To direct the Secretary of the Interior to establish an annual production incentive fee with respect to Federal onshore and offshore lands that are subject to a lease for production of oil or natural gas under which production is not occurring, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 16, 2011

Mr. Markey (for himself, Mr. Holt, Mr. Kildee, Mr. Grijalva, Ms. Bordallo, Mrs. Napolitano, Mr. Peralta, and Mrs. Christensen) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To direct the Secretary of the Interior to establish an annual production incentive fee with respect to Federal onshore and offshore lands that are subject to a lease for production of oil or natural gas under which production is not occurring, 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.

4 This Act may be cited as the “Fair Payment for Energy and Mineral Production on Public Lands Act”.


1 SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is the following:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—USE IT ACT

Sec. 101. Short title.
Sec. 102. Production incentive fee.

TITLE II—DEFICIT REDUCTION THROUGH FAIR OIL ROYALTIES

Sec. 201. Short title.
Sec. 202. Eligibility for new leases and the transfer of leases.
Sec. 203. Price thresholds for royalty suspension provisions.
Sec. 204. Repeal of royalty relief provisions.

TITLE III—OCS FACILITY INSPECTIONS

Sec. 301. Short title.
Sec. 302. OCS facility inspection fees.

TITLE IV—GULF COAST OIL AND GAS ROYALTY GIVEAWAY REPEAL

Sec. 401. Short title.
Sec. 402. Disposition of qualified outer Continental Shelf revenues from 181 Area, 181 South Area, and 2002–2007 planning areas of Gulf of Mexico.

TITLE V—HARDROCK MINING REFORM

Sec. 501. Short title.
Sec. 502. Definitions and references.
Sec. 503. Application rules.

Subtitle A—Mineral Exploration and Development

Sec. 511. Royalty.
Sec. 512. Hardrock mining claim maintenance fee.
Sec. 513. Effect of payments for use and occupancy of claims.
Sec. 514. Limitation on patents.

Subtitle B—Protection of Special Places

Sec. 521. Lands open to location.
Sec. 522. Withdrawal petitions by States, political subdivisions, and Indian tribes.

Subtitle C—Environmental Considerations of Mineral Exploration and Development

Sec. 531. General standard for hardrock mining on Federal land.
Sec. 532. Permits.
Sec. 533. Exploration permit.
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Sec. 535. Persons ineligible for permits.
Sec. 536. Financial assurance.
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Sec. 538. State law and regulation.
Sec. 539. Limitation on the issuance of permits.

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Sec. 541. Policy functions.
Sec. 542. User fees.
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Sec. 544. Citizens suits.
Sec. 545. Administrative and judicial review.
Sec. 546. Enforcement.
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Sec. 548. Effective date.
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Sec. 550. Savings clause.
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TITLE VI—ABANDONED MINE RECLAMATION

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Sec. 631. Amendments to the Surface Mining Control and Reclamation Act.

Subtitle D—Administrative Provisions

Sec. 641. Effective date.
Sec. 642. Fees adjustments.
Sec. 643. Inspection and monitoring.
Sec. 644. Regulations.
Sec. 645. Availability of public records.

TITLE VII—ADMINISTRATIVE COST RECOVERY

Sec. 701. Short title.
Sec. 702. Making permanent net receipts sharing for energy minerals.
TITLE I—USE IT ACT

SEC. 101. SHORT TITLE.

This title may be cited as the “United States Exploration on Idle Tracts Act” or the “USE IT Act”.

SEC. 102. PRODUCTION INCENTIVE FEE.

(a) Establishment.—The Secretary of the Interior shall, within 180 days after the date of enactment of this Act, issue regulations to establish an annual production incentive fee with respect to Federal onshore and offshore lands that are subject to a lease for production of oil or natural gas under which production is not occurring. Such fee shall apply with respect to lands that are subject to such a lease that is in effect on the date final regulations are promulgated under this subsection or that is issued thereafter.

(b) Amount.—The amount of the fee shall be, for each acre of land from which oil or natural gas is produced for less than 90 days in a calendar year—

(1) in the case of onshore land—

(A) for each of the first 3 years of the lease, $4 per acre in 2011 dollars;

(B) for the fourth year of the lease, $6 per acre in 2011 dollars; and
(C) for the fifth year of the lease and each year thereafter for which the lease is otherwise in effect, $8 per acre in 2011 dollars; and

(2) in the case of offshore land—

(A) for each of the third, fourth, and fifth years of the lease, $4 per acre in 2011 dollars;

(B) for the sixth year of the lease, $6 per acre in 2011 dollars; and

(C) for the seventh year of the lease and each year thereafter for which the lease is otherwise in effect, $8 per acre in 2011 dollars.

(c) Assessment and Collection.—The Secretary shall assess and collect the fee established under this section.

(d) Deposit.—Amounts received by the United States as the fee under this section shall be deposited in the general fund of the Treasury.

(e) Regulations.—The Secretary of the Interior may issue regulations to prevent evasion of the fee under this section.

TITLE II—DEFICIT REDUCTION THROUGH FAIR OIL ROYALTIES

SEC. 201. SHORT TITLE.

This title may be cited as the “Deficit Reduction Through Fair Oil Royalties Act”.

• HR 3446 IH
SEC. 202. ELIGIBILITY FOR NEW LEASES AND THE TRANSFER OF LEASES.

(a) ISSUANCE OF NEW LEASES.—

(1) IN GENERAL.—The Secretary shall not issue any new lease that authorizes the production of oil or natural gas under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person described in paragraph (2) unless the person has renegotiated each covered lease with respect to which the person is a lessee, to modify the payment responsibilities of the person to require the payment of royalties if the price of oil and natural gas is greater than or equal to the price thresholds described in clauses (v) through (vii) of section 8(a)(3)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(C)).

(2) PERSONS DESCRIBED.—A person referred to in paragraph (1) is a person that—

(A) is a lessee that—

(i) holds a covered lease on the date on which the Secretary considers the issuance of the new lease; or

(ii) was issued a covered lease before the date of enactment of this Act, but transferred the covered lease to another person or entity (including a subsidiary or
affiliate of the lessee) after the date of enactment of this Act; or

(B) any other person that has any direct or indirect interest in, or that derives any benefit from, a covered lease.

(3) MULTIPLE LESSEES.—

(A) IN GENERAL.—For purposes of paragraph (1), if there are multiple lessees that own a share of a covered lease, the Secretary may implement separate agreements with any lessee with a share of the covered lease that modifies the payment responsibilities with respect to the share of the lessee to include price thresholds that are equal to or less than the price thresholds described in clauses (v) through (vii) of section 8(a)(3)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(C)).

(B) TREATMENT OF SHARE AS COVERED LEASE.—Beginning on the effective date of an agreement under subparagraph (A), any share subject to the agreement shall not constitute a covered lease with respect to any lessees that entered into the agreement.

(b) TRANSFERS.—A lessee or any other person who has any direct or indirect interest in, or who derives a
benefit from, a lease shall not be eligible to obtain by sale
or other transfer (including through a swap, spinoff, serv-
ing, or other agreement) any covered lease, the economic
benefit of any covered lease, or any other lease for the
production of oil or natural gas in the Gulf of Mexico
under the Outer Continental Shelf Lands Act (43 U.S.C.
1331 et seq.), unless the lessee or other person has—

(1) renegotiated each covered lease with respect
to which the lessee or person is a lessee, to modify
the payment responsibilities of the lessee or person
to include price thresholds that are equal to or less
than the price thresholds described in clauses (v)
through (vii) of section 8(a)(3)(C) of the Outer Con-
tinental Shelf Lands Act (43 U.S.C. 1337(a)(3)(C));
or

(2) entered into an agreement with the Sec-
retary to modify the terms of all covered leases of
the lessee or other person to include limitations on
royalty relief based on market prices that are equal
to or less than the price thresholds described in
clauses (v) through (vii) of section 8(a)(3)(C) of the
Outer Continental Shelf Lands Act (43 U.S.C.
1337(a)(3)(C)).

(c) USE OF AMOUNTS FOR DEFICIT REDUCTION.—
Notwithstanding any other provision of law, any amounts
received by the United States as rentals or royalties under
covered leases shall be deposited in the Treasury and used
for Federal budget deficit reduction or, if there is no Fed-
eral budget deficit, for reducing the Federal debt in such
manner as the Secretary of the Treasury considers appro-
priate.

(d) DEFINITIONS.—In this section—

(1) COVERED LEASE.—The term “covered
lease” means a lease for oil or gas production in the
Gulf of Mexico that is—

(A) in existence on the date of enactment
of this Act;

(B) issued by the Department of the Inter-
rior under section 304 of the Outer Continental
Shelf Deep Water Royalty Relief Act (43
U.S.C. 1337 note; Public Law 104–58); and

(C) not subject to limitations on royalty re-
lied based on market price that are equal to or
less than the price thresholds described in
clauses (v) through (vii) of section 8(a)(3)(C) of
the Outer Continental Shelf Lands Act (43
U.S.C. 1337(a)(3)(C)).

(2) LESSEE.—The term “lessee” includes any
person or other entity that controls, is controlled by,
or is in or under common control with, a lessee.
(3) Secretary.—The term “Secretary” means the Secretary of the Interior.

SEC. 203. PRICE THRESHOLDS FOR ROYALTY SUSPENSION PROVISIONS.

The Secretary of the Interior shall agree to a request by any lessee to amend any lease issued for any Central and Western Gulf of Mexico tract in the period of January 1, 1996, through November 28, 2000, to incorporate price thresholds applicable to royalty suspension provisions, that are equal to or less than the price thresholds described in clauses (v) through (vii) of section 8(a)(3)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(C)). Any amended lease shall impose the new or revised price thresholds effective October 1, 2012. Existing lease provisions shall prevail through September 30, 2012.

SEC. 204. REPEAL OF ROYALTY RELIEF PROVISIONS.


(1) Section 344 (42 U.S.C. 15904; relating to incentives for natural gas production from deep wells in shallow waters of the Gulf of Mexico).
(2) Section 345 (42 U.S.C. 15905; relating to royalty relief for deep water production in the Gulf of Mexico).

(b) REPEAL OF PROVISIONS RELATING TO PLANNING AREAS OFFSHORE ALASKA.—Section 8(a)(3)(B) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(B)) is amended by striking “and in the Planning Areas offshore Alaska”.

TITLE III—OCS FACILITY INSPECTIONS

SEC. 301. SHORT TITLE.

This title may be cited as the “No Free Inspections for Oil Companies Act”.

SEC. 302. OCS FACILITY INSPECTION FEES.

Section 22 of the Outer Continental Shelf Lands Act (43 U.S.C. 1348) is amended by adding at the end of the section the following:

“(g) INSPECTION FEES.—

“(1) ESTABLISHMENT.—The Secretary of the Interior shall establish, by rule, and collect from the operators of facilities subject to inspection under subsection (c) nonrefundable fees for such inspections—

“(A) at an aggregate level equal to the amount necessary to offset the annual expenses
of inspections of outer Continental Shelf facilities (including mobile offshore drilling units) by
the Department of the Interior; and

“(B) using a schedule that reflects the differences in complexity among the classes of fac-
ilities to be inspected.

“(2) OCEAN ENERGY ENFORCEMENT FUND.—
There is established in the Treasury a fund, to be
known as the ‘Ocean Energy Enforcement Fund’
(referred to in this subsection as the ‘Fund’), into
which shall be deposited amounts collected as fees
under paragraph (1) and which shall be available as
provided under paragraph (3).

“(3) AVAILABILITY OF FEES.—Notwithstanding
section 3302 of title 31, United States Code, all
amounts collected by the Secretary under this sec-
tion—

“(A) shall be credited as offsetting collec-
tions;

“(B) shall be available for expenditure only
for purposes of carrying out inspections of
outer Continental Shelf facilities (including mo-
bile offshore drilling units) and the administra-
tion of the inspection program under this sec-
tion;
“(C) shall be available only to the extent provided for in advance in an appropriations Act; and

“(D) shall remain available until expended.

“(4) ANNUAL REPORTS.—

“(A) In general.—Not later than 60 days after the end of each fiscal year beginning with fiscal year 2011, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report on the operation of the Fund during the fiscal year.

“(B) Contents.—Each report shall include, for the fiscal year covered by the report, the following:

“(i) A statement of the amounts deposited into the Fund.

“(ii) A description of the expenditures made from the Fund for the fiscal year, including the purpose of the expenditures.

“(iii) Recommendations for additional authorities to fulfill the purpose of the Fund.
“(iv) A statement of the balance remaining in the Fund at the end of the fiscal year.”

TITLE IV—GULF COAST OIL AND GAS ROYALTY GIVEAWAY REPEAL

SEC. 401. SHORT TITLE.

This title may be cited as the “Gulf Coast Oil and Gas Royalty Giveaway Repeal and Deficit Reduction Act”.

SEC. 402. DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM 181 AREA, 181 SOUTH AREA, AND 2002–2007 PLANNING AREAS OF GULF OF MEXICO.

Section 105 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note) is amended to read as follows:

“SEC. 105. DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM 181 AREA, 181 SOUTH AREA, AND 2002–2007 PLANNING AREAS OF GULF OF MEXICO.

“(a) IN GENERAL.—Notwithstanding section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) and subject to the other provisions of this section, for each applicable fiscal year, the Secretary of the Treasury shall deposit—
“(1) 87.5 percent of qualified outer Continental Shelf revenues in the general fund of the Treasury; and

“(2) 12.5 percent of qualified outer Continental Shelf revenues in a special account in the Treasury from which the Secretary shall disburse 100 percent to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–8), which shall be considered income to the Land and Water Conservation Fund for purposes of section 2 of that Act (16 U.S.C. 460l–5).

“(b) USE OF AMOUNTS FOR DEFICIT REDUCTION.—
Notwithstanding any other provision of law, any amounts received by the United States as rentals or royalties under leases covered by this title shall be deposited in the Treasury and used for Federal budget deficit reduction or, if there is no Federal budget deficit, for reducing the Federal debt in such manner as the Secretary of the Treasury considers appropriate.”.

**TITLE V—HARDROCK MINING REFORM**

**SEC. 501. SHORT TITLE.**

This title may be cited as the “Hardrock Mining Reform and Deficit Reduction Act of 2011”.

•HR 3446 IH
SEC. 502. DEFINITIONS AND REFERENCES.

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

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

(A) Any person who controls, is controlled by, or is under common control with such person.

(B) Any partner of such person.

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

(2) The term “applicant” means any person applying for a permit under this title or a modification to or a renewal of a permit under this title.

(3) The term “beneficiation” means the crushing and grinding of locatable mineral ore and such processes as are employed to free the mineral from other constituents, including but not necessarily limited to, physical and chemical separation techniques.

(4) The term “casual use”—

(A) subject to subparagraphs (B) and (C), means mineral activities that do not ordinarily result in any disturbance of public lands and resources;

(B) includes collection of geochemical, rock, soil, or mineral specimens using
handtools, hand panning, or nonmotorized sluicing; and

(C) does not include—

(i) the use of mechanized earth-moving equipment, suction dredging, or explosives;

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

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

(iv) the use of toxic or hazardous materials.

(5) The term “claim holder” means a person holding a mining claim, millsite claim, or tunnel site claim located under the general mining laws and maintained in compliance with such laws and this title. Such term may include an agent of a claim holder.

(6) The term “control” means having the ability, directly or indirectly, to determine (without regard to whether exercised through one or more corporate structures) the manner in which an entity conducts mineral activities, through any means, including without limitation, ownership interest, authority to commit the entity’s real or financial as-
sets, position as a director, officer, or partner of the
entity, or contractual arrangement.

(7) The term “exploration”—

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

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

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

(8) The term “Federal land” means any land,
and any interest in land, that is owned by the
United States and open to location of mining claims
under the general mining laws and subtitle B of this
title.

(9) The term “Indian lands” means lands held

in trust for the benefit of an Indian tribe or indi-


guinal or held by an Indian tribe or individual sub-

ject to a restriction by the United States against

alienation.

(10) The term “Indian tribe” means any Indian

tribe, band, nation, pueblo, or other organized group

or community, including any Alaska Native village
or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(11) The term “locatable mineral”—

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

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

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

(iii) the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 et seq.); or

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

(B) does not include any mineral that is subject to a restriction against alienation imposed by the United States and is—

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

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

(13) The term “mining claim”—

(A) subject to subparagraph (B), means a
claim located under the Mining Law of 1872
within the boundaries of which exist locatable
minerals the claimant intends to extract;

(B) does not include a claim located for
the purpose of securing Federal lands for a
waste rock dump, tailings pile, or other pur-
poses incident to processing locatable minerals
extracted elsewhere.

(14) The term “National Conservation System
unit” means any unit of the National Park System,
National Wildlife Refuge System, National Wild and
Scenic Rivers System, or National Trails System, or
a National Conservation Area, a National Recreation
Area, a National Monument, or any unit of the Na-
tional Wilderness Preservation System.

(15) The term “operator” means any person
proposing or authorized by a permit issued under
this title to conduct mineral activities and any agent
of such person.

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

(17) The term “processing” means processes
downstream of beneficiation employed to prepare
locatable mineral ore into the final marketable prod-
uct, including smelting and electrolytic refining.

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

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

(20) The term “undue degradation” means,
based on consideration of other resource values that
may be affected, the operation or proposed operation
fails to comply with the performance standards in this title or can reasonably be expected to cause significant environmental harm to wildlife; land, air, or water resources; or scientific or cultural resources.

(21) The term “valid existing rights” means a mining claim or millsite claim located on lands described in section 521(b), that—

(A) was properly located and maintained under the general mining laws prior to the date of enactment of this Act;

(B) was supported by a discovery of a valuable mineral deposit within the meaning of the general mining laws on the date of enactment of this Act, and, for millsite claims, does not involve more than one mill site for every mining claim located for that operation; and

(C) continues to be valid under this title.

(b) REFERENCES TO OTHER LAWS.—

(1) Any reference in this title to the term general mining laws is a reference to those Acts that generally comprise chapters 2, 12A, and 16, and sections 161 and 162, of title 30, United States Code.

and the mining laws to provide for multiple use of
the surface of the same tracts of the public lands,
and for other purposes” (30 U.S.C. 601 et seq.).

SEC. 503. APPLICATION RULES.

(a) In General.—This title applies to any mining
claim, millsite claim, or tunnel site claim located under
the general mining laws, before, on, or after the date of
enactment of this Act, except as provided in subsection
(b).

(b) Preexisting Claims.—

(1) Any unpatented mining claim or millsite
claim located under the general mining laws before
the date of enactment of this Act for which a plan
of operation has not been approved or a notice filed
prior to the date of enactment shall, upon the effect-
tive date of this title, be subject to the requirements
of this title, except as provided in paragraphs (2)
and (3).

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

(i) during the 5-year period beginning
on the date of enactment of this Act, min-
eral activities at such claim or site shall be
subject to such plan of operations;

(ii) during such 5-year period, modi-
fications of any such plan may be made in
accordance with the provisions of law ap-
plicable prior to the enactment of this Act
if such modifications are deemed minor by
the Secretary concerned; and

(iii) the operator shall bring such min-
eral activities into compliance with this
title by the end of such 5-year period.

(B) Where an application for modification
of a plan of operations referred to in subpara-
graph (A)(ii) has been timely submitted and an
approved plan expires prior to Secretarial ac-
tion on the application, mineral activities and
reclamation may continue in accordance with
the terms of the expired plan until the Sec-
retary makes an administrative decision on the
application.

(c) F E D E R A L L A N D S S U B J E C T T O E X I S T I N G P E R-
MIT.—

(1) Any Federal land shall be subject to the re-
quirements of section 512(a)(2) if the land is—

(A) subject to an operations permit; and
(B) producing valuable locatable minerals in commercial quantities prior to the date of enactment of this Act.

(2) Any Federal land added through a plan modification to an operations permit on Federal land that is submitted after the date of enactment of this Act shall be subject to the terms of section 512(a)(3).

(d) Application of Title to Beneficiation and Processing of Non-Federal Minerals on Federal Lands.—The provisions of this title (including the environmental protection requirements of subtitle C) shall apply in the same manner and to the same extent to mining claims, millsite claims, and tunnel site claims used for beneficiation or processing activities or activities related to, or incidental to, such mineral activities for any mineral without regard to whether or not the legal and beneficial title to the mineral is held by the United States. This subsection applies only to minerals that are locatable minerals or minerals that would be locatable minerals if the legal and beneficial title to such minerals were held by the United States.
Subtitle A—Mineral Exploration and Development

SEC. 511. ROYALTY.

(a) Reservation of Royalty.—

(1) In general.—Subject to paragraph (2) production of all locatable minerals from any mining claim located under the general mining laws and maintained in compliance with this title, or mineral concentrates or products derived from locatable minerals from any such mining claim, as the case may be, shall be subject to a royalty of 12.5 percent of the gross income from mining. The claim holder or any operator to whom the claim holder has assigned the obligation to make royalty payments under the claim and any person who controls such claim holder or operator shall be liable for payment of such royalties.

(2) Federal land added to existing operations permit.—Any Federal land added through a plan modification to an operations permit that is submitted after the date of enactment of this Act shall be subject to the royalty that applies to Federal land under paragraph (1).
(3) **Deposit.**—Amounts received by the United States as royalties under this subsection shall be deposited into the Treasury.

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

(1) A person—

(A) who is required to make any royalty payment under this section shall make such payments to the United States at such times and in such manner as the Secretary may by rule prescribe; and

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

(2) Any person paying royalties under this section shall file a written instrument, together with the first royalty payment, affirming that such person is responsible for making proper payments for all amounts due for all time periods for which such person has a payment responsibility. Such responsibility for the periods referred to in the preceding sentence shall include any and all additional amounts billed by the Secretary and determined to be due by final
agency or judicial action. Any person liable for royalty payments under this section who assigns any payment obligation shall remain jointly and severally liable for all royalty payments due for the claim for the period.

(3) A person conducting mineral activities shall—

(A) develop and comply with the site security provisions in the operations permit designed to protect from theft the locatable minerals, concentrates or products derived therefrom which are produced or stored on a mining claim, and such provisions shall conform with such minimum standards as the Secretary may prescribe by rule, taking into account the variety of circumstances on mining claims; and

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

(4) The Secretary may by rule require any person engaged in transporting a locatable mineral,
concentrate, or product derived there from to carry
on his or her person, in his or her vehicle, or in his
or her immediate control, documentation showing, at
a minimum, the amount, origin, and intended desti-
tination of the locatable mineral, concentrate, or
product derived there from in such circumstances as
the Secretary determines is appropriate.

(c) Recordkeeping and Reporting Require-
ments.—

(1) A claim holder, operator, or other person di-
rectly involved in developing, producing, processing,
transporting, purchasing, or selling locatable min-
erals, concentrates, or products derived therefrom,
subject to this title, through the point of royalty
computation shall establish and maintain any
records, make any reports, and provide any informa-
tion that the Secretary may reasonably require for
the purposes of implementing this section or deter-
mining compliance with rules or orders under this
section. Such records shall include, but not be lim-
ited to, periodic reports, records, documents, and
other data. Such reports may also include, but not
be limited to, pertinent technical and financial data
relating to the quantity, quality, composition volume,
weight, and assay of all minerals extracted from the
mining claim. Upon the request of any officer or employee duly designated by the Secretary conducting an audit or investigation pursuant to this section, the appropriate records, reports, or information that may be required by this section shall be made available for inspection and duplication by such officer or employee. Failure by a claim holder, operator, or other person referred to in the first sentence to cooperate with such an audit, provide data required by the Secretary, or grant access to information may, at the discretion of the Secretary, result in involuntary forfeiture of the claim.

(2) Records required by the Secretary under this section shall be maintained for 7 years after release of financial assurance under section 536 unless the Secretary notifies the operator that the Secretary has initiated an audit or investigation involving such records and that such records must be maintained for a longer period. In any case when an audit or investigation is underway, records shall be maintained until the Secretary releases the operator of the obligation to maintain such records.

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

(e) COOPERATIVE AGREEMENTS.—

(1) The Secretary is authorized to enter into cooperative agreements with the Secretary of Agriculture to share information concerning the royalty management of locatable minerals, concentrates, or products derived therefrom, to carry out inspection, auditing, investigation, or enforcement (not including the collection of royalties, civil or criminal penalties, or other payments) activities under this section in cooperation with the Secretary, and to carry out any other activity described in this section.

(2) Except as provided in paragraph (3)(A) of this subsection (relating to trade secrets), and pursuant to a cooperative agreement, the Secretary of Agriculture shall, upon request, have access to all royalty accounting information in the possession of the Secretary respecting the production, removal, or
sale of locatable minerals, concentrates, or products
derived therefrom from claims on lands open to loca-
tion under this title.

(3) Trade secrets, proprietary, and other con-
fidential information protected from disclosure under
section 552 of title 5, United States Code, popularly
known as the Freedom of Information Act, shall be
made available by the Secretary to other Federal
agencies as necessary to assure compliance with this
title and other Federal laws. The Secretary, the Sec-
retary of Agriculture, the Administrator of the Envi-
ronmental Protection Agency, and other Federal of-
icials shall ensure that such information is provided
protection in accordance with the requirements of
that section.

(f) INTEREST AND SUBSTANTIAL UNDERREPORTING
ASSESSMENTS.—

(1) In the case of mining claims where royalty
payments are not received by the Secretary on the
date that such payments are due, the Secretary shall
charge interest on such underpayments at the same
interest rate as the rate applicable under section
In the case of an underpayment, interest shall be
computed and charged only on the amount of the deficiency and not on the total amount.

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

(3) For the purposes of this subsection, the term “underreporting” means the difference between the royalty on the value of the production that should have been reported and the royalty on the value of the production which was reported, if the value that should have been reported is greater than the value that was reported.

(4) The Secretary may waive or reduce the assessment provided in paragraph (2) of this subsection if the person liable for royalty payments under this section corrects the underreporting before the date such person receives notice from the Secretary that an underreporting may have occurred, or before 90 days after the date of the enactment of this section, whichever is later.

(5) The Secretary shall waive any portion of an assessment under paragraph (2) of this subsection
attributable to that portion of the underreporting for which the person responsible for paying the royalty demonstrates that—

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

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

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

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

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

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

(i) Gross Income From Mining Defined.—For
the purposes of this section, for any locatable mineral, the
term “gross income from mining” has the same meaning
as the term “gross income” in section 613(c) of the Internal Revenue Code of 1986.

(j) Effective Date.—The royalty under this section shall take effect with respect to the production of
locatable minerals after the enactment of this Act, but any royalty payments attributable to production during the
first 12 calendar months after the enactment of this Act shall be payable at the expiration of such 12-month period.

(k) Failure to Comply With Royalty Requirements.—Any person who fails to comply with the requirements of this section or any regulation or order issued to implement this section shall be liable for a civil penalty under section 109 of the Federal Oil and Gas Royalty Management Act (30 U.S.C. 1719) to the same extent as if the claim located under the general mining laws and maintained in compliance with this title were a lease under that Act.
SEC. 512. HARDROCK MINING CLAIM MAINTENANCE FEE.

(a) Fee.—

(1) Except as provided in section 2511(e)(2) of the Energy Policy Act of 1992 (relating to oil shale claims), for each unpatented mining claim, mill or tunnel site on federally owned lands, whether located before, on, or after enactment of this Act, each claimant shall pay to the Secretary, on or before August 31 of each year, a claim maintenance fee of $200 per claim to hold such unpatented mining claim, mill or tunnel site for the assessment year beginning at noon on the next day, September 1. Such claim maintenance fee shall be in lieu of the assessment work requirement contained in the Mining Law of 1872 (30 U.S.C. 28 et seq.) and the related filing requirements contained in section 314(a) and (c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(a) and (c)).

(2)(A) The Secretary shall adjust the fees required by this section to reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor every 5 years after the date of enactment of this Act, or more frequently if the Secretary determines an adjustment to be reasonable. The Secretary shall employ the Consumer Price Index for All-Urban Consumers pub-
lished by the Department of Labor as the basis for adjustment, and rounding according to the adjustment process of conditions of the Federal Civil Penalties Inflation Adjustment Act of 1990 (104 Stat. 890).

(B) The Secretary shall provide claimants notice of any adjustment made under this paragraph not later than July 1 of any year in which the adjustment is made.

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

(b) LOCATION.—Notwithstanding any provision of law, for every unpatented mining claim, mill or tunnel site located after the date of enactment of this Act the locator shall, at the time the location notice is recorded with the Bureau of Land Management, pay to the Secretary a location fee, in addition to the fee required by subsection (a) of $50 per claim.

(c) Co-Ownership.—The co-ownership provisions of the Mining Law of 1872 (30 U.S.C. 28 et seq.) will remain in effect except that the annual claim maintenance fee, where applicable, shall replace applicable assessment requirements and expenditures.
(d) FAILURE TO PAY.—Failure to pay the claim maintenance fee as required by subsection (a) shall conclusively constitute a forfeiture of the unpatented mining claim, mill or tunnel site by the claimant and the claim shall be deemed null and void by operation of law.

(e) OTHER REQUIREMENTS.—

(1) Nothing in this section shall change or modify the requirements of section 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)), or the requirements of section 314(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(e)) related to filings required by section 314(b), which remain in effect.

(2) Section 2324 of the Revised Statutes of the United States (30 U.S.C. 28) is amended by inserting “or section 103(a) of the Hardrock Mining Reform and Deficit Reduction Act of 2011” after “Act of 1993,”.

SEC. 513. EFFECT OF PAYMENTS FOR USE AND OCCUPANCY OF CLAIMS.

Timely payment of the claim maintenance fee required by section 512 of this title or any related law relating to the use of Federal land, preserves the claimant’s ability to use and occupy the Federal land concerned for
prospecting and exploration, consistent with and subject
to the requirements of this title and other applicable law.

SEC. 514. LIMITATION ON PATENTS.

(a) MINING CLAIMS.—

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

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

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

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

(b) MILLSITE CLAIMS.—

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

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

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

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

SEC. 521. LANDS OPEN TO LOCATION.

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

(b) LANDS NOT OPEN TO LOCATION.—Notwithstanding any other provision of law and subject to valid existing rights, each of the following shall not be open to the location of mining claims under the general mining laws on or after the date of enactment of this Act:

(1) Wilderness study areas.

(2) Areas of critical environmental concern.

(3) Areas designated for inclusion in the National Wild and Scenic Rivers System pursuant to the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.), areas designated for potential addition to such system pursuant to section 5(a) of that Act (16 U.S.C. 1276(a)), and areas determined to be eligible for inclusion in such system pursuant to section 5(d) of such Act (16 U.S.C. 1276(d)).

(c) Existing Authority Not Affected.—Nothing in this title limits the authority granted the Secretary in section 204 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714) to withdraw public lands.

SEC. 522. WITHDRAWAL PETITIONS BY STATES, POLITICAL SUBDIVISIONS, AND INDIAN TRIBES.

(a) In General.—Subject to valid existing rights, any State or political subdivision of a State or an Indian tribe may submit a petition to the Secretary for the withdrawal of a specific tract of Federal land from the operation of the general mining laws, in order to protect specific values identified in the petition that are important to the State or political subdivision or Indian tribe. Such values may include the value of a watershed to supply drinking water, wildlife habitat value, cultural or historic resources, or value for scenic vistas important to the local economy, and other similar values. In the case of an Indian tribe, the petition may also identify religious or cultural values that are important to the Indian tribe. The petition shall contain the information required by section
(b) CONSIDERATION OF PETITION.—The Secretary—

(1) shall solicit public comment on the petition;

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

(3) shall grant the petition subject to valid existing rights, unless the Secretary makes and publishes in the Federal Register specific findings why a decision to grant the petition would be against the national interest.

Subtitle C—Environmental Considerations of Mineral Exploration and Development

SEC. 531. GENERAL STANDARD FOR HARDROCK MINING ON FEDERAL LAND.

Notwithstanding section 302(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732(b)), the first section of the Act of June 4, 1897 (chapter 2; 30 Stat. 36 16 U.S.C. 478), and the National Forest Management Act of 1976 (16 U.S.C. 1600 et seq.), and in accordance with this subtitle and applicable law, unless expressly stated otherwise in this title, the Secretary—

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

sources; and

(2) shall not grant permission to engage in min-
eral activities if the Secretary, after considering the
evidence, determines that undue degradation would
result from such activities.

SEC. 532. PERMITS.

(a) PERMITS REQUIRED.—No person may engage in
mineral activities on Federal land that may cause a dis-
turbance of surface resources, including land, air, ground
water and surface water, and fish and wildlife, unless—

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

(2) a permit was issued to such person under
this subtitle authorizing such activities.

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

(c) COORDINATION WITH NEPA PROCESS.—The
Secretary and the Secretary of Agriculture shall conduct
the permit processes under this title in coordination with
the timing and other requirements under section 102 of

SEC. 533. EXPLORATION PERMIT.

(a) AUTHORIZED EXPLORATION ACTIVITY.—Any claim holder may apply for an exploration permit for any mining claim authorizing the claim holder to remove a reasonable amount of the locatable minerals from the claim for analysis, study and testing. Such permit shall not authorize the claim holder to remove any mineral for sale nor to conduct any activities other than those required for exploration for locatable minerals and reclamation.

(b) PERMIT APPLICATION REQUIREMENTS.—An application for an exploration permit under this section shall be submitted in a manner satisfactory to the Secretary or, for National Forest System lands, the Secretary of Agriculture, and shall contain an exploration plan, a reclamation plan for the proposed exploration, and such documentation as necessary to ensure compliance with applicable Federal and State environmental laws and regulations.

(c) RECLAMATION PLAN REQUIREMENTS.—The reclamation plan required to be included in a permit application under subsection (b) shall include such provisions as may be jointly prescribed by the Secretary and the Secretary of Agriculture.
(d) PERMIT ISSUANCE OR DENIAL.—The Secretary, or for National Forest System lands, the Secretary of Agriculture, shall issue an exploration permit pursuant to an application under this section unless such Secretary makes any of the following determinations:

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

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

(3) The proposed exploration activities and condition of the land after the completion of exploration activities and final reclamation would not conform with the land use plan applicable to the area subject to mineral activities.

(4) The area subject to the proposed permit is included within an area not open to location under section 521.

(5) The applicant has not demonstrated that the exploration plan and reclamation plan will be in compliance with the requirements of this title and all other applicable Federal requirements, and any State requirements agreed to by the Secretary of the Interior (or Secretary of Agriculture, as appropriate).
(6) The applicant has not demonstrated that the requirements of section 536 (relating to financial assurance) will be met.

(7) The applicant is ineligible to receive a permit as determined under section 535.

(e) Term of Permit.—An exploration permit shall be for a stated term. The term shall be no greater than that necessary to accomplish the proposed exploration, and in no case for more than 10 years.

(f) Permit Modification.—During the term of an exploration permit, the permit holder may submit an application to modify the permit. To approve a proposed modification to the permit, the Secretary concerned shall make the same determinations as are required in the case of an original permit, except that the Secretary and the Secretary of Agriculture may specify by joint rule the extent to which requirements for initial exploration permits under this section shall apply to applications to modify an exploration permit based on whether such modifications are deemed significant or minor.

(g) Transfer, Assignment, or Sale of Rights.—

(1) No transfer, assignment, or sale of rights granted by a permit issued under this section shall be made without the prior written approval of the
Secretary or for National Forest System lands, the Secretary of Agriculture.

(2) Such Secretary shall allow a person holding a permit to transfer, assign, or sell rights under the permit to a successor, if the Secretary finds, in writing, that the successor—

(A) is eligible to receive a permit in accordance with section 534(d);

(B) has submitted evidence of financial assurance satisfactory under section 536; and

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

(3) The successor in interest shall assume the liability and reclamation responsibilities established by the existing permit and shall conduct the mineral activities in full compliance with this title, and the terms and conditions of the permit as in effect at the time of transfer, assignment, or sale.

(4) Each application for approval of a permit transfer, assignment, or sale pursuant to this subsection shall be accompanied by a fee payable to the Secretary of the Interior in such amount as may be established by such Secretary. Such amount shall be equal to the actual or anticipated cost to the Secretary or the Secretary of Agriculture, as appro-
priate, of reviewing and approving or disapproving such transfer, assignment, or sale, as determined by the Secretary of the Interior.

SEC. 534. OPERATIONS PERMIT.

(a) OPERATIONS PERMIT.—

(1) Any claim holder that is in compliance with the general mining laws and section 513 of this title may apply to the Secretary, or for National Forest System lands, the Secretary of Agriculture, for an operations permit authorizing the claim holder to carry out mineral activities, other than casual use, on—

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

(B) such additional Federal land as the Secretary may determine is necessary to conduct the proposed mineral activities, if the operator obtains a right-of-way permit for use of such additional lands under title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761 et seq.) and agrees to pay all fees required under that title for the permit under that title.
(2) If the Secretary decides to issue such permit, the permit shall include such terms and conditions as prescribed by such Secretary to carry out this subtitle.

(b) PERMIT APPLICATION REQUIREMENTS.—An application for an operations permit under this section shall be submitted in a manner satisfactory to the Secretary concerned and shall contain site characterization data, an operations plan, a reclamation plan, monitoring plans, long-term maintenance plans, to the extent necessary, and such documentation as necessary to ensure compliance with applicable Federal and State environmental laws and regulations. If the proposed mineral activities will be carried out in conjunction with mineral activities on adjacent non-Federal lands, information on the location and nature of such operations may be required by the Secretary.

(e) PERMIT ISSUANCE OR DENIAL.—

(1) After providing for public participation pursuant to subsection (i), the Secretary, or for National Forest System lands the Secretary of Agriculture, shall issue an operations permit if such Secretary makes each of the following determinations in writing, and shall deny a permit if such Secretary finds that the application and applicant do not fully meet the following requirements:
(A) The permit application, including the site characterization data, operations plan, and reclamation plan, are complete and accurate and sufficient for developing a good understanding of the anticipated impacts of the mineral activities and the effectiveness of proposed mitigation and control.

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

(C) The condition of the land, including the fish and wildlife resources and habitat contained thereon, after the completion of mineral activities and final reclamation, will conform to the land use plan applicable to the area subject to mineral activities and are returned to a productive use.

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

(E) The proposed operation has been designed to prevent material damage to the hydrologic balance.
(F) The applicant will fully comply with the requirements of section 536 (relating to financial assurance) prior to the initiation of operations.

(G) Neither the applicant nor operator, nor any subsidiary, affiliate, or person controlled by or under common control with the applicant or operator, is ineligible to receive a permit under section 535.

(H) The reclamation plan demonstrates that 10 years following mine closure, no treatment of surface or ground water will be required to meet water quality standards at the point of discharge.

(2) With respect to any activities specified in the reclamation plan referred to in subsection (b) that constitutes a removal or remedial action under section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Secretary shall consult with the Administrator of the Environmental Protection Agency prior to the issuance of an operations permit. The Administrator shall ensure that the reclamation plan does not require activities that would increase the costs or likelihood of removal or reme-
dial actions under the Comprehensive Environmental
Response, Compensation, and Liability Act of 1980
(42 U.S.C. 9601 et seq.) or corrective actions under
the Solid Waste Disposal Act (42 U.S.C. 6901 et
seq.).
(d) TERM OF PERMIT; RENEWAL.—
(1) An operations permit—
(A) shall be for a term that is no longer
than the shorter of—
(i) the period necessary to accomplish
the proposed mineral activities subject to
the permit; and
(ii) 20 years; and
(B) shall be renewed for an additional 20-
year period if the operation is in compliance
with the requirements of this title and other ap-
licable law.
(2) Failure by the operator to commence min-
eral activities within 2 years of the date scheduled
in an operations permit shall require a modification
of the permit if the Secretary concerned determines
that modifications are necessary to comply with sec-
tion 521.
(e) PERMIT MODIFICATION.—
(1) During the term of an operations permit the operator may submit an application to modify the permit (including the operations plan or reclamation plan, or both).

(2) The Secretary, or for National Forest System lands the Secretary of Agriculture, may, at any time, require reasonable modification to any operations plan or reclamation plan upon a determination that the requirements of this title cannot be met if the plan is followed as approved. Such determination shall be based on a written finding and subject to public notice and hearing requirements established by the Secretary concerned.

(3) A permit modification is required before changes are made to the approved plan of operations, or if unanticipated events or conditions exist on the mine site, including in the case of—

(A) development of acid or toxic drainage;

(B) loss of springs or water supplies;

(C) water quantity, water quality, or other resulting water impacts that are significantly different than those predicted in the application;

(D) the need for long-term water treatment;
(E) significant reclamation difficulties or reclamation failure;

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

(G) the discovery of hazards to public safety.

(f) TEMPORARY CESSION OF OPERATIONS.—

(1) An operator conducting mineral activities under an operations permit in effect under this subtitle may not temporarily cease mineral activities for a period greater than 180 days unless the Secretary concerned has approved such temporary cessation or unless the temporary cessation is permitted under the original permit. Any operator temporarily ceasing mineral activities for a period greater than 90 days under an operations permit issued before the date of the enactment of this Act shall submit, before the expiration of such 90-day period, a complete application for temporary cessation of operations to the Secretary concerned for approval unless the temporary cessation is permitted under the original permit.

(2) An application for approval of temporary cessation of operations shall include such informa-
tion required under subsection (b) and any other provisions prescribed by the Secretary concerned to minimize impacts on the environment. After receipt of a complete application for temporary cessation of operations such Secretary shall conduct an inspection of the area for which temporary cessation of operations has been requested.

(3) To approve an application for temporary cessation of operations, the Secretary concerned shall make each of the following determinations:

(A) A determination that the methods for securing surface facilities and restricting access to the permit area, or relevant portions thereof, will effectively ensure against hazards to the health and safety of the public and fish and wildlife.

(B) A determination that reclamation is in compliance with the approved reclamation plan, except in those areas specifically designated in the application for temporary cessation of operations for which a delay in meeting such standards is necessary to facilitate the resumption of operations.

(C) A determination that the amount of financial assurance filed with the permit applica-
tion is sufficient to assure completion of the
reclamation activities identified in the approved
reclamation plan in the event of forfeiture.

(D) A determination that any outstanding
notices of violation and cessation orders in-
curred in connection with the plan for which
temporary cessation is being requested are ei-
ther stayed pursuant to an administrative or ju-
dicial appeal proceeding or are in the process of
being abated to the satisfaction of the Secretary
concerned.

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

(h) TRANSFER, ASSIGNMENT, OR SALE OF
RIGHTS.—

(1) No transfer, assignment, or sale of rights
granted by a permit under this section shall be made
without the prior written approval of the Secretary,
or for National Forest System lands the Secretary of Agriculture.

(2) The Secretary, or for National Forest System lands, the Secretary of Agriculture, may allow a person holding a permit to transfer, assign, or sell rights under the permit to a successor, if such Secretary finds, in writing, that the successor—

(A) has submitted information required and is eligible to receive a permit in accordance with section 535;

(B) has submitted evidence of financial assurance satisfactory under section 536; and

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

(3) The successor in interest shall assume reclamation and other responsibilities established by the existing permit and shall conduct the mineral activities in full compliance with this title, and the terms and conditions of the permit as in effect at the time of transfer, assignment, or sale.

(4) Each application for approval of a permit transfer, assignment, or sale pursuant to this subsection shall be accompanied by a fee payable to the Secretary of the Interior, or for National Forest System lands, the Secretary of Agriculture, in such
amount as may be established by such Secretary, or for National Forest System lands, by the Secretary of Agriculture. Such amount shall be equal to the actual or anticipated cost to the Secretary or, for National Forest System lands, to the Secretary of Agriculture, of reviewing and approving or disapproving such transfer, assignment, or sale, as determined by such Secretary.

(i) PUBLIC PARTICIPATION.—The Secretary of the Interior and the Secretary of Agriculture shall jointly promulgate regulations to ensure transparency and public participation in permit decisions required under this title, consistent with any requirements that apply to such decisions under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

SEC. 535. PERSONS INELIGIBLE FOR PERMITS.

(a) CURRENT VIOLATIONS.—Unless corrective action has been taken in accordance with subsection (c), no permit under this subtitle shall be issued or transferred to an applicant if the applicant or any agent of the applicant, the operator (if different than the applicant) of the claim concerned, any claim holder (if different than the applicant) of the claim concerned, or any affiliate or officer or director of the applicant is currently in violation of any of the following:
(1) A provision of this title or any regulation under this title.

(2) An applicable State or Federal toxic substance, solid waste, air, water quality, or fish and wildlife conservation law or regulation at any site where mining, beneficiation, or processing activities are occurring or have occurred.

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

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

(c) CORRECTION.—

(1) The Secretary, or for National Forest System lands the Secretary of Agriculture, may issue or reinstate a permit under this subtitle if the applicant submits proof that the violation referred to in subsection (a) or (b) has been corrected or is in the process of being corrected to the satisfaction of such
Secretary and the regulatory authority involved or if the applicant submits proof that the violator has filed and is presently pursuing, a direct administrative or judicial appeal to contest the existence of the violation. For purposes of this section, an appeal of any applicant’s relationship to an affiliate shall not constitute a direct administrative or judicial appeal to contest the existence of the violation.

(2) Any permit which is issued or reinstated based upon proof submitted under this subsection shall be conditionally approved or conditionally reinstated, as the case may be. If the violation is not successfully abated or the violation is upheld on appeal, the permit shall be suspended or revoked.

(d) PATTERN OF WILLFUL VIOLATIONS.—No permit under this title may be issued to any applicant if there is a demonstrated pattern of willful violations of the environmental protection requirements of this title by the applicant, any affiliate of the applicant, or the operator or claim holder if different than the applicant.

SEC. 536. FINANCIAL ASSURANCE.

(a) FINANCIAL ASSURANCE REQUIRED.—

(1) Subject to public notice and comment, and after a permit is issued under this subtitle and before any exploration or operations begin under the
permit, the operator shall file with the Secretary, or for National Forest System lands the Secretary of Agriculture, evidence of financial assurance payable to the United States. The financial assurance shall be provided in the form of a surety bond, a trust fund, letters of credits, government securities, certificates of deposit, cash, or an equivalent form approved by such Secretary.

(2) The financial assurance shall cover all lands within the initial permit area and all affected waters that may require restoration, treatment, or other management as a result of mineral activities, and shall be extended to cover all lands and waters added pursuant to any permit modification made under section 533(f) (relating to exploration permits) or section 534(e) (relating to operations permits), or affected by mineral activities.

(b) Amount.—The amount of the financial assurance required under this section shall be sufficient to assure the completion of reclamation and restoration satisfying the requirements of this title if the work were to be performed by the Secretary concerned in the event of forfeiture, including the construction and maintenance costs for any treatment facilities necessary to meet Federal and State environmental requirements. The calcula-
tion of such amount shall take into account the maximum
level of financial exposure which shall arise during the
mineral activity and administrative costs associated with
a government agency reclaiming the site.

(c) DURATION.—The financial assurance required
under this section shall be held for the duration of the
mineral activities and for an additional period to cover the
operator’s responsibility for reclamation, restoration, and
long-term maintenance, and effluent treatment as speci-

(d) ADJUSTMENTS.—The amount of the financial as-
surance and the terms of the acceptance of the assurance
may be adjusted by the Secretary concerned from time to
time as the area requiring coverage is increased or de-
creased, or where the costs of reclamation or treatment
change, or pursuant to section 534(f) (relating to tem-
porary cessation of operations), but the financial assur-
ance shall otherwise be in compliance with this section.
The Secretary concerned shall review the financial guar-
antee every 3 years and as part of the permit application
review under section 534(c).

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

(1) A determination that reclamation or resto-

toration covered by the financial assurance has been
accomplished as required by this title.

(2) A determination that the terms and condi-
tions of any other applicable Federal requirements,
and State requirements applicable pursuant to coop-
erative agreements under section 538, have been ful-
filled.

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

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

(2) After the operator has completed successfully all remaining mineral activities and reclamation activities and all requirements of the operations plan and the reclamation plan, and all other requirements of this title have been fully met, including the requirements of subsection (g) of this section, the remaining portion of the financial assurance may be released.

During the period following release of the financial assurance as specified in paragraph (1), until the remaining portion of the financial assurance is released as provided in paragraph (2), the operator shall be required to comply with the permit issued under this subtitle.

(g) EFFLUENT.—Notwithstanding section 537(b)(4), where any discharge or other water-related condition resulting from the mineral activities requires treatment in order to meet the applicable effluent limitations and water quality standards, the financial assurance shall include the estimated cost of maintaining such treatment for the projected period that will be needed after the cessation of mineral activities. The portion of the financial assurance attributable to such estimated cost of treatment shall not be released until the discharge has ceased for a period of
5 years, as determined by ongoing monitoring and testing, or, if the discharge continues, until the operator has met all applicable effluent limitations and water quality standards for 5 full years without treatment.

(h) **ENVIRONMENTAL HAZARDS.**—If the Secretary, or for National Forest System lands, the Secretary of Agriculture, determines, after final release of financial assurance, that an environmental hazard resulting from the mineral activities exists, or the terms and conditions of the explorations or operations permit of this title were not fulfilled in fact at the time of release, such Secretary shall issue an order under section 556 requiring the claim holder or operator (or any person who controls the claim holder or operator) to correct the condition such that applicable laws and regulations and any conditions from the plan of operations are met.

**SEC. 537. OPERATION AND RECLAMATION.**

(a) **GENERAL RULE.**—

(1) The operator shall restore lands subject to mineral activities carried out under a permit issued under this subtitle to a condition capable of supporting—

(A) the uses which such lands were capable of supporting prior to surface disturbance by the operator, or
(B) other beneficial uses which conform to applicable land use plans as determined by the Secretary, or for National Forest System lands, the Secretary of Agriculture.

(2) Reclamation shall proceed as contemporaneously as practicable with the conduct of mineral activities. In the case of a cessation of mineral activities beyond that provided for as a temporary cessation under this title, reclamation activities shall begin immediately.

(b) Operation and Reclamation Standards.—The Secretary of the Interior and the Secretary of Agriculture shall jointly promulgate regulations that establish operation and reclamation standards for mineral activities permitted under this title. The Secretaries may determine whether outcome-based performance standards or technology-based design standards are most appropriate. The regulations shall address the following:

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

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

(3) Control of sediments to prevent erosion and manage drainage.
(4) Minimization of the formation and migration of acidic, alkaline, metal-bearing, or other deleterious leachate.

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

(6) Establishment of a diverse, effective, and permanent vegetative cover of the same seasonal variety native to the area affected by mineral activities, and equal in extent of cover to the natural vegetation of the area.

(7) Design and maintenance of leach operations, impoundments, and excess waste according to standard engineering standards to achieve and maintain stability and reclamation of the site.

(8) Removal of structures and roads and sealing of drill holes.

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

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

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

(c) SURFACE OR GROUNDWATER WITHDRAWALS.—The Secretary shall work with State and local govern-
ments with authority over the allocation and use of surface and groundwater in the area around the mine site as necessary to ensure that any surface or groundwater withdrawals made as a result of mining activities approved under this section do not cause undue degradation or results in material alteration of the hydrologic balance.

(d) SPECIAL RULE.—Reclamation activities for a mining claim that has been forfeited, relinquished, or lapsed, or a plan that has expired or been revoked or suspended, shall continue subject to review and approval by the Secretary, or for National Forest System lands the Secretary of Agriculture.

SEC. 538. STATE LAW AND REGULATION.

(a) STATE LAW.—

(1) Any reclamation, land use, environmental, or public health protection standard or requirement in State, county, local, or tribal law or regulation that meets or exceeds the requirements of this title shall not be construed to be inconsistent with any such standard.

(2) Any bonding standard or requirement in State, county, local, or tribal law or regulation that meets or exceeds the requirements of this title shall not be construed to be inconsistent with such requirements.
(3) Any inspection standard or requirement in State, county, local, or tribal law or regulation that meets or exceeds the requirements of this title shall not be construed to be inconsistent with such requirements.

(b) Applicability of Other State Requirements.—

(1) Nothing in this title shall be construed as affecting any toxic substance, solid waste, or air or water quality, standard or requirement of any State, county, local, or tribal law or regulation, which may be applicable to mineral activities on lands subject to this title.

(2) Nothing in this title shall be construed as affecting in any way the right of any person to enforce or protect, under applicable law, such person’s interest in water resources affected by mineral activities on lands subject to this title.

(c) Cooperative Agreements.—

(1) Any State may enter into a cooperative agreement with the Secretary, or for National Forest System lands the Secretary of Agriculture, for the purposes of such Secretary applying such standards and requirements referred to in subsection (a)
and subsection (b) to mineral activities or reclamation on lands subject to this title.

(2) In such instances where the proposed mineral activities would affect lands not subject to this title in addition to lands subject to this title, in order to approve a plan of operations the Secretary concerned shall enter into a cooperative agreement with the State that sets forth a common regulatory framework consistent with the requirements of this title for the purposes of such plan of operations. Any such common regulatory framework shall not negate the authority of the Federal Government to independently inspect mines and operations and bring enforcement actions for violations.

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

(d) Prior Agreements.—Any cooperative agreement or such other understanding between the Secretary concerned and any State, or political subdivision thereof, relating to the management of mineral activities on lands subject to this title that was in existence on the date of enactment of this Act may only continue in force until 1 year after the date of enactment of this Act. During such
1-year period, the State and the Secretary shall review the terms of the agreement and make changes that are necessary to be consistent with this title.

SEC. 539. LIMITATION ON THE ISSUANCE OF PERMITS.

No permit shall be issued under this subtitle that authorizes mineral activities that would impair the land or resources of a National Park or a National Monument. For purposes of this section, the term “impair” shall include any diminution of the affected land including wildlife, scenic assets, water resources, air quality, and acoustic qualities, or other changes that would impair a citizen’s experience at the National Park or National Monument.

Subtitle D—Administrative and Miscellaneous Provisions

SEC. 541. POLICY FUNCTIONS.

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

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

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

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

SEC. 542. USER FEES.

(a) IN GENERAL.—The Secretary and the Secretary of Agriculture may each establish and collect from persons subject to the requirements of this title such user fees as may be necessary to reimburse the United States for expenses incurred in administering such requirements. Fees may be assessed and collected under this section only in such manner as may reasonably be expected to result in an aggregate amount of the fees collected during any fiscal year which does not exceed the aggregate amount of administrative expenses referred to in this section.

(b) ADJUSTMENT.—

(1) The Secretary shall adjust the fees required by this section to reflect changes in the Consumer Price Index published by the Bureau of Labor Sta-
tistics of the Department of Labor every 5 years after the date of enactment of this Act, or more frequently if the Secretary determines an adjustment to be reasonable.

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

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

SEC. 543. INSPECTION AND MONITORING.

(a) INSPECTIONS.—

(1) The Secretary, or for National Forest System lands the Secretary of Agriculture, shall make inspections of mineral activities so as to ensure compliance with the requirements of this title.

(2) The Secretary concerned shall establish a frequency of inspections for mineral activities conducted under a permit issued under subtitle C, but in no event shall such inspection frequency be less than one complete inspection per calendar quarter or, two per calendar quarter in the case of a permit for which the Secretary concerned approves an application under section 534(f) (relating to temporary
cessation of operations). After revegetation has been established in accordance with a reclamation plan, such Secretary shall conduct annually two complete inspections. Such Secretary shall have the discretion to modify the inspection frequency for mineral activities that are conducted on a seasonal basis. Inspections shall continue under this subsection until final release of financial assurance.

(3)(A) Any person who has reason to believe he or she is or may be adversely affected by mineral activities due to any violation of the requirements of a permit approved under this title may request an inspection. The Secretary, or for National Forest System lands the Secretary of Agriculture, shall determine within 10 working days of receipt of the request whether the request states a reason to believe that a violation exists. If the person alleges and provides reason to believe that an imminent threat to the environment or danger to the health or safety of the public exists, the 10-day period shall be waived and the inspection shall be conducted immediately. The identity of the person supplying information to the Secretary relating to a possible violation or imminent danger or harm shall remain confidential with the Secretary if so requested by that person.
(B) The Secretaries shall, by joint rule, establish procedures for the review of (i) any decision by an authorized representative not to inspect; or (ii) any refusal by such representative to ensure that remedial actions are taken with respect to any alleged violation. The Secretary concerned shall furnish such persons requesting the review a written statement of the reasons for the Secretary’s final disposition of the case.

(b) MONITORING.—

(1) The Secretary, or for National Forest System lands the Secretary of Agriculture, shall require all operators to develop and maintain a monitoring and evaluation system that shall identify compliance with all requirements of a permit approved under this title. The Secretary concerned may require additional monitoring to be conducted as necessary to assure compliance with the reclamation and other environmental standards of this title. Such plan must be reviewed and approved by the Secretary and shall become a part of the explorations or operations permit.

(2) The operator shall file reports with the Secretary, or for National Forest System lands the Secretary of Agriculture, on a frequency determined by
the Secretary concerned, on the results of the monitoring and evaluation process, except that if the monitoring and evaluation show a violation of the requirements of a permit approved under this title, it shall be reported immediately to the Secretary concerned. The Secretary shall evaluate the reports submitted pursuant to this paragraph, and based on those reports and any necessary inspection shall take enforcement action pursuant to this section. Such reports shall be maintained by the operator and by the Secretary and shall be made available to the public.

(3) The Secretary, or for National Forest System lands the Secretary of Agriculture, shall determine what information shall be reported by the operator pursuant to paragraph (2). A failure to report as required by the Secretary concerned shall constitute a violation of this title and subject the operator to enforcement action pursuant to section 556.

SEC. 544. CITIZENS SUITS.

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

(1) against any person (including the Secretary or the Secretary of Agriculture) who is alleged to be
in violation of any of the provisions of this title or
any regulation promulgated pursuant to subtitle C
of this title or any term or condition of any permit
issued under subtitle C of this title; or

(2) against the Secretary or the Secretary of
Agriculture where there is alleged a failure of such
Secretary to perform any act or duty under this
title, or to promulgate any regulation under this
title, which is not within the discretion of the Sec-
retary concerned.

The United States district courts shall have jurisdiction
over actions brought under this section, without regard to
the amount in controversy or the citizenship of the parties,
including actions brought to apply any civil penalty under
this title. The district courts of the United States shall
have jurisdiction to compel agency action unreasonably de-
layed, except that an action to compel agency action re-
viewable under section 555 may only be filed in a United
States district court within the circuit in which such action
would be reviewable under section 555.

(b) EXCEPTIONS.—

(1) No action may be commenced under sub-
section (a) before the end of the 60-day period be-
ginning on the date the plaintiff has given notice in
writing of such alleged violation to the alleged viola-
tor and the Secretary, or for National Forest Sys-
tem lands the Secretary of Agriculture, except that
any such action may be brought immediately after
such notification if the violation complained of con-
stitutes an imminent threat to the environment or to
the health or safety of the public.

(2) No action may be brought against any per-
son other than the Secretary or the Secretary of Ag-
riculture under subsection (a)(1) if such Secretary
has commenced and is diligently prosecuting a civil
or criminal action in a court of the United States to
require compliance.

(3) No action may be commenced under para-
graph (2) of subsection (a) against either Secretary
to review any rule promulgated by, or to any permit
issued or denied by such Secretary if such rule or
permit issuance or denial is judicially reviewable
under section 555 or under any other provision of
law at any time after such promulgation, issuance,
or denial is final.

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

(d) COSTS.—The court, in issuing any final order in
any action brought pursuant to this section may award
costs of litigation (including attorney and expert witness fees) to any prevailing or substantially prevailing party whenever the court determines such award is appropriate.

The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(c) SAVINGS CLAUSE.—Nothing in this section shall restrict any right which any person (or class of persons) may have under chapter 7 of title 5, United States Code, under this section, or under any other statute or common law to bring an action to seek any relief against the Secretary or the Secretary of Agriculture or against any other person, including any action for any violation of this title or of any regulation or permit issued under this title or for any failure to act as required by law. Nothing in this section shall affect the jurisdiction of any court under any provision of title 28, United States Code, including any action for any violation of this title or of any regulation or permit issued under this title or for any failure to act as required by law.

SEC. 545. ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) REVIEW BY SECRETARY.—

(1)(A) Any person issued a notice of violation or cessation order under section 556, or any person
having an interest which is or may be adversely af-
fected by such notice or order, may apply to the Sec-
retary, or for National Forest System lands the Sec-
retary of Agriculture, for review of the notice or
order within 30 days after receipt thereof, or as the
case may be, within 30 days after such notice or
order is modified, vacated, or terminated.

(B) Any person who is subject to a penalty as-
sessed under section 556 may apply to the Secretary
concerned for review of the assessment within 45
days of notification of such penalty.

(C) Any person may apply to such Secretary for
review of the decision within 30 days after it is
made.

(D) Pending a review by the Secretary or reso-
lution of an administrative appeal, final decisions
(except enforcement actions under section 556) shall
be stayed.

(2) The Secretary concerned shall provide an
opportunity for a public hearing at the request of
any party to the proceeding as specified in para-
graph (1). The filing of an application for review
under this subsection shall not operate as a stay of
any order or notice issued under section 556.
(3) For any review proceeding under this subsection, the Secretary concerned shall make findings of fact and shall issue a written decision incorporating therein an order vacating, affirming, modifying, or terminating the notice, order, or decision, or with respect to an assessment, the amount of penalty that is warranted. Where the application for review concerns a cessation order issued under section 556 the Secretary concerned shall issue the written decision within 30 days of the receipt of the application for review or within 30 days after the conclusion of any hearing referred to in paragraph (2), whichever is later, unless temporary relief has been granted by the Secretary concerned under paragraph (4).

(4) Pending completion of any review proceedings under this subsection, the applicant may file with the Secretary, or for National Forest System lands the Secretary of Agriculture, a written request that the Secretary grant temporary relief from any order issued under section 556 together with a detailed statement giving reasons for such relief. The Secretary concerned shall expeditiously issue an order or decision granting or denying such relief. The Secretary concerned may grant such relief
under such conditions as he or she may prescribe only if such relief shall not adversely affect the health or safety of the public or cause imminent environmental harm to land, air, or water resources.

(5) The availability of review under this subsection shall not be construed to limit the operation of rights under section 554 (relating to citizen suits).

(b) Judicial Review.—

(1) Any final action by the Secretaries of the Interior and Agriculture in promulgating regulations to implement this title, or any other final actions constituting rulemaking to implement this title, shall be subject to judicial review only in the United States Court of Appeals for the District of Columbia. Any action subject to judicial review under this subsection shall be affirmed unless the court concludes that such action is arbitrary, capricious, or otherwise inconsistent with law. A petition for review of any action subject to judicial review under this subsection shall be filed within 60 days from the date of such action, or after such date if the petition is based solely on grounds arising after the 60th day. Any such petition may be made by any person who commented or otherwise participated in the
rulemaking or any person who may be adversely af-

tected by the action of the Secretaries.

(2) Final agency action under this subsection,

including such final action on those matters de-
scribed under subsection (a), shall be subject to judi-
cial review in accordance with paragraph (4) and

pursuant to section 1391 of title 28, United States

Code, on or before 60 days from the date of such

final action. Any action subject to judicial review

under this subsection shall be affirmed unless the

court concludes that such action is arbitrary, capri-
cious, or otherwise inconsistent with law.

(3) The availability of judicial review estab-
lished in this subsection shall not be construed to

limit the operations of rights under section 554 (re-
lating to citizens suits).

(4) The court shall hear any petition or com-
plaint filed under this subsection solely on the record
made before the Secretary or Secretaries concerned.

The court may affirm or vacate any order or deci-
sion or may remand the proceedings to the Secretary
or Secretaries for such further action as it may di-
rect.

(5) The commencement of a proceeding under

this section shall not, unless specifically ordered by
the court, operate as a stay of the action, order, or
decision of the Secretary or Secretaries concerned.

(c) COSTS.—Whenever a proceeding occurs under
subsection (a) or (b), at the request of any person, a sum
equal to the aggregate amount of all costs and expenses
(including attorney fees) as determined by the Secretary
or Secretaries concerned or the court to have been reason-
ably incurred by such person for or in connection with par-
ticipation in such proceedings, including any judicial re-
view of the proceeding, may be assessed against either
party as the court, in the case of judicial review, or the
Secretary or Secretaries concerned in the case of adminis-
trative proceedings, deems proper if it is determined that
such party prevailed in whole or in part, achieving some
success on the merits, and that such party made a sub-
stantial contribution to a full and fair determination of
the issues.

SEC. 546. ENFORCEMENT.

(a) ORDERS.—

(1) If the Secretary, or for National Forest
System lands the Secretary of Agriculture, or an au-
thorized representative of such Secretary, determines
that any person is in violation of any environmental
protection requirement under subtitle C or any regu-
lation issued by the Secretaries to implement this
title, such Secretary or authorized representative
shall issue to such person a notice of violation de-
scribing the violation and the corrective measures to
be taken. The Secretary concerned, or the author-
ized representative of such Secretary, shall provide
such person with a period of time not to exceed 30
days to abate the violation. Such period of time may
be extended by the Secretary concerned upon a
showing of good cause by such person. If, upon the
expiration of time provided for such abatement, the
Secretary concerned, or the authorized representa-
tive of such Secretary, finds that the violation has
not been abated he or she shall immediately order a
cessation of all mineral activities or the portion
thereof relevant to the violation.

(2) If the Secretary concerned, or the author-
ized representative of the Secretary concerned, de-
ternines that any condition or practice exists, or
that any person is in violation of any requirement
under a permit approved under this title, and such
condition, practice or violation is causing, or can
reasonably be expected to cause—

(A) an imminent danger to the health or

safety of the public; or

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(B) significant, imminent environmental harm to land, air, water, or fish or wildlife resources,
such Secretary or authorized representative shall immedi-
ately order a cessation of mineral activities or the portion thereof relevant to the condition, prac-
tice, or violation.

(3)(A) A cessation order pursuant to para-
graphs (1) or (2) shall remain in effect until such Secretary, or authorized representative, determines that the condition, practice, or violation has been abated, or until modified, vacated or terminated by the Secretary or authorized representative. In any such order, the Secretary or authorized representa-
tive shall determine the steps necessary to abate the violation in the most expeditious manner possible and shall include the necessary measures in the order. The Secretary concerned shall require appro-
priate financial assurances to ensure that the abate-
ment obligations are met.

(B) Any notice or order issued pursuant to paragraphs (1) or (2) may be modified, vacated, or terminated by the Secretary concerned or an author-
ized representative of such Secretary. Any person to
whom any such notice or order is issued shall be entitled to a hearing on the record.

(4) If, after 30 days of the date of the order referred to in paragraph (3)(A) the required abatement has not occurred, the Secretary concerned shall take such alternative enforcement action against the claim holder or operator (or any person who controls the claim holder or operator) as will most likely bring about abatement in the most expeditious manner possible. Such alternative enforcement action may include, but is not necessarily limited to, seeking appropriate injunctive relief to bring about abatement. Nothing in this paragraph shall preclude the Secretary, or for National Forest System lands the Secretary of Agriculture, from taking alternative enforcement action prior to the expiration of 30 days.

(5) If a claim holder or operator (or any person who controls the claim holder or operator) fails to abate a violation or defaults on the terms of the permit, the Secretary, or for National Forest System lands the Secretary of Agriculture, shall forfeit the financial assurance for the plan as necessary to ensure abatement and reclamation under this title. The Secretary concerned may prescribe conditions under...
which a surety may perform reclamation in accord-
ance with the approved plan in lieu of forfeiture.

(6) The Secretary, or for National Forest Sys-
tem lands the Secretary of Agriculture, shall not
cause forfeiture of the financial assurance while ad-
ministrative or judicial review is pending.

(7) In the event of forfeiture, the claim holder,
operator, or any affiliate thereof, as appropriate as
determined by the Secretary by rule, shall be jointly
and severally liable for any remaining reclamation
obligations under this title.

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

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

(2) interferes with, hinders, or delays the Sec-
retary concerned in carrying out an inspection under
section 553.
Such court shall have jurisdiction to provide such relief as may be appropriate. Any relief granted by the court to enforce an order under paragraph (1) shall continue in effect until the completion or final termination of all proceedings for review of such order unless the district court granting such relief sets it aside.

(e) DELEGATION.—Notwithstanding any other provision of law, the Secretary may utilize personnel of the Office of Surface Mining Reclamation and Enforcement to ensure compliance with the requirements of this title.

(d) PENALTIES.—

(1) Any person who fails to comply with any requirement of a permit approved under this title or any regulation issued by the Secretaries to implement this title shall be liable for a penalty of not more than $25,000 per violation. Each day of violation may be deemed a separate violation for purposes of penalty assessments.

(2) A person who fails to correct a violation for which a cessation order has been issued under subsection (a) within the period permitted for its correction shall be assessed a civil penalty of not less than $1,000 per violation for each day during which such failure continues.
(3) Whenever a corporation is in violation of a requirement of a permit approved under this title or any regulation issued by the Secretaries to implement this title or fails or refuses to comply with an order issued under subsection (a), any director, officer, or agent of such corporation who knowingly authorized, ordered, or carried out such violation, failure, or refusal shall be subject to the same penalties as may be imposed upon the person referred to in paragraph (1).

(e) SUSPENSIONS OR REVOCATIONS.—The Secretary, or for National Forest System lands the Secretary of Agriculture, shall suspend or revoke a permit issued under subtitle C, in whole or in part, if the operator—

(1) knowingly made or knowingly makes any false, inaccurate, or misleading material statement in any mining claim, notice of location, application, record, report, plan, or other document filed or required to be maintained under this title;

(2) fails to abate a violation covered by a cessation order issued under subsection (a);

(3) fails to comply with an order of the Secretary concerned;

(4) refuses to permit an audit pursuant to this title;
(5) fails to maintain an adequate financial assurance under section 536;

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

(7) with regard to plans conditionally approved under section 535(c)(2), fails to abate a violation to the satisfaction of the Secretary concerned, or if the validity of the violation is upheld on the appeal which formed the basis for the conditional approval.

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

(1) makes any false material statement, representation, or certification in, or omits or conceals material information from, or unlawfully alters, any mining claim, notice of location, application, record, report, plan, or other documents filed or required to be maintained under this title; or

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

shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this subsection, punishment shall be by a fine of
not more than $20,000 per day of violation, or by imprison-
ment of not more than 4 years, or both. Each day of
continuing violation may be deemed a separate violation
for purposes of penalty assessments.

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

(1) engages in mineral activities without a per-
mit required under subtitle C; or

(2) violates any other requirement of a permit
issued under this title, or any condition or limitation
thereof,

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

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

(h) KNOWING AND WILLFUL VIOLATIONS.—Any per-
son who knowingly and willfully commits an act for which
a civil penalty is provided in paragraph (1) of subsection
(g) shall, upon conviction, be punished by a fine of not
more than $50,000, or by imprisonment for not more than
2 years, or both.
(i) **DEFINITION.**—For purposes of this section, the term “person” includes any officer, agent, or employee of a person.

**SEC. 547. REGULATIONS.**

The Secretary and the Secretary of Agriculture shall issue such regulations as are necessary to implement this title. The regulations implementing subtitle B, subtitle C, subtitle D, and subtitle E that affect the Forest Service shall be joint regulations issued by both Secretaries, and shall be issued no later than 180 days after the date of enactment of this Act.

**SEC. 548. EFFECTIVE DATE.**

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

**SEC. 549. OIL SHALE CLAIMS.**

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

(1) by striking “as prescribed by the Secretary”; and

(2) by inserting before the period the following: “in the same manner as required by subtitle B and subtitle C of the Hardrock Mining Reform and Deficit Reduction Act of 2011”.
SEC. 550. SAVINGS CLAUSE.

(a) Special Application of Mining Laws.—Nothing in this title shall be construed as repealing or modifying any Federal law, regulation, order, or land use plan, in effect prior to the date of enactment of this Act that prohibits or restricts the application of the general mining laws, including laws that provide for special management criteria for operations under the general mining laws as in effect prior to the date of enactment of this Act, to the extent such laws provide for protection of natural and cultural resources and the environment greater than required under this title, and any such prior law shall remain in force and effect with respect to claims located (or proposed to be located) or converted under this title. Nothing in this title shall be construed as applying to or limiting mineral investigations, studies, or other mineral activities conducted by any Federal or State agency acting in its governmental capacity pursuant to other authority.

Nothing in this title shall affect or limit any assessment, investigation, evaluation, or listing pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), or the Solid Waste Disposal Act (42 U.S.C. 3251 et seq.).

(b) Effect on Other Federal Laws.—The provisions of this title shall supersede the general mining laws, except for those parts of the general mining laws respect-
ing location of mining claims that are not expressly modified by this title. Except for the general mining laws, nothing in this title shall be construed as superseding, modifying, amending, or repealing any provision of Federal law not expressly superseded, modified, amended, or repealed by this title. Nothing in this title shall be construed as altering, affecting, amending, modifying, or changing, directly or indirectly, any law which refers to and provides authorities or responsibilities for, or is administered by, the Environmental Protection Agency or the Administrator of the Environmental Protection Agency, including the Federal Water Pollution Control Act, title XIV of the Public Health Service Act (the Safe Drinking Water Act), the Clean Air Act, the Pollution Prevention Act of 1990, the Toxic Substances Control Act, the Federal Insecticide, Fungicide, and Rodenticide Act, the Federal Food, Drug, and Cosmetic Act, the Motor Vehicle Information and Cost Savings Act, the Federal Hazardous Substances Act, the Endangered Species Act of 1973, the Atomic Energy Act, the Noise Control Act of 1972, the Solid Waste Disposal Act, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the Superfund Amendments and Reauthorization Act of 1986, the Ocean Dumping Act, the Environmental Research, Development, and Demonstration Authorization Act, the Pollution Pros-

(c) Protection of Conservation Areas.—In order to protect the resources and values of National Conservation System units, the Secretary, as appropriate, shall utilize authority under this title and other applicable law to the fullest extent necessary to prevent mineral activities that could have an adverse impact on the resources or values for which such units were established.

(d) Sovereign Immunity of Indian Tribes.—Nothing in this section shall be construed so as to waive the sovereign immunity of any Indian tribe.

SEC. 551. AVAILABILITY OF PUBLIC RECORDS.

Copies of records, reports, inspection materials, or information obtained by the Secretary or the Secretary of Agriculture under this title shall be made available to the public, consistent with section 552 of title 5, United States
Code, in central and sufficient locations in the county, multicity, and State area of mineral activity or reclamation so that such items are conveniently available to residents in the area proposed or approved for mineral activities and on the Internet.

SEC. 552. MISCELLANEOUS POWERS.

(a) In General.—In carrying out his or her duties under this title, the Secretary, or for National Forest System lands the Secretary of Agriculture, may conduct any investigation, inspection, or other inquiry necessary and appropriate and may conduct, after notice, any hearing or audit, necessary and appropriate to carrying out his or her duties.

(b) Ancillary Powers.—In connection with any hearing, inquiry, investigation, or audit under this title, the Secretary, or for National Forest System lands the Secretary of Agriculture, is authorized to take any of the following actions:

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

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

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

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

(e) ENFORCEMENT.—In cases of refusal to obey a
subpoena served upon any person under this section, the
district court of the United States for any district in which
such person is found, resides, or transacts business, upon
application by the Attorney General at the request of the
Secretary concerned and after notice to such person, shall
have jurisdiction to issue an order requiring such person
to appear and produce documents before the Secretary
concerned. Any failure to obey such order of the court may
be punished by such court as contempt thereof and subject
to a penalty of up to $10,000 a day.
(d) ENTRY AND ACCESS.—Without advance notice and upon presentation of appropriate credentials, the Secretary, or for National Forest System lands the Secretary of Agriculture, or any authorized representative thereof—

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

(2) may at reasonable times, and without delay, have access to records, inspect any monitoring equipment, or review any method of operation required under this title;

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

(4) may, on any mining claim located under the general mining laws and maintained in compliance with this title, and without advance notice, stop, and inspect any motorized form of transportation that such Secretary has probable cause to believe is carrying locatable minerals, concentrates, or products derived therefrom from a claim site for the purpose of determining whether the operator of such vehicle has documentation related to such locatable minerals, concentrates, or products derived therefrom as
required by law, if such documentation is required
under this title; and

(5) may, if accompanied by any appropriate law
enforcement officer, or an appropriate law enforce-
ment officer alone, stop and inspect any motorized
form of transportation which is not on a claim site
if he or she has probable cause to believe such vehi-

cle is carrying locatable minerals, concentrates, or
products derived therefrom from a claim site on
Federal lands or allocated to such claim site. Such
inspection shall be for the purpose of determining
whether the operator of such vehicle has the docu-
mentation required by law, if such documentation is
required under this title.

SEC. 553. MULTIPLE MINERAL DEVELOPMENT AND SUR-
FACE RESOURCES.

The provisions of sections 4 and 6 of the Act of Au-
gust 13, 1954 (30 U.S.C. 524 and 526), commonly known
as the Multiple Minerals Development Act, and the provi-
612), shall apply to all mining claims located under the
general mining laws and maintained in compliance with
such laws and this title.
SEC. 554. MINERAL MATERIALS.

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

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

(2) by inserting “mineral materials, including” after “varieties of” in the first sentence;

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

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

“(b)(1) Subject to valid existing rights, after the date of enactment of the Hardrock Mining Reform and Deficit Reduction Act of 2011, notwithstanding the reference to common varieties in subsection (a) and to the exception to such term relating to a deposit of materials with some property giving it distinct and special value, all deposits of mineral materials referred to in such subsection, including the block pumice referred to in such subsection, shall be subject to disposal only under the terms and conditions of the Materials Act of 1947.

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

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

“(B) was properly located and maintained under the general mining laws prior to the date of enactment of the Hardrock Mining Reform and Deficit Reduction Act of 2011;

“(C) was supported by a discovery of a valuable mineral deposit within the meaning of the general mining laws as in effect immediately prior to the date of enactment of the Hardrock Mining Reform and Deficit Reduction Act of 2011; and

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

(b) Mineral Materials Disposal Clarification.—Section 4 of the Act of July 23, 1955 (30 U.S.C. 612), is amended—

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

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

(c) Conforming Amendment.—Section 1 of the Act of July 31, 1947, entitled “An Act to provide for the disposal of materials on the public lands of the United States” (30 U.S.C. 601 et seq.) is amended by striking “common varieties of” in the first sentence.
(d) Short Titles.—

(1) Surface resources.—The Act of July 23, 1955, is amended by inserting after section 7 the following new section:

“Sec. 8. This Act may be cited as the ‘Surface Resources Act of 1955’.”.

(2) Mineral materials.—The Act of July 31, 1947, entitled “An Act to provide for the disposal of materials on the public lands of the United States” (30 U.S.C. 601 et seq.) is amended by inserting after section 4 the following new section:

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

(e) Repeals.—

(1) Subject to valid existing rights, the Act of August 4, 1892 (27 Stat. 348, 30 U.S.C. 161), commonly known as the Building Stone Act, is hereby repealed.

(2) Subject to valid existing rights, the Act of January 31, 1901 (30 U.S.C. 162), commonly known as the Saline Placer Act, is hereby repealed.
TITLE VI—ABANDONED MINE RECLAMATION

SEC. 601. SHORT TITLE.
This title may be cited as the “Abandoned Mine Reclamation and Deficit Reduction Act of 2011”.

SEC. 602. DEFINITIONS AND REFERENCES.
(a) In General.—As used in this title:

(1) The term “beneficiation” means the crushing and grinding of hardrock mineral ore and such processes as are employed to free the mineral from other constituents, including but not necessarily limited to, physical and chemical separation techniques.

(2) The term “claim holder” means a person holding a mining claim, millsite claim, or tunnel site claim located under the general mining laws and maintained in compliance with such laws and this title. Such term may include an agent of a claim holder.

(3) The term “control” means having the ability, directly or indirectly, to determine (without regard to whether exercised through one or more corporate structures) the manner in which an entity conducts mineral activities, through any means, including without limitation, ownership interest, authority to commit the entity’s real or financial as-
sets, position as a director, officer, or partner of the entity, or contractual arrangement.

(4) The term “crude ore” means ore in its unprocessed form, containing profitable amounts of the target mineral.

(5) The term “displaced material” means any crude ore and waste dislodged from its location at the time hardrock mining begins at surface, underground, or in-situ mines.

(6) The term “exploration” means surface disturbance to evaluate the type, extent, quantity, or quality of minerals present including sampling, drilling, and analyzing hardrock mineral values.

(7) The term “Federal land” means any land, including mineral interests, owned by the United States without regard to how the United States acquired ownership of the land and without regard to the agency having responsibility for management thereof, except Indian lands.

(8) The term “hardrock” means any mineral mined under the 1872 Mining Law (30 U.S.C. 22–54), and with respect to State, Indian, and private lands, any minerals on those lands that would be considered hardrock minerals if such minerals had been mined under the 1872 Mining Law: Provided,
however, That if subsequent to the date of enactment of this Act, any minerals mined under the 1872 Mining Law are transferred from the requirements of the 1872 Mining Law to different statutory requirements, those minerals so transferred will continue to be subject to the provisions of this title.

(9) The term “hardrock mining operation” means any activities or operations conducted to mine minerals under the 1872 Mining Law (30 U.S.C. 22–54), and, with respect to State, Indian, and private lands, any activities or operations conducted on such lands to mine minerals that would be considered hardrock minerals if such minerals had been mined under the 1872 Mining Law: Provided, however, That if subsequent to the date of enactment of this Act, any minerals mined under the 1872 Mining Law are transferred from the requirements of the 1872 Mining Law to different statutory requirements, those activities or operations conducted on lands to mine those minerals so transferred will continue to be subject to the provisions of this title.

(10) The term “Indian lands” means lands held in trust for the benefit of an Indian tribe or individual or held by an Indian tribe or individual sub-
ject to a restriction by the United States against alienation.

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

(12) The term “mineral activities” means any activity on a mining claim, millsite claim, or tunnel site claim for, related to, or incidental to, mineral exploration, mining, beneficiation, processing, or reclamation activities for any hardrock mineral.

(13) The term “operator” means any person that conducts mineral activities and any agent of such person.

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

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

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

(17) The term “ton” means 2,000 pounds av-
oirdupois (.90718 metric ton).

(18) The term “waste” means rock that must
be fractured and removed in order to gain access to
crude ore.

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

(2) Any reference in this title to the Act of July 23,
1955, is a reference to the Act entitled “An Act to amend
the Act of July 31, 1947 (61 Stat. 681) and the mining
laws to provide for multiple use of the surface of the same
tracts of the public lands, and for other purposes” (30
U.S.C. 601 et seq.).
Subtitle A—Hardrock Mining

Reclamation

SEC. 611. DISPLACED MATERIAL RECLAMATION FEE.

(a) IMPOSITION OF FEE.—Except as provided in paragraph (2), each operator of a hardrock mining operation shall pay to the Secretary, for deposit in the Abandoned Mine Cleanup Fund established by section 621(a), a displaced material reclamation fee of 7 cents per ton of displaced material.

(b) PAYMENT DEADLINE.—The reclamation fee shall be paid not later than 60 days after the end of each calendar year beginning with the first calendar year occurring after the date of enactment of this Act.

(c) SUBMISSION OF STATEMENT.—Together with such reclamation fee, all operators of hardrock mining operations shall submit a statement of the amount of displaced materials produced during mineral activities during the previous calendar year, the accuracy of which shall be sworn to by the operator and notarized.

(d) PENALTY.—Any person, corporate officer, agent or director, on behalf of a hardrock mining operation, who knowingly makes any false statement, representation or certification, or knowingly fails to make any statement, representation or certification required in this section shall, upon conviction, be punished by a fine of not more...
than $10,000, or by imprisonment for not more than one year, or both.

(c) Civil Action to Recover Fee.—Any portion of the reclamation fee not properly or promptly paid pursuant to this section shall be recoverable, with statutory interest, from the hardrock mining operations operator, in any court of competent jurisdiction in any action at law to compel payment of debts.

(f) Deposit of Revenues.—Amounts received by the Secretary under subsection (a)(1) shall be deposited in the Abandoned Mine Cleanup Fund established by section 621(a).

(g) Effect.—Nothing in this section requires a reduction in, or otherwise affects, any similar fee required under any law (including regulations) of any State.

Subtitle B—Abandoned Mine Cleanup Fund

SEC. 621. ESTABLISHMENT OF FUND.

(a) Establishment.—There is established on the books of the Treasury of the United States a separate account to be known as the Abandoned Mine Cleanup Fund (hereinafter in this subtitle referred to as the “Fund”) consisting of the following:
(1) All donations by persons, corporations, associations, and foundations for the purposes of this subtitle.

(2) All amounts deposited in the Fund under section 611.

(3) All income on investments under section 612(b).

(b) INVESTMENT.—The Secretary shall notify the Secretary of the Treasury as to what portion of the Fund is not, in the Secretary’s judgment, required to meet current withdrawals. The Secretary of the Treasury shall invest such portion of the Fund in public debt securities with maturities suitable for the needs of such Fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketplace obligations of the United States of comparable maturities.

(c) ADMINISTRATION.—

(1) The Fund shall be administered by the Secretary, acting through the Director of the Office of Surface Mining Reclamation and Enforcement.

(2) Amounts credited to the Fund shall be available, without further appropriation, for obligation and expenditure; and shall remain available until expended.
(3) The Secretary may retain such funds as necessary for the administrative expenses of the United States, Indian tribes, and the States to accomplish the purposes of this subtitle.

(d) **Expenditures.**—Subject to section 622, amounts in the Fund may, without fiscal year limitation and without further appropriation—

(1) be expended by the Secretary for the purposes described in section 622;

(2) be transferred by the Secretary to the Director of the Bureau of Land Management, the Chief of the Forest Service, the Director of the National Park Service, the Director of the United States Fish and Wildlife Service, or the head of any other Federal agency, that develops, implements, and has the ability to carry out all or a significant portion of a reclamation program under this subtitle; or

(3) be transferred by the Secretary to an Indian tribe or a State with an approved reclamation program, as provided in subsection (e).

(c) **State and Tribal Reclamation Programs.**—

(1) **In general.**—Each State having within the borders of the State, or tribe having within the borders of the reservation of the tribe, mined land
that is eligible for reclamation under this title may submit to the Secretary a reclamation program for the land.

(2) Approval.—If the Secretary determines that a State or tribe has developed and submitted a program for reclamation of abandoned mines consistent with the priorities established under section 622(c) and has the ability and necessary State or tribal legislation to implement this subtitle, the Secretary shall—

(A) approve the program; and

(B) grant to the State or tribe the exclusive responsibility and authority to implement the approved program.

(3) Withdrawal of Approval.—The Secretary shall withdraw the approval and authorization if the Secretary determines that the State or tribal program is not in compliance with procedures, guidelines, and requirements established by the Secretary.

(4) Approval of Existing Programs.—Subject to paragraph (3), any State program in an abandoned hardrock mine State or tribal program for reclamation of abandoned mines approved under title IV of the Surface Mining Control and Reclama-
tion Act of 1977 (30 U.S.C. 1231 et seq.) before the date of enactment of this Act and in good standing with the Secretary as of that date shall be consid-
ered approved under this subtitle.

SEC. 622. USE AND OBJECTIVES OF THE FUND.

(a) Use.—

(1) IN GENERAL.—The Secretary may, subject to the availability of appropriations, use amounts in the Fund for the reclamation and restoration of land and water resources adversely affected by past hardrock minerals and mining and related activities in abandoned hardrock mine States and on Indian land located within the exterior boundaries of aban-
donated hardrock mine States, including the conduct of activities—

(A) to protect public health and safety;

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

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

(D) to reclaim and restore abandoned mill-
ing and processing areas;
(E) to backfill, seal, or otherwise control abandoned underground mine entries;

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

(i) to prevent erosion and sedimentation; and

(ii) for any other reclamation purpose;

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

(H) to enhance fish and wildlife habitat.

(2) Determination.—Before expending amounts in the Fund for the purposes described in paragraph (1), the Secretary shall make a determination that no claim holder, operator, or other person who is legally responsible under Federal or State law for the reclamation of the mine site can be located before reclamation under this title of the abandoned hardrock mine site begins.

(b) Allocation.—Of the amounts deposited in the Fund each fiscal year—

(1) 30 percent shall be allocated by the Secretary for expenditure by the Secretary or, if a State or Indian tribe has an approved program pursuant to section 621(e), by the State or Indian tribe, in the States in which, or on Indian land on which,
hardrock minerals are produced, based on a formula
reflecting existing production in the State or on the
land of the Indian tribe;

(2) 30 percent shall be allocated by the Sec-

cretary for expenditure by the Secretary or, if a State
or Indian tribe has an approved program pursuant
to section 621(e), by the State or Indian tribe, in
the States and on Indian land using a formula based
on the quantity of hardrock minerals historically
produced in the State or from the Indian land before
the date of enactment of this Act;

(3) 30 percent shall be allocated by the Sec-

cretary for expenditures on high priority abandoned
mine sites on Federal and non-Federal land based
on the priorities established in subsection (c); and

(4) 10 percent shall be available to the Sec-

cretary for grants under subsection (d).

(c) PRIORITIES.—Expenditures of moneys from the
Fund shall reflect the following priorities in the order sta-
ed—

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

(3) The restoration of land, water, and fish and wildlife resources previously degraded by the adverse effects of past mineral activities, which may include restoration activities in river watershed areas.

(4) For the years 2012 through 2017, the Secretary shall give first priority to and fully fund projects to cleanup and reclaim abandoned hardrock mines—

(A) in States and Tribal lands that have previously been certified for completing their reclamation obligations under the Surface Mining Control and Reclamation Act of 1977; and

(B) that are currently utilizing funds available under section 411 of the Surface Mining Control and Reclamation Act of 1977 to fund the cleanup of abandoned hardrock mines. The Secretary shall fund, to the extent that funds are available in the Abandoned Mine Cleanup Fund, such cleanups to the same level as established by the formula established in the Surface Mining Control and Reclamation Act of 1977 notwithstanding the changes made under subtitle C of this title.
(d) Grants to Public Entities and Nonprofit Organizations.—The Secretary shall use amounts made available under subsection (b)(4) to make grants to public entities (including State fish and game agencies and local governments) and nonprofit organizations (based on criteria established by the Secretary by regulation) to carry out activities that support collaborative restoration projects to improve fish and wildlife habitat affected by past hardrock minerals and mining activities, including activities that—

(1) improve water quality and quantity;

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

(3) restore instream habitat conditions necessary to support aquatic species;

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

(5) control and remove noxious weeds and invasive species associated with historic mining disturbances that affect fish and wildlife;

(6) restore fish and wildlife habitat in cases in which previous hardrock minerals and mining activity limits fish and wildlife productivity;
(7) protect and restore fish and wildlife habitat in areas affected by historic minerals and mining activity; and

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

(e) HABITAT.—Reclamation and restoration activities under this subtitle shall include appropriate mitigation measures to provide for the continuation of any established habitat for wildlife in existence prior to the commencement of such activities.

(f) RESPONSE OR REMOVAL ACTIONS.—Reclamation and restoration activities under this subtitle which constitute a removal or remedial action under section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601), shall be conducted with the concurrence of the Administrator of the Environmental Protection Agency. The Secretary and the Administrator shall enter into a Memorandum of Understanding to establish procedures for consultation, concurrence, training, exchange of technical expertise and joint activities under the appropriate circumstances, that provide assurances that reclamation or restoration activities under this subtitle shall not be conducted in a manner that increases the costs or likelihood of removal or remedial actions under the Comprehensive Environmental Re-

SEC. 623. ELIGIBLE LANDS AND WATERS.

(a) ELIGIBILITY.—Reclamation expenditures under this subtitle may be made with respect to Federal, State, local, tribal, and private land or water resources that traverse or are contiguous to Federal, State, local, tribal, or private land where such lands or water resources have been affected by past mineral activities, including any of the following:

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

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

(b) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—Sites and areas designated for remedial action pursuant to the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 and following) or which have been
listed for remedial action pursuant to the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9601 and following) shall not be eligible for expenditures from the Fund under this section.

(c) INVENTORY.—

(1) IN GENERAL.—The Secretary shall prepare and maintain a publicly available inventory of abandoned hardrock minerals mines on public lands and any abandoned hardrock mineral mines on Indian lands that may be eligible for expenditures under this subtitle, and shall deliver a yearly report to the Congress on the progress in cleanup of such sites.

(2) PERIODIC UPDATES.—Not later than 5 years after the date of enactment of this Act, and every 5 years thereafter, the Secretary shall update the inventory described in paragraph (1).

Subtitle C—Priority Abandoned Coal Mine Reclamation

SEC. 631. AMENDMENTS TO THE SURFACE MINING CONTROL AND RECLAMATION ACT.

(a) Section 401 of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) (30 U.S.C. 1231) is amended—

(1) in the section title by inserting “COAL” before “ABANDONED”;
(2) in subsection (a) by—

(A) inserting “AND TRIBAL” after “STATE” in the heading;
(B) inserting “Coal” before “Abandoned” in the first sentence; and
(C) striking the last sentence;

(3) in subsection (c) by—

(A) striking in paragraph (1) “: Provided, That” and all that follows;
(B) striking paragraphs (2) and (8);
(C) inserting “and tribes” after “States” in paragraph (6);
(D) inserting “or tribe” after “State” in paragraph (7); and
(E) renumbering the remaining paragraphs accordingly;

(4) in subsection (f)(1) by—

(A) inserting “and any other available funds” after “subsection (b)”;
(B) striking “2007” and inserting “2011”;

(5) in subsection (f)(2) by—

(A) striking “2008” and inserting “2012” both places it appears;
(B) amending subparagraph (A)(i) to read as follows:
“(i) eighty percent of the amounts de-
posited into the fund in the previous fiscal
year less any allocations as described in
paragraphs (2), (3), and (4) of section
402(g); plus”; and
(C) amending clause (ii) of subparagraph
(A) to read as follows:
“(ii) the funds referred to in section
402(i)(2).”;
(6) striking subsections (f)(3) and (5), and re-
numbering remaining paragraph accordingly; and
(7) by inserting after section 401(b) the fol-
lowing and redesignating remaining subsection:
“(c) State and Tribal Funds.—Pursuant to an
approved State or tribal abandoned mine reclamation pro-
gram required under section 405, States or Tribes receiv-
ing grants under this Act shall establish and administer
abandoned mine reclamation funds.”.
(b) Section 402 of SMCRA (30 U.S.C. 1232) is
amended—
(1) by striking subsection (g) and inserting:
“(g) Allocation of Funds.—Except as provided in
subsection (h), amounts deposited into the fund during the
previous fiscal year shall be allocated by the Secretary to
accomplish the purposes of this Act as follows:
“(1) Reclamation grants.—

“(A) The amount made available for distribution by the Secretary under section 401(g) shall be distributed annually through grants to the States or Indian tribes with lands and waters eligible for reclamation under this Act.

“(B) Any State or tribe receiving funds under this paragraph shall have in place an approved abandoned mine reclamation program pursuant to the provisions of section 405.

“(C) Funds allocated to a State or Indian tribe under this paragraph shall be returned and deposited into the fund for reallocation under this paragraph during the next fiscal year if not expended within five years after the date of the grant award.

“(D) Funds allocated by the Secretary under this paragraph shall only be used for reclamation projects, including design, construction, and administration consistent with this Act.

“(E) States or Indian tribes receiving funds under this paragraph may, in addition to the funds allocated pursuant to this paragraph, use funding from any other source not other-
wise precluded by law in order to ensure the reclamation or abatement of the hazards of a particular abandoned mine site is achieved.

“(2) GRANTS TO INDIAN TRIBES.—50 percent of the reclamation fees collected annually on Indian lands shall be allocated annually by the Secretary to the Indian tribe having jurisdiction over such lands. An Indian tribe that does not have lands and waters eligible for reclamation under this Act shall use any amounts provided under this paragraph for the purposes established by the tribal council of the Indian tribe, with priority given for addressing the impacts of mineral development.

“(3) ADMINISTRATIVE GRANTS.—

“(A) Before funds are allocated pursuant to paragraph (1) of this subsection, the Secretary may, at his discretion, provide administrative grants of not more than $10,000,000 annually to each State or Indian tribe with eligible land and water and that is operating under an approved abandoned mine reclamation program.

“(B) Administrative grants provided under this paragraph are intended to ensure the main-
tenance of approved reclamation programs, in-
cluding through—

“(i) the maintenance of the inventory
established pursuant to section 403(b); and

“(ii) project planning and program
administration, including the preparation
of project applications pursuant to section
412.

“(C) In making grants available under this
paragraph, the Secretary shall consider the ex-
tent of eligible lands and waters pursuant to
section 404; the total amount of historical re-
lamation expenditures; and the outcome of any
previous application of the ranking criteria.

“(4) EMERGENCY ABANDONED MINE LAND.—

“(A) In fiscal year 2012, before funds are
allocated pursuant to paragraph (1) of this sub-
section, the Secretary shall allocate $20 million
from the fund for grants to States and Indian
tribes for the purpose of carrying out the provi-
sions of section 410 relating to emergencies.

“(B) In each fiscal year thereafter, before
funds are allocated pursuant to paragraph (1)
of this subsection, the Secretary shall allocate
the amount needed to ensure that $20 million
is available from the fund for grants to States
and Indian tribes for carrying out the provi-
sions of section 410 relating to emergencies.

“(5) FEDERAL ADMINISTRATION.—Amounts
available in the fund that are not allocated pursuant
to subsections (1), (2), or (3) are available for ad-
ministrative costs of the Office of Surface Mining,
subject to further appropriation.

“(6) APPLICATION TO TENNESSEE.—Notwith-
standing any other provision of law, this subsection
applies to the State of Tennessee.”; and

(2) in subsection (i)(2) by striking “the Sec-
retary of the Treasury” through the end of the sen-
tence and inserting “the Secretary of the Treasury
shall transfer to the Secretary of the Interior $85.4
million annually for the three fiscal years beginning
in fiscal year 2012, which shall be distributed to
States and Indian tribes in the same manner as
moneys are distributed from the fund under para-
graph (1) of subsection (g).”.

(c) Section 403 of SMCRA (30 U.S.C. 1233) is
amended—

(1) by striking the portion of subsection (a) be-
fore the enumerated paragraphs and inserting:
“(a) Expenditure of moneys from the fund on lands and water eligible pursuant to section 404 for the purposes of this title shall reflect the following priorities in the order stated;’’; and

(2) by striking subsection (a)(1)(B)(ii) and inserting:

“(ii) are necessary to achieve the objectives of subparagraph (A);’’;

(3) by striking subsection (a)(2)(B)(ii) and inserting:

“(ii) are necessary to achieve the objectives of subparagraph (A);’’;

(4) by striking subsection (b); and

(5) by redesignating subsection (c) as subsection (b) and amending it to read as follows:

“(b) INVENTORY.—The Secretary shall maintain an inventory of eligible lands and waters pursuant to section 404 which meet the priorities stated in paragraphs (1) and (2) of subsection (a). Under standardized procedures established by the Secretary, States and Indian tribes with approved abandoned mine reclamation programs pursuant to section 405 may offer amendments, subject to the approval of the Secretary, to update the inventory as it applies to eligible lands and waters under the jurisdiction of such States or tribes. The Secretary shall provide such
States and tribes with the financial and technical assistance necessary for the purpose of making inventory amendments. The Secretary shall compile and maintain an inventory for States and Indian lands in the case when a State or Indian tribe does not have an approved abandoned mine reclamation program pursuant to section 405. On a regular basis, but not less than annually, the projects completed under this title shall be so noted on the inventory under standardized procedures established by the Secretary.”.

(d) Section 404 of SMCRA (30 U.S.C. 1234) is amended—

(1) in the first sentence by—

(A) striking “, except as provided for under section 411,”; and

(B) striking “August 3, 1977” and inserting “enactment of the Surface Mining Control, Reclamation and Enforcement Act of 1977”;

and

(2) in the second sentence by striking “, section 403(b)(1), and section 409”.

(e) Section 405 of SMCRA (30 U.S.C. 1235) is amended—

(1) by striking subsection (b) and inserting:
“(b) Submission of State or Tribal Reclamation Plan.—If a State has within its borders, or an Indian tribe on its lands, any coal mined lands eligible for reclamation under this title, it may submit to the Secretary a State Reclamation Plan.”;

(2) by striking subsections (f) and (g);

(3) in subsection (h), by striking “subsection 402(g)” and inserting “paragraph (2) of 402(g)”;

and

(4) by redesignating the subsections accordingly.

(f) Sections 406 and 409 of SMCRA (30 U.S.C. 1236, 1239) are repealed.

(g) Section 410 of SMCRA (30 U.S.C. 1240) is amended by striking “is” in the portion of subsection (a) before the enumerated paragraphs and inserting “and States and Indian tribes eligible for grants under subsection 402(g) are”.

(h) Section 411 of SMCRA (30 U.S.C. 1240a) is repealed.

(i) Section 412 of SMCRA (30 U.S.C. 1241) is amended to read as follows:

“SEC. 412. APPLICATION FOR RECLAMATION FUNDS.

“(a) Timing of Application.—At regular intervals, but no less than annually, each State or Indian tribe with
an approved reclamation program under Section 405 may submit to the Secretary an application for the administrative support of the approved reclamation program, the implementation of specific reclamation projects, or both.

“(b) CONTENTS OF APPLICATION FOR AN ADMINISTRATIVE GRANT.—The application shall include—

“(1) a description of the program administrative activities to be accomplished during the grant period;

“(2) estimated costs of proposed activities; and

“(3) information and assessments demonstrating that the amounts requested are necessary to support specific reclamation objectives that will be submitted to the Secretary or projects funded by grants awarded prior to the date of enactment of this Act.

“(c) CONTENTS OF APPLICATION FOR A RECLAMATION GRANT.—The application shall include—

“(1) a general description of each proposed project, including the type of reclamation to be performed, the general location, and the name of the landowner;

“(2) an explanation as to why the State or Tribe selected each proposed project from among all of the eligible lands and water in its jurisdiction, in-
including the extent of public involvement in the selection process, if any;

“(3) a statement of the estimated benefits in such terms as: public health and safety problems to be eliminated, reduced risk to the community, environmental problems to be corrected, number of acres to be restored, miles of stream to be improved, and air and water pollution problems abated;

“(4) an estimated cost of each proposed project, including the construction costs, operation and maintenance costs of permanent facilities, planning and engineering costs, construction inspection costs, cost savings to the project as a result of partnerships, and any other necessary administrative expenses;

“(5) an identification of lands or interests in lands to be acquired and the estimated cost; and

“(6) any other information requested by the Secretary, except the Secretary cannot require the application to include the submission of complete project plans and specifications.

“(d) TRANSITION.—

“(1) For fiscal year 2012, the Secretary shall award reclamation project grants competitively based on the proposals submitted in subsection (c).
“(2) In awarding the reclamation project grants pursuant to paragraph (1), the Secretary shall consider any financial, legal, and other commitments made by the State or Indian tribe prior to the enactment of this Act.”

Subtitle D—Administrative Provisions

SEC. 641. EFFECTIVE DATE.

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

SEC. 642. FEES ADJUSTMENTS.

(a) The Secretary shall adjust the fees required by section 611 to reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor every 5 years after the date of enactment of this Act, or more frequently if the Secretary determines an adjustment to be reasonable.

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

(c) A fee adjustment under this subsection shall begin to apply the calendar year following the calendar year in which it is made.
SEC. 643. INSPECTION AND MONITORING.

(a) INSPECTIONS.—The Secretary shall make inspections of mineral activities so as to ensure compliance with the requirements of this title.

(b) ANCILLARY POWERS.—In connection with any hearing, inquiry, investigation, or audit under this title, the Secretary is authorized to take any of the following actions:

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

(2) Administer oaths.

(3) Require by subpoena the attendance and testimony of witnesses and the production of all books, papers, records, documents, matter, and materials, as such Secretary may request.

(4) Order testimony to be taken by deposition before any person who is designated by such Secretary and who has the power to administer oaths, and to compel testimony and the production of evidence in the same manner as authorized under paragraph (3) of this subsection.
(5) Pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

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

(d) Entry and Access.—Without advance notice and upon presentation of appropriate credentials, the Secretary or any authorized representative thereof—

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

(2) may at reasonable times, and without delay, have access to records, inspect any monitoring equipment, or review any method of operation required under this title;
(3) may engage in any work and do all things necessary or expedient to implement and administer the provisions of this title; and

(4) may, if accompanied by any appropriate law enforcement officer, or an appropriate law enforcement officer alone, stop and inspect any motorized form of transportation which is not on a claim site if he or she has probable cause to believe such vehicle is carrying hardrock minerals, concentrates, or products derived therefrom from a claim site on Federal lands or allocated to such claim site. Such inspection shall be for the purpose of determining whether the operator of such vehicle has the documentation required by law, if such documentation is required under this title.

SEC. 644. REGULATIONS.

The Secretary and the Secretary of Agriculture shall issue such regulations as are necessary to implement this Act. The regulations implementing subtitle B, subtitle C, subtitle D, and subtitle E that affect the Forest Service shall be joint regulations issued by both Secretaries, and shall be issued no later than 180 days after the date of enactment of this Act.
SEC. 645. AVAILABILITY OF PUBLIC RECORDS.

Copies of records, reports, inspection materials, or information obtained by the Secretary or the Secretary of Agriculture under this title shall be made immediately available to the public, consistent with section 552 of title 5, United States Code, in central and sufficient locations in the county, multicounty, and State area of mineral activity or reclamation so that such items are conveniently available to residents in the area proposed or approved for mineral activities and on the Internet.

TITLE VII—ADMINISTRATIVE COST RECOVERY

SEC. 701. SHORT TITLE.

This title may be cited as the “Administrative Cost Recovery for Oil and Natural Gas on Public Lands Act of 2011”.

SEC. 702. MAKING PERMANENT NET RECEIPTS SHARING FOR ENERGY MINERALS.

Section 35(b) of the Mineral Leasing Act (30 U.S.C. 191(b)) is amended to read as follows:

“(b) Deduction for Administrative Costs.—In determining the amount of payments to the States under this section, beginning in fiscal year 2013 and for each year thereafter, the amount of such payments shall be reduced by 2 percent for any administrative or other costs incurred by the United States in carrying out the program...
authorized by this Act and that amount shall be deposited to miscellaneous receipts in the Treasury.”.