

108TH CONGRESS  
1ST SESSION

# H. R. 504

To provide for the reclamation of abandoned hardrock mines, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 29, 2003

Mr. UDALL of Colorado introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To provide for the reclamation of abandoned hardrock mines, and for other purposes.

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

3 **SECTION 1. SHORT TITLE, FINDINGS, AND PURPOSE.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Abandoned Hardrock Mines Reclamation Act”.

6 (b) **FINDINGS.**—The Congress finds that:

7 (1) Through various laws and policies, including  
8 the Act of May 10, 1872 (commonly known as the  
9 General Mining Law of 1872; 30 U.S.C. 22 et seq.),

1 the Federal Government has encouraged the develop-  
2 ment of gold, silver, and other mineral resources, es-  
3 pecially in the western States, and development of  
4 these resources has helped create a strong economy  
5 and provided needed materials for many critical  
6 products and services.

7 (2) However, historically mining activities have  
8 occurred in recurrent cycles of “boom” followed by  
9 “bust”, with many mines left inactive or abandoned  
10 at the end of each cycle.

11 (3) As a result of this history, the United  
12 States has been left an unwelcome legacy of inactive  
13 or abandoned mines, including thousands of such  
14 mines in the western States.

15 (4) Many of these inactive or abandoned mines  
16 pose safety hazards to the public, and the drainage  
17 and runoff from such mines has damaged thousands  
18 of stream miles to the detriment of water quality,  
19 particularly in several western States.

20 (5) The environmental cleanup of these inactive  
21 or abandoned mines is hampered by lack of funding  
22 and concerns about liability. In many cases, a re-  
23 sponsible party for the mine site cannot be identified  
24 or the responsible party lacks the economic resources  
25 to respond to the adverse environmental effects of a

1 site. Federal and State agencies and Indian tribes  
2 are often unable to afford to make cleanup of these  
3 mine sites a high priority. Other parties have been  
4 reluctant to undertake remedial actions of such a  
5 mine site because of the possibility that they would  
6 be considered to have assumed liability with regard  
7 to the site.

8 (6) It is in the national interest to facilitate the  
9 cleanup of inactive or abandoned mines through ap-  
10 propriate legislation that reduces these obstacles.

11 (c) PURPOSE.—The purpose of this Act is to facili-  
12 tate cleanup of inactive and abandoned mine sites by es-  
13 tablishing a source of funding for that purpose and by lim-  
14 iting the potential liability of parties undertaking to carry  
15 out such cleanup.

16 (d) SCOPE.—Nothing in this Act is intended to facili-  
17 tate new mining activities or any reduction in liability as-  
18 sociated with any current or new mining or processing ac-  
19 tivities.

## 20 **TITLE I—FUNDING FOR** 21 **ABANDONED MINE CLEANUPS**

### 22 **SEC. 101. DEFINITIONS.**

23 In this title:

24 (1) The term “gross proceeds” means the value  
25 of any extracted hardrock mineral that was—

1 (A) sold;

2 (B) exchanged for any thing or service;

3 (C) removed from the country in a form  
4 ready for use or sale; or

5 (D) initially used in a manufacturing pro-  
6 cess or in providing a service.

7 (2) The term “net proceeds” means gross pro-  
8 ceeds less the sum of the following deductions:

9 (A) The actual cost of extracting the min-  
10 eral.

11 (B) The actual cost of transporting the  
12 mineral to the place or places of reduction, re-  
13 fining, and sale.

14 (C) The actual cost of reduction, refining,  
15 and sale.

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

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

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

23 (ii) all milling, refining, smelting and  
24 reduction works, plants and facilities; and

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

3 (F) The actual cost of fire insurance on  
4 such machinery, equipment, apparatus, works,  
5 plants, and facilities.

6 (G) Depreciation of the original capitalized  
7 cost of such machinery, equipment, apparatus,  
8 works, plants, and facilities.

9 (H) All money expended for premiums for  
10 industrial insurance, and the actual cost of hos-  
11 pital and medical attention and accident bene-  
12 fits and group insurance for all employees.

13 (I) The actual cost of developmental work  
14 in or about the mine or upon a group of mines  
15 when operated as a unit.

16 (J) All royalties and severance taxes paid  
17 to the Federal Government or State govern-  
18 ments.

19 (3) The term “hardrock minerals” means any  
20 mineral other than a mineral that would be subject  
21 to disposition under any of the following laws if lo-  
22 cated on land subject to the general mining laws:

23 (A) The Mineral Leasing Act (30 U.S.C.  
24 181 et seq.).

1 (B) The Geothermal Steam Act of 1970  
2 (30 U.S.C. 1001 et seq.).

3 (C) The Act of July 31, 1947, commonly  
4 known as the Materials Act of 1947 (30 U.S.C.  
5 601 et seq.).

6 (D) The Mineral Leasing Act for Acquired  
7 Lands (30 U.S.C. 351 et seq.).

8 (4) The term “Secretary” means the Secretary  
9 of the Interior.

10 (5) The term “patented mining claim” means  
11 an interest in land which has been obtained pursu-  
12 ant to sections 2325 and 2326 of the Revised Stat-  
13 utes (30 U.S.C. 29 and 30) for vein or lode claims  
14 and sections 2329, 2330, 2331, and 2333 of the Re-  
15 vised Statutes (30 U.S.C. 35, 36, and 37) for placer  
16 claims, or section 2337 of the Revised Statutes (30  
17 U.S.C. 42) for mill site claims.

18 (6) The term “general mining laws” means  
19 those provisions of law that generally comprise chap-  
20 ters 2, 12A, and 16, and sections 161 and 162, of  
21 title 30, United States Code.

22 (7) The term “Fund” means the Abandoned  
23 Minerals Mine Reclamation Fund.

1 **SEC. 102. SOURCE OF REVENUES FOR ABANDONED MINE**  
 2 **CLEANUP.**

3 (a) RECLAMATION FEE.—

4 (1) FEE IMPOSED.—Any person producing  
 5 hardrock minerals from a mine within an  
 6 unpatented mining claim or a mine on land that was  
 7 patented under the general mining laws shall pay a  
 8 reclamation fee to the Secretary under this section.

9 (2) FEE AS PERCENTAGE OF NET PROCEEDS.—

10 The amount of the fee under this section shall be  
 11 equal to a percentage of the net proceeds derived  
 12 from the mine. The percentage shall be based upon  
 13 the ratio of the net proceeds to the gross proceeds  
 14 related to mineral production from the mine in ac-  
 15 cordance with the following table:

<b>Net proceeds as percentage of gross proceeds</b>	<b>Rate of fee as percentage of net proceeds</b>
Less than 10 .....	2.00
10 or more but less than 18 .....	2.50
18 or more but less than 26 .....	3.00
26 or more but less than 34 .....	3.50
34 or more but less than 42 .....	4.00
42 or more but less than 50 .....	4.50
50 or more .....	5.00

16 (b) EXEMPTION.—Gross proceeds of less than  
 17 \$500,000 from minerals produced in any calendar year  
 18 shall be exempt from the reclamation fee under this sec-  
 19 tion for that year if such proceeds are from one or more  
 20 mines located in a single patented claim or on two or more  
 21 contiguous patented claims.

1           (c) PAYMENT.—The amount of all fees payable under  
2 this section for any calendar year shall be paid to the Sec-  
3 retary within 60 days after the end of such year.

4           (d) DEPOSIT OF REVENUES.—The Secretary shall  
5 deposit amounts received under subsection (c) in the  
6 Abandoned Minerals Mine Reclamation Fund.

7           (e) RELATION TO STATE FEES.—Nothing in this Act  
8 shall be construed to require a reduction in, or otherwise  
9 affect, a similar fee provided for under State law.

10          (f) REDUCTION OF FEES.—The Secretary shall re-  
11 duce a fee required by this section by an amount equal  
12 to a royalty paid pursuant to an Act of Congress that pro-  
13 vides for crediting to the Fund of royalties paid to the  
14 Secretary with respect to production of hardrock minerals.

15          (g) EFFECTIVE DATE.—This section shall take effect  
16 with respect to hardrock minerals produced after Decem-  
17 ber 31, 2002, except that subsection (f) shall take effect  
18 one year after the date of the enactment of the law de-  
19 scribed in such subsection.

20 **SEC. 103. ABANDONED MINERALS MINE RECLAMATION**  
21 **FUND.**

22          (a) ESTABLISHMENT.—

23               (1) IN GENERAL.—There is established in the  
24 Treasury of the United States an interest-bearing  
25 fund to be known as the Abandoned Minerals Mine

1 Reclamation Fund. The Fund shall be administered  
2 by the Secretary.

3 (2) INVESTMENT.—The Secretary shall notify  
4 the Secretary of the Treasury as to what portion of  
5 the Fund is not, in the Secretary's judgment, re-  
6 quired to meet current withdrawals. The Secretary  
7 of the Treasury shall invest such portion of the  
8 Fund in public debt securities with maturities suit-  
9 able for the needs of such Fund and bearing interest  
10 at rates determined by the Secretary of the Treas-  
11 ury, taking into consideration current market yields  
12 on outstanding marketplace obligations of the  
13 United States of comparable maturities. The income  
14 on such investments shall be credited to, and form  
15 a part of, the Fund.

16 (3) ADMINISTRATION.—The Secretary shall use  
17 the existing Federal program for abandoned mine  
18 reclamation authorized by title IV of the Surface  
19 Mining Control and Reclamation Act of 1977 (30  
20 U.S.C. 1231 et seq.) to administer the Fund and for  
21 making expenditures from the Fund.

22 (b) USE AND OBJECTIVES OF THE FUND.—

23 (1) IN GENERAL.—Amounts in the Fund shall  
24 be available to the Secretary, without further appro-  
25 priation and until expended, to perform or support

1 reclamation and restoration activities affecting eligi-  
2 ble areas, including any of the following:

3 (A) Reclamation and restoration of aban-  
4 doned surface mined areas.

5 (B) Reclamation and restoration of aban-  
6 doned milling and processing areas.

7 (C) Sealing, filling, and grading abandoned  
8 deep mine entries.

9 (D) Planting of land adversely affected by  
10 past mining to prevent erosion and sedimenta-  
11 tion.

12 (E) Prevention, abatement, treatment, and  
13 control of water pollution created by abandoned  
14 mine drainage.

15 (F) Control of surface subsidence due to  
16 abandoned deep mines.

17 (2) METHODS OF USE.—Subject to the special  
18 disbursement requirements of subsection (g),  
19 amounts in the Fund may be expended directly by  
20 the Secretary or by making grants to approved State  
21 reclamation programs, as described in subsection  
22 (d). The Secretary shall consult and coordinate with  
23 eligible States on those projects funded directly or in  
24 conjunction with other Federal agencies.

1 (c) ELIGIBLE AREAS.—Reclamation expenditures  
2 under this section shall be made only in States described  
3 in subsection (e) and shall be used only for the reclamation  
4 of lands (and related waters)—

5 (1) that were, but are no longer, actively mined  
6 for hardrock minerals (and not in temporary shut-  
7 down) as of the date of the enactment of this Act;

8 (2) that are not identified for remedial action  
9 under the Comprehensive Environmental Response,  
10 Compensation, and Liability Act of 1980 (42 U.S.C.  
11 9601 et seq.) and for which there is no identifiable  
12 owner or operator for the mine or mine facilities;

13 (3) that are not designated for remedial action  
14 pursuant to the Uranium Mill Tailings Radiation  
15 Control Act of 1978 (42 U.S.C. 7901 et seq.); and

16 (4) for which no evidence exists that the lands  
17 contain minerals that economically could be ex-  
18 tracted through the mining, reprocessing, or re-  
19 mining of the lands.

20 (d) ELIGIBLE STATES.—

21 (1) ELIGIBILITY REQUIREMENTS.—Except as  
22 provided in paragraph (2), expenditures from the  
23 Fund shall be made only for reclamation of lands  
24 and water in States that—

1 (A) contain lands subject to the general  
2 mining laws; and

3 (B) have completed a statewide inventory  
4 of abandoned hardrock sites within the State el-  
5 igible to receive funding under this Act.

6 (2) INVENTORY FUNDING.—A State that con-  
7 tains lands subject to the general mining laws, but  
8 that has not completed a statewide inventory as de-  
9 scribed in paragraph (1)(B), may receive grants not  
10 exceeding \$2,000,000 annually to assist in the com-  
11 pletion of the required inventory.

12 (3) APPROVED STATE RECLAMATION PRO-  
13 GRAMS.—In the case of a State described in para-  
14 graph (1), the Secretary may make expenditures  
15 from the Fund to the State for a State reclamation  
16 program that meets the requirements of section 405  
17 of the Surface Mining Control and Reclamation Act  
18 of 1977 (30 U.S.C. 1235) and is applicable to  
19 hardrock mining.

20 (4) STATES WITHOUT APPROVED PROGRAMS.—  
21 If a State described in paragraph (1) does not have  
22 an approved State program under section 405 of the  
23 Surface Mining Control and Reclamation Act of  
24 1977 (30 U.S.C. 1235) that is applicable to  
25 hardrock mining, the Secretary may provide funds to

1 the State after the Secretary determines that the  
2 State has authority to implement a hardrock aban-  
3 doned mine land program, and that State authority,  
4 at a minimum, includes the establishment of a State  
5 reclamation plan for abandoned hardrock mines and  
6 clear authorization for the administration and ex-  
7 penditure of funds for eligible areas described in  
8 subsection (c).

9 (e) PRIORITIES.—Expenditures from the Fund shall  
10 reflect the following priorities, in the following order of  
11 priority:

12 (1) EXTREME DANGER.—Protection of public  
13 health, safety, general welfare, and property from  
14 extreme danger of adverse effects of past mining ac-  
15 tivity.

16 (2) ADVERSE EFFECTS.—Protection of public  
17 health, safety, general welfare, and property from  
18 the adverse effects of past mineral activity, including  
19 the restoration of land, water, and fish and wildlife  
20 resources degraded by the adverse effects of past  
21 mining activity.

22 (f) ELIGIBLE REMEDIATING PARTIES.—The Sec-  
23 retary may authorize expenditures from the Fund for re-  
24 mediation activities conducted by a Federal agency or by  
25 remediating parties who are permittees under the aban-

1 doned or inactive mine land waste remediation permit pro-  
2 gram, as provided for in section 402(r) of the Federal  
3 Water Pollution Control Act (33 U.S.C. 1342(r)).

4 (g) SPECIAL DISBURSEMENT REQUIREMENTS.—

5 (1) SET-ASIDE.—Of the funds collected under  
6 section 102 with regard to a mine for a calendar  
7 year and deposited in the Fund—

8 (A) 25 percent shall be expended in the eli-  
9 gible State in which the mine is located, pursu-  
10 ant to an approved abandoned mine land rec-  
11 lamation program under subsection (d)(3); and

12 (B) 50 percent shall be expended in the eli-  
13 gible States based on each eligible State's per-  
14 centage of the value of total national hardrock  
15 mineral production during the years 1900  
16 through 1980, which the Secretary shall deter-  
17 mine using United States Geological Survey  
18 Minerals Yearbooks and published metal prices.

19 (2) RELEASE.—If funds allocated pursuant to  
20 paragraph (1)(A) have not been expended within  
21 three years after collection, the Secretary shall make  
22 such funds available to other eligible States as deter-  
23 mined appropriate by the Secretary.

1 **TITLE II—GOOD SAMARITAN**  
2 **PERMITS FOR ABANDONED**  
3 **HARDROCK MINE CLEANUPS**

4 **SEC. 201. ABANDONED OR INACTIVE MINED LAND WASTE**  
5 **REMEDATION PERMITS.**

6 Section 402 of the Federal Water Pollution Control  
7 Act (33 U.S.C. 1342) is amended by adding at the end  
8 the following:

9 “(r) ABANDONED OR INACTIVE MINED LAND WASTE  
10 REMEDIATION PERMITS.—

11 “(1) DEFINITIONS.—In this subsection, the fol-  
12 lowing definitions apply:

13 “(A) IDENTIFIABLE OWNER OR OPER-  
14 ATOR.—The term ‘identifiable owner or oper-  
15 ator’ means a person or entity—

16 “(i) that is the current owner or oper-  
17 ator or that is or was responsible for the  
18 activities at abandoned or inactive mined  
19 land that created conditions that cause or  
20 contribute to the discharge of pollutants  
21 from the abandoned or inactive mined  
22 land; and

23 “(ii) that is financially capable of  
24 compliance with requirements of this sec-  
25 tion and sections 301 and 302.

1           “(B) PERMIT.—The term ‘permit’ means  
2 an abandoned or inactive mined land waste re-  
3 mediation permit described under paragraph  
4 (2).

5           “(C) REMEDIATING PARTY.—The term ‘re-  
6 mediating party’ means—

7                   “(i) the United States, except with re-  
8 spect to abandoned or inactive mined land  
9 located on Federal land;

10                   “(ii) a State or political subdivision  
11 thereof; or

12                   “(iii) an Indian tribe.

13           “(D) COOPERATING PARTY.—The term  
14 ‘cooperating party’ means any person or entity,  
15 including the Federal Government with respect  
16 to abandoned or inactive mined land located on  
17 non-Federal land, that implements the practices  
18 described in paragraph (3)(B)(viii).

19           “(2) PERMITS.—

20                   “(A) IN GENERAL.—The Administrator,  
21 with the concurrence of the State in which an  
22 abandoned or inactive mine remediation project  
23 is proposed or the Indian tribe which owns or  
24 has jurisdiction over the land on which a reme-  
25 diation project is proposed, may issue an aban-

1           doned or inactive mined land waste remediation  
2           permit to a remediating party for discharges as-  
3           sociated with remediation activity at any eligible  
4           area under this subsection, that modifies the  
5           otherwise applicable requirements of any other  
6           subsection of this section and of sections 301  
7           and 302.

8           “(B) DELEGATION.—The Administrator  
9           may delegate the authority for issuance of  
10          abandoned or inactive mined land waste rec-  
11          lamation permits for discharges associated with  
12          remediation activities at any eligible area under  
13          this subsection to a State that is exercising del-  
14          egated authority under this section.

15          “(3) PERMIT PROCESS.—

16          “(A) SCOPE.—A remediating party may  
17          apply for a permit for remediation activities at  
18          abandoned or inactive mined land from which  
19          there is or may be a discharge of pollutants to  
20          waters of the United States.

21          “(B) REMEDIATION PLAN.—A remediating  
22          party that seeks a permit shall submit an appli-  
23          cation for the permit that includes a remedi-  
24          ation plan that—

1           “(i) identifies the remediating party  
2           and any cooperating party with respect to  
3           the plan;

4           “(ii) identifies the abandoned or inac-  
5           tive mined land addressed by the plan, in-  
6           cluding a verification that the land is eligi-  
7           ble under this Act;

8           “(iii) identifies the waters of the  
9           United States affected by past mining ac-  
10          tivities at the abandoned or inactive mined  
11          land;

12          “(iv) describes the baseline condition  
13          of the waters at the time of the permit ap-  
14          plication (including the nature and extent  
15          of any adverse water quality impact and,  
16          as applicable, the levels of any pollutant  
17          causing the impact);

18          “(v) describes the conditions at the  
19          abandoned or inactive mined land that are  
20          causing adverse water quality impacts;

21          “(vi) describes the applicant’s reason-  
22          able efforts to identify—

23                  “(I) current owners, lessees, and  
24                  claimants of the abandoned or inactive

1           mined land addressed by the plan;  
2           and

3                   “(II) other persons, including  
4           mine operators, if any, whose activi-  
5           ties at the abandoned or inactive  
6           mined land after October 18, 1972,  
7           created conditions that cause or con-  
8           tribute to the discharge of pollutants  
9           from the abandoned or inactive mined  
10          land;

11                   “(vii) describes the remediation goals  
12          and objectives, including the pollutant or  
13          pollutants to be addressed by the plan, in-  
14          cluding actions taken to meet the applica-  
15          ble water quality standards to the max-  
16          imum extent practicable, but in no cir-  
17          cumstances worse than the baseline water  
18          condition as described pursuant to clause  
19          (iv);

20                   “(viii) describes the practices, includ-  
21          ing a schedule and estimated completion  
22          date for implementing the practices, that  
23          are proposed to meet the applicable water  
24          quality standards to the maximum extent  
25          practicable, but in no circumstances worse

1 than the baseline water quality as deter-  
2 mined under clause (iv), including—

3 “(I) in the case of a new remedi-  
4 ation project, the preliminary system  
5 design and construction, operation,  
6 and maintenance plans; and

7 “(II) in the case of an existing  
8 remediation project, available system  
9 design and construction, operation,  
10 and maintenance plans and any  
11 planned improvements to the projects;

12 “(ix) explains how the practices de-  
13 scribed in clause (viii) are expected to re-  
14 sult in the attainment of applicable water  
15 quality standards to the maximum extent  
16 practicable, but in no circumstances worse  
17 than the baseline water quality as deter-  
18 mined under clause (iv);

19 “(x) describes the monitoring or other  
20 forms of assessment that will be under-  
21 taken to evaluate the success of the prac-  
22 tices during and after implementation, rel-  
23 ative to baseline conditions;

24 “(xi) describes contingency plans, in-  
25 cluding the practices to be implemented to

1 achieve the remediation goals and objec-  
2 tives described in clause (vii), for respond-  
3 ing to unplanned adverse events;

4 “(xii) provides a schedule for periodic  
5 reporting on progress in implementing the  
6 plan;

7 “(xiii) provides a budget for the plan  
8 and identifies the funding sources that will  
9 support the implementation of the plan, in-  
10 cluding practices described in clauses (viii),  
11 (x), and (xi);

12 “(xiv) describes the applicant’s legal  
13 authority to enter and conduct activities at  
14 the abandoned or inactive mined land ad-  
15 dressed by the plan;

16 “(xv) demonstrates that there is a  
17 covenant obligating future landowners to  
18 operate and maintain the property so that  
19 all environmental benefits of the project  
20 authorized by the permit will be fully real-  
21 ized;

22 “(xvi) contains any other additional  
23 information requested by the Adminis-  
24 trator to clarify the plan and the activities  
25 covered by the plan; and

1 “(xvii) is signed by the applicant.

2 “(C) REVIEW OF APPLICATION.—

3 “(i) The Administrator or the dele-  
4 gated State shall—

5 “(I) review each application for  
6 an abandoned or inactive mined land  
7 waste remediation permit;

8 “(II) provide to the public notice  
9 of and reasonable opportunity to com-  
10 ment on the application;

11 “(III) provide an opportunity for  
12 a public hearing on the application;  
13 and

14 “(IV) determine whether the ap-  
15 plication meets the requirements of  
16 subparagraph (B).

17 “(ii) If the Administrator or the dele-  
18 gated State determines that an application  
19 does not meet the requirements of sub-  
20 paragraph (B), the Administrator or the  
21 delegated State shall—

22 “(I) notify the applicant that the  
23 application is disapproved and explain  
24 the reasons for the disapproval; and

1                   “(II) allow the applicant to sub-  
2                   mit a revised application.

3                   “(iii) If the Administrator or the dele-  
4                   gated State determines that an application  
5                   meets the requirements of subparagraph  
6                   (B), the Administrator or the delegated  
7                   State shall notify the applicant that the  
8                   application is accepted.

9                   “(D) ISSUANCE.—

10                   “(i) After notice and opportunity for  
11                   public comment on a permit proposed to be  
12                   issued, including any additional require-  
13                   ments that the Administrator or the dele-  
14                   gated State determines would facilitate im-  
15                   plementation of this subsection, the Ad-  
16                   ministrator or the delegated State may  
17                   issue an abandoned or inactive mined land  
18                   waste remediation permit to the applicant  
19                   if the Administrator or the delegated State  
20                   determines that—

21                   “(I) relative to the resources  
22                   available to the remediating party for  
23                   the proposed remediation activity, the  
24                   remediating party has made a reason-

1           able effort to identify persons under  
2           subparagraph (B)(vi);

3           “(II) no identifiable owner or op-  
4           erator exists, except a permit can be  
5           issued on Federal land where the only  
6           identifiable owner or operator is the  
7           Federal Government; and

8           “(III) the remediation plan dem-  
9           onstrates with reasonable certainty  
10          that the implementation of the plan  
11          will meet applicable water quality  
12          standards to the maximum extent  
13          practicable, but in no circumstances  
14          worse than the baseline water condi-  
15          tion as described pursuant to subpara-  
16          graph (B)(iv), taking into consider-  
17          ation the resources available to the re-  
18          mediating party for the proposed re-  
19          mediation activity.

20          “(ii) If the Administrator or the dele-  
21          gated State decides not to issue an aban-  
22          doned or inactive mined land waste remedi-  
23          ation permit to the applicant, the Adminis-  
24          trator shall notify the applicant of the rea-  
25          sons for not issuing the permit.

1 “(E) MODIFICATION.—

2 “(i) Not later than 120 days after the  
3 receipt of a written request by a permittee,  
4 the Administrator or the delegated State  
5 shall approve or disapprove a modification  
6 of a permit.

7 “(ii) A permit modification approved  
8 by the Administrator or the delegated  
9 State under this subsection shall be—

10 “(I) by agreement of the per-  
11 mittee and the Administrator or the  
12 delegated State;

13 “(II) after providing the public  
14 notice of, and opportunity for com-  
15 ment and a hearing on, a proposed  
16 modification of a permit;

17 “(III) in accordance with the  
18 standards in subparagraph  
19 (D)(i)(III); and

20 “(IV) immediately reflected in  
21 and applicable to the remediation per-  
22 mit.

23 “(4) CONTENTS OF PERMIT.—

24 “(A) IN GENERAL.—A permit—

1           “(i) shall include a remediation plan  
2           approved by the Administrator or the dele-  
3           gated State and any additional require-  
4           ments that the Administrator or the dele-  
5           gated State establishes under paragraph  
6           (9); and

7           “(ii) shall provide for compliance with  
8           and implementation of the remediation  
9           plan and any other requirements described  
10          under clause (i).

11          “(B) REVIEW.—A permit shall establish a  
12          schedule for review, by the Administrator or the  
13          delegated State, of compliance with the condi-  
14          tions and limitations of the permit. The Admin-  
15          istration or the delegated State shall inspect  
16          each site subject to a remediation permit at  
17          least annually.

18          “(C) COMPLIANCE WITH OTHER LIMITA-  
19          TIONS.—A permit shall require the remediating  
20          party to comply with any applicable provisions  
21          of this subsection and other subsections of this  
22          section and with sections 301 or 302 to the  
23          maximum extent practicable in a manner speci-  
24          fied in the permit.

1           “(5) FAILURE TO COMPLY.—Failure of a reme-  
2           diating party operating under an approved permit to  
3           comply with any condition or limit of the permit re-  
4           lated to water quality shall be considered a violation  
5           subject to enforcement pursuant to sections 309 and  
6           505 of this Act.

7           “(6) TERMINATION.—

8           “(A) IN GENERAL.—The Administrator or  
9           the delegated State shall terminate a permit  
10          if—

11                   “(i) the remediating party successfully  
12                   completes the implementation of the reme-  
13                   diation plan; or

14                   “(ii) the discharges covered by the  
15                   permit—

16                           “(I) become subject to a permit  
17                           issued under the other subsections of  
18                           this section for development that is  
19                           not part of the implementation of the  
20                           remediation plan; and

21                           “(II) the remediating party seek-  
22                           ing termination of coverage, and any  
23                           party cooperating with the remedi-  
24                           ating party with respect to the plan,

1 is not a participant in the develop-  
2 ment.

3 “(B) UNFORESEEN CONDITION.—The Ad-  
4 ministrator or the delegated State shall termi-  
5 nate a permit if—

6 “(i) an event or condition is encoun-  
7 tered that was not contemplated or de-  
8 signed for by the remediation plan and is  
9 beyond the control of the remediating  
10 party; and

11 “(ii) the Administrator or the dele-  
12 gated State determines that remediation  
13 activities under the permit have resulted in  
14 surface water quality conditions, taken as  
15 a whole and with reference to the des-  
16 ignated uses of the waters, that are not  
17 worse than the baseline water condition as  
18 described pursuant to paragraph  
19 (3)(B)(iv).

20 “(C) NO ENFORCEMENT LIABILITY.—

21 “(i) Subject to clause (ii), if a permit  
22 is terminated under subparagraph (A) or  
23 (B), the remediating party, or a cooper-  
24 ating party with respect to the plan, shall  
25 not be subject to enforcement under sec-

1           tion 309 or 505 for any remaining dis-  
2           charges from the abandoned or inactive  
3           mined land described in the permit.

4           “(ii) This subparagraph does not limit  
5           any liability of any person, other than the  
6           remediating party or a cooperating party.

7           “(7) LIMITATIONS.—

8           “(A) EMERGENCY POWERS.—Nothing in  
9           this subsection limits the authority of the Ad-  
10          ministrator under section 504.

11          “(B) PRIOR VIOLATIONS.—

12          “(i) Nothing in this subsection pre-  
13          cludes actions under section 309 or 505 or  
14          affects the relief available in actions under  
15          those sections, with respect to violations of  
16          this section, or sections 301(a) or 302,  
17          that occurred prior to the issuance of a  
18          permit under this subsection.

19          “(ii) If a permit covers remediation  
20          activities implemented by the permit holder  
21          prior to the issuance of the permit, clause  
22          (i) shall not apply to an action that is  
23          based on conditions resulting from those  
24          remediation activities.

1           “(C) OBLIGATION OF STATES AND INDIAN  
2           TRIBES.—Except as expressly provided, nothing  
3           in this subsection limits any obligation of a  
4           State or Indian tribe under section 303.

5           “(D) OTHER DEVELOPMENT.—Any devel-  
6           opment of abandoned or inactive mined land  
7           (including mineral exploration, processing,  
8           beneficiation, or mining), including development  
9           by a remediating party or any cooperating  
10          party with respect to the plan, not specifically  
11          described in a permit issued by the Adminis-  
12          trator or the delegated State under this sub-  
13          section shall be subject to this Act (other than  
14          this subsection). The commingling of any other  
15          discharges or waters with the discharges or wa-  
16          ters subject to the remediation permit cannot  
17          limit or reduce the liability of persons associ-  
18          ated with the other waters or discharges.

19          “(E) RECOVERABLE VALUE.—A remedi-  
20          ating party may sell or use materials recovered  
21          during the implementation of the plan, but the  
22          proceeds of any such sale must be used to de-  
23          fray the costs of remediation of the site ad-  
24          dressed in the permit or the costs of remedi-

1           ation of other abandoned or inactive sites used  
2           for mining hardrock minerals.

3           “(F) STATE CERTIFICATION.—In so far as  
4           this subsection may relate to water quality  
5           standards, section 401 certification shall not  
6           apply to permits under this section; except that,  
7           in any case in which section 401 certification  
8           would otherwise be required, no permit shall be  
9           issued under this subsection without the con-  
10          currence of the State in which the discharge is  
11          located.

12          “(8) LIABILITY OF OTHER PARTIES.—Nothing  
13          in this subsection, including any result caused by  
14          any action taken by the remediating party or a co-  
15          operating party, limits the liability of any person  
16          other than the remediating party or a cooperating  
17          party, under this Act or any other law.

18          “(9) REGULATIONS.—

19                 “(A) IN GENERAL.—Except as provided in  
20                 subparagraph (B), not later than 1 year after  
21                 the date of enactment of this subsection, the  
22                 Administrator, in consultation with Secretary of  
23                 the Interior and the Secretary of Agriculture  
24                 and State, tribal, and local officials and after  
25                 providing the public with notice of, and oppor-

1           tunity for comment and a hearing on, regula-  
2           tions proposed to be promulgated, shall promul-  
3           gate regulations establishing generally applica-  
4           ble requirements for—

5                   “(i) remediation plans described in  
6                   paragraph (3)(B); and

7                   “(ii) as considered to be necessary by  
8                   the Administrator, other paragraphs of  
9                   this subsection.

10                   “(B) SPECIFIC REQUIREMENTS BEFORE  
11                   PROMULGATION OF REGULATIONS.—Before pro-  
12                   mulgation of regulation pursuant to subpara-  
13                   graph (A), the Administrator may establish, on  
14                   a case-by-case basis, after notice and oppor-  
15                   tunity for public comment, specific require-  
16                   ments that the Administrator determines would  
17                   facilitate implementation of this subsection in  
18                   an individual permit issued to the remediating  
19                   party.

20                   “(10) FUNDING.—Implementation of a remedi-  
21                   ation plan under a permit issued under this sub-  
22                   section shall be eligible for grants under section  
23                   319(h).

24                   “(11) REPORT.—

1           “(A) IN GENERAL.—Not later than 1 year  
2 before the date of the termination of permitting  
3 authority specified in paragraph (12), the Ad-  
4 ministrator shall submit to Congress a report  
5 on the activities authorized by this subsection.

6           “(B) CONTENTS.—The report required  
7 under subparagraph (A), at a minimum, shall—

8                   “(i) identify each permit, and associ-  
9 ated remediating party, issued under this  
10 subsection;

11                   “(ii) identify the abandoned or inac-  
12 tive mine land addressed by each permit  
13 (including the waterbodies and baseline  
14 water quality of the waterbodies affected  
15 by the land);

16                   “(iii) summarize the remediation plan  
17 associated with each permit issued under  
18 this subsection, including—

19                           “(I) the goals and objectives of  
20 the plan;

21                           “(II) the plan budget; and

22                           “(III) the practices to be em-  
23 ployed according to the plan to re-  
24 duce, control, mitigate, or eliminate  
25 adverse water quality impacts;

1           “(iv) identify the status of the  
2           implementation of each remediation  
3           plan associated with each permit  
4           issued under this subsection (includ-  
5           ing specific progress that permitted  
6           remediation activities have made to-  
7           ward achieving the goals and objec-  
8           tives of the remediation plan);

9           “(v) identify and describe any en-  
10          forcement action taken by the Admin-  
11          istrator or any civil action brought by  
12          a citizen concerning a permit issued  
13          under this section (including the dis-  
14          position of the legal action); and

15          “(vi) include recommendations by  
16          the Administrator for any modifica-  
17          tions to this subsection, or the regula-  
18          tions promulgated under paragraph  
19          (9) to implement this subsection, that  
20          would facilitate the improvement of  
21          water quality through the remediation  
22          of abandoned or inactive mined land.

23           “(12) TERMINATION OF PERMITTING AUTHOR-  
24          ITY.—The authority granted to the Administrator or  
25          the delegated State under this subsection to issue an

1 abandoned or inactive mined land waste remediation  
2 permit terminates on the date that is 10 years after  
3 the date of enactment of this subsection.

4 “(13) ELIGIBLE AREAS.—

5 “(A) SITES.—Permits under this sub-  
6 section shall be issued only for reclamation of  
7 lands and waters—

8 “(i) located in States that include  
9 lands subject to the general mining laws;

10 “(ii) that were but are no longer ac-  
11 tively mined for hardrock minerals (and  
12 not in temporary shutdown) as of the date  
13 of enactment of this subsection; and

14 “(iii) that are not identified for reme-  
15 dial action under the Comprehensive Envi-  
16 ronmental Response, Compensation, and  
17 Liability Act of 1980 (42 U.S.C. 9601 et  
18 seq.) and for which there is no identifiable  
19 owner or operator for the mine or mine fa-  
20 cilities;

21 “(iv) that are not designated for re-  
22 medial action pursuant to the Uranium  
23 Mill Tailings Radiation Control Act of  
24 1978 (42 U.S.C. 7901 et seq.); and

1           “(v) for which no evidence exists that  
2           the lands contain minerals which could  
3           economically be extracted through the min-  
4           ing, reprocessing, or remining of such  
5           lands.

6           “(B) DEFINITIONS.—In this paragraph,  
7           the following definitions apply:

8           “(i) The term ‘hardrock minerals’  
9           means any mineral other than a mineral  
10          that would be subject to any of the fol-  
11          lowing if located on land subject to the  
12          general mining laws:

13                  “(I) The Mineral Leasing Act  
14                  (30 U.S.C. 181 et seq.).

15                  “(II) The Geothermal Steam Act  
16                  of 1970 (30 U.S.C. 100 et seq.).

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

20                  “(IV) The Mineral Leasing Act  
21                  for Acquired Lands (30 U.S.C. 351 et  
22                  seq.).

23           “(ii) The term ‘general mining laws’  
24           means those provisions of law that gen-  
25           erally comprise chapters 2, 12A, and 16

1 and sections 161 and 162 of title 30,  
2 United States Code.”.

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