions interpreting them, shall remain in full force and
17 effect.

18 (b) **EFFECT ON OTHER FEDERAL AND STATE**
19 **LAWS.**—Except as provided in subsection (a), nothing in
20 this Act shall be construed—

21 (1) as superseding, modifying, amending or re-
22 pealing any other provision of Federal law, State law
23 or Federal or State regulation enacted pursuant
24 thereto, not expressly superseded, modified, amended
25 or repealed;

1 (2) without limiting the foregoing, as affecting
2 or intended to affect or in any way interfere with or
3 modify the laws of the States relating to the owner-
4 ship, control, appropriation, use and distribution of
5 ground or surface waters or the regulation by States
6 of surface or ground water quality; and

7 (3) as affecting or modifying in any way the
8 rights, obligations or liabilities of any person under
9 other provision of law.

10 **SEC. 703. SEVERABILITY.**

11 If any provision of this Act or the applicability there-
12 of to any person or circumstances is held invalid, the re-
13 mainder of the Act and the application of such provision
14 to other persons or circumstances shall not be affected
15 thereby.

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