

105TH CONGRESS
1ST SESSION

H. R. 253

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

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 1997

Mr. RAHALL (for himself and Mr. MILLER of California) introduced the following bill; which was referred to the Committee on Resources

A BILL

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

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Mineral Exploration and Development Act of 1997”.

6 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

Sec. 2. Findings and purposes.

Sec. 3. Definitions and references.

- Sec. 101. Lands open to location.
- Sec. 102. Rights under this act.
- Sec. 103. Location of mining claims.
- Sec. 104. Conversion of existing claims.
- Sec. 105. Claim maintenance requirements.
- Sec. 106. Failure to comply.
- Sec. 107. Basis for contest.

TITLE II—ENVIRONMENTAL CONSIDERATIONS OF MINERAL EX- PLORATION AND DEVELOPMENT

- Sec. 201. Surface management standard.
- Sec. 202. Permits.
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TITLE III—ABANDONED LOCATABLE MINERALS MINE RECLAMATION FUND

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SUBTITLE A—ADMINISTRATIVE PROVISIONS

- Sec. 401. Policy functions.
- Sec. 402. User fees.
- Sec. 403. Public participation requirements.
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SUBTITLE B—MISCELLANEOUS PROVISIONS

- Sec. 411. Transitional rules; surface management requirements.
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- Sec. 417. Limitation on patent issuance.
- Sec. 418. Multiple mineral development and surface resources.
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Sec. 420. Application of Act to beneficiation and processing of nonFederal minerals on Federal lands.

Sec. 421. Compliance with Buy American Act.

Sec. 422. Severability.

Sec. 423. Award of Compensation for takings from Fund.

Sec. 424. Report to Congress on mining claims in the United States held by foreign firms.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—Congress finds and declares the fol-
3 lowing:

4 (1) The general mining laws, commonly re-
5 ferred to as the Mining Law of 1872, at one time
6 promoted the development of the West and provided
7 a framework for the exploitation of Federal mineral
8 resources.

9 (2) Congress recognized that the public interest
10 was no longer being advanced under the Mining Law
11 of 1872 when, in 1920, it removed energy minerals
12 and minerals chiefly valuable for agricultural use,
13 and in 1955, removed common varieties of mineral
14 materials, from the scope of the general mining laws
15 and made such minerals available under regimes
16 which provide for a financial return to the public for
17 the disposition of such minerals and which better
18 safeguard the environment.

19 (3) The Mining Law of 1872 no longer fosters
20 the efficient and diligent development of those min-
21 eral resources still under its scope, giving rise to

1 speculation and nonmining uses of lands chiefly val-
2 uable for minerals.

3 (4) The Mining Law of 1872 does not provide
4 for a financial return to the American people for use
5 by claim holders of public domain lands or for the
6 disposition of valuable mineral resources from such
7 lands.

8 (5) The Mining Law of 1872 continues to
9 transfer lands valuable for mineral resources from
10 the public domain to private ownership for less than
11 the fair market value of such lands and mineral re-
12 sources.

13 (6) There are a substantial number of acres of
14 land throughout the Nation disturbed by mining ac-
15 tivities conducted under the Mining Law of 1872 on
16 which little or no reclamation was conducted, and
17 the impacts from these unreclaimed lands pose a
18 threat to the public health, safety, and general wel-
19 fare and to environmental quality.

20 (7) Activities under the Mining Law of 1872
21 continue to result in disturbances of surface areas
22 and water resources which burden and adversely af-
23 fect the public welfare by destroying or diminishing

1 the utility of public domain lands for other appro-
2 priate uses and by creating hazards dangerous to
3 the public health and safety and to the environment.

4 (8) Existing Federal law and regulations, as
5 well as applicable State laws, have proven to be in-
6 adequate to ensure that active mining operations
7 under the Mining Law of 1872 will not leave to fu-
8 ture generations a new legacy of hazards associated
9 with unreclaimed mined lands.

10 (9) The public interest is no longer being served
11 by archaic features of the Mining Law of 1872 that
12 thwart the efficient exploration and development of
13 those minerals which remain under its scope and
14 which conflict with modern public land use manage-
15 ment philosophies.

16 (10) The public is justified in expecting the dili-
17 gent development of its mineral resources, a finan-
18 cial return for the use of public domain lands for
19 mineral activities as well as for the disposition of
20 valuable mineral resources from such lands.

21 (11) It is not in the public interest for public
22 domain lands to be sold far below fair market value
23 nor does this aspect of the Mining Law of 1872
24 comport with modern Federal land policy which is

1 grounded on the retention of public domain lands
2 under the principles of multiple use.

3 (12) Mining and reclamation technology is now
4 developed so that effective and reasonable regulation
5 of operations by the Federal Government in accord-
6 ance with this Act is an appropriate and necessary
7 means to minimize so far as practicable the adverse
8 social, economic and environmental effects of such
9 mining operations.

10 (13) Mining activities on public domain lands
11 affect interstate commerce, contribute to the eco-
12 nomic well-being, security and general welfare of the
13 Nation and should be conducted in an environ-
14 mentally sound manner.

15 (14) It is necessary that any revision of the
16 general mining laws insure that a domestic supply of
17 hardrock minerals be made available to the domestic
18 economy of the United States.

19 (15) America's economy still depends heavily on
20 hardrock minerals and a strong environmentally
21 sound mining industry is critical to the domestic
22 minerals supply.

23 (16) Many of the deposits of hardrock minerals
24 remain to be discovered on the Federal public do-
25 main.

1 (17) Private enterprise must be given adequate
2 incentive to engage in a capital-intensive industry
3 such as hardrock mining.

4 (18) The United States, as owner of the public
5 domain, has a dual interest in insuring a fair return
6 for mining on the public domain and insuring that
7 any royalty and fees charged do not discourage es-
8 sential mining activity on the public domain.

9 (19) The domestic mining industry provides
10 thousands of jobs directly and indirectly to the do-
11 mestic economy and those jobs must be preserved
12 and encouraged by a sound Federal policy regarding
13 mining on Federal lands.

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

15 (1) to devise a more socially, fiscally and envi-
16 ronmentally responsible regime to govern the use of
17 public domain lands for the exploration and develop-
18 ment of those minerals not subject to mineral leas-
19 ing acts or mineral materials statutes;

20 (2) to provide for a fair return to the public for
21 the use of public domain lands for mineral activities
22 and for the disposition of minerals from such lands;

23 (3) to foster the diligent development of mineral
24 resources on public domain lands in a manner that

1 is compatible with other resource values and envi-
2 ronmental quality;

3 (4) to promote the restoration of mined areas
4 left without adequate reclamation prior to the enact-
5 ment of this Act and which continue, in their
6 unreclaimed condition, to substantially degrade the
7 quality of the environment, prevent the beneficial
8 use of land or water resources, and endanger the
9 health and safety of the public;

10 (5) to assure that appropriate procedures are
11 provided for public participation in the development,
12 revision and enforcement of regulations, standards
13 and programs established under this Act; and

14 (6) to, whenever necessary, exercise the full
15 reach of Federal constitutional powers to ensure the
16 protection of the public interest through the effective
17 control of mineral exploration and development ac-
18 tivities.

19 **SEC. 3. DEFINITIONS AND REFERENCES.**

20 (a) DEFINITIONS.—As used in this Act:

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

23 (A) Any person who controls, is controlled
24 by, or is under common control with such per-
25 son.

1 (B) Any partner of such person.

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

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

7 (3) The term “beneficiation” means the crush-
8 ing and grinding of locatable mineral ore and such
9 processes as are employed to free the mineral from
10 other constituents, including but not necessarily lim-
11 ited to, physical and chemical separation techniques.

12 (4) The term “claim holder” means a person
13 holding a mining claim located or converted under
14 this Act. Such term may include an agent of a claim
15 holder.

16 (5) The term “control” means having the abil-
17 ity, directly or indirectly, to determine (without re-
18 gard to whether exercised through one or more cor-
19 porate structures) the manner in which an entity
20 conducts mineral activities, through any means, in-
21 cluding without limitation, ownership interest, au-
22 thority to commit the entity’s real or financial as-
23 sets, position as a director, officer, or partner of the
24 entity, or contractual arrangement. The Secretary

1 and the Secretary of Agriculture shall jointly pro-
2 mulgate such rules as may be necessary under this
3 paragraph.

4 (6) The term “exploration” means those tech-
5 niques employed to locate the presence of a locatable
6 mineral deposit and to establish its nature, position,
7 size, shape, grade and value not associated with min-
8 ing, beneficiation, processing or marketing of min-
9 erals.

10 (7) The term “Indian lands” means lands held
11 in trust for the benefit of an Indian tribe or individ-
12 ual or held by an Indian tribe or individual subject
13 to a restriction by the United States against alien-
14 ation.

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

24 (9) The term “land use plans” means those
25 plans required under section 202 of the Federal

1 Land Policy and Management Act of 1976 (43
2 U.S.C. 1712) or the land management plans for Na-
3 tional Forest System units required under section 6
4 of the Forest and Rangeland Renewable Resources
5 Planning Act of 1974 (16 U.S.C. 1604), whichever
6 is applicable.

7 (10) The term “legal subdivisions” means an
8 aliquot quarter quarter section of land as established
9 by the official records of the public land survey sys-
10 tem, or a single lot as established by the official
11 records of the public land survey system if the perti-
12 nent section is irregular and contains fractional lots,
13 as the case may be.

14 (11)(A) The term “locatable mineral” means
15 any mineral, the legal and beneficial title to which
16 remains in the United States and which is not sub-
17 ject to disposition under any of the following:

18 (i) The Mineral Leasing Act (30 U.S.C.
19 181 and following).

20 (ii) The Geothermal Steam Act of 1970
21 (30 U.S.C. 1001 and following).

22 (iii) The Act of July 31, 1947, commonly
23 known as the Materials Act of 1947 (30 U.S.C.
24 601 and following).

1 (iv) The Mineral Leasing for Acquired
2 Lands Act (30 U.S.C. 351 and following).

3 (B) The term “locatable mineral” does not in-
4 clude any mineral held in trust by the United States
5 for any Indian or Indian tribe, as defined in section
6 2 of the Indian Mineral Development Act of 1982
7 (25 U.S.C. 2101), or any mineral owned by any In-
8 dian or Indian tribe, as defined in that section, that
9 is subject to a restriction against alienation imposed
10 by the United States.

11 (12) The term “mineral activities” means any
12 activity on Federal lands for, related to, or inciden-
13 tal to, mineral exploration, mining, beneficiation,
14 processing, or reclamation activities for any locatable
15 mineral.

16 (13) The term “mining” means the processes
17 employed for the extraction of a locatable mineral
18 from the earth.

19 (14) The term “mining claim” means a claim
20 for the purposes of mineral activities.

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

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

3 (16) The term “operator” means any person,
4 conducting mineral activities subject to this Act or
5 any agent of such a person.

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

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

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

20 (20) The term “surface management require-
21 ments” means the requirements and standards of
22 title II, and such other standards as are established
23 by the Secretary governing mineral activities pursu-
24 ant to this Act.

1 (b) REFERENCES.—(1) Any reference in this Act to
 2 the term “general mining laws” is a reference to those
 3 Acts which generally comprise chapters 2, 12A, and 16,
 4 and sections 161 and 162 of title 30 of the United States
 5 Code.

6 (2) Any reference in this Act to the “Act of July 23,
 7 1955”, is a reference to the Act of July 23, 1955, entitled
 8 “An Act to amend the Act of July 31, 1947 (61 Stat.
 9 681) and the mining laws to provide for multiple use of
 10 the surface of the same tracts of the public lands, and
 11 for other purposes” (30 U.S.C. 601 and following).

12 **TITLE I—MINERAL EXPLO-** 13 **RATION AND DEVELOPMENT**

14 **SEC. 101. LANDS OPEN TO LOCATION.**

15 (a) LANDS OPEN TO LOCATION.—Except as provided
 16 in subsection (b), mining claims may be located under this
 17 Act on lands and interests in lands owned by the United
 18 States if—

19 (1) such lands and interests were open to the
 20 location of mining claims under the general mining
 21 laws on the date of enactment of this Act; or

22 (2) such lands and interests are opened to the
 23 location of mining claims after the date of enact-
 24 ment of this Act by reason of any administrative ac-
 25 tion or statute.

1 (b) LANDS NOT OPEN TO LOCATION.—

2 (1) IN GENERAL.—Notwithstanding any other
3 provision of law and subject to valid existing rights,
4 each of the following shall not be open to the loca-
5 tion of mining claims under this Act on or after the
6 date of enactment of this Act:

7 (A) Lands recommended for wilderness
8 designation by the agency managing the sur-
9 face, pending a final determination by the Con-
10 gress of the status of such recommended lands.

11 (B) Lands being managed by the Sec-
12 retary, acting through Bureau of Land Manage-
13 ment, as wilderness study areas on the date of
14 enactment of this Act except where the location
15 of mining claims is specifically allowed to con-
16 tinue by the statute designating the study area,
17 pending a final determination by the Congress
18 of the status of such lands.

19 (C)(i) Lands under study for inclusion in
20 the National Wild and Scenic River System
21 pursuant to section 5(a) of the Wild and Scenic
22 Rivers Act (16 U.S.C. 1276(a)), pending a final
23 determination by the Congress of the status of
24 such lands, and (ii) lands determined by a Fed-
25 eral agency under section 5(d) of such Act to

1 be eligible for inclusion in such system, pending
2 a final determination by the Congress of the
3 status of such lands.

4 (D) Lands withdrawn from mineral activi-
5 ties under authority of other law.

6 (2) DEFINITION.—(A) As used in this sub-
7 section, the term “valid existing rights” refers to a
8 mining claim located on lands described in para-
9 graph (1) of subsection (a) that—

10 (i) was properly located and maintained
11 under this Act prior to and on the applicable
12 date, or

13 (ii) was properly located and maintained
14 under the general mining laws prior to the ap-
15 plicable date, and

16 (I) was supported by a discovery of a
17 valuable mineral deposit within the mean-
18 ing of the general mining laws on the ap-
19 plicable date, and

20 (II) continues to be valid under this
21 Act.

22 (B) As used in this paragraph, the term “appli-
23 cable date” means one of the following:

24 (i) In the case of lands described in para-
25 graph (1)(A), such term means the date of the

1 recommendation referred to in paragraph
2 (1)(A) if such recommendation is made on or
3 after the enactment of this Act.

4 (ii) In the case of lands described in para-
5 graph (1)(A), if the recommendation referred to
6 in paragraph (1)(A) was made before the enact-
7 ment of this Act, such term means the earlier
8 of (I) the date of enactment of this Act or (II)
9 the date of any withdrawal of such lands from
10 mineral activities.

11 (iii) For lands described in paragraph
12 (1)(B), such term means the date of the enact-
13 ment of this Act.

14 (iv) For lands referred to in paragraph
15 (1)(C)(i), such term means the date of the en-
16 actment of the amendment to the Wild and Sce-
17 nic Rivers Act listing the river segment for
18 study and for lands referred to in paragraph
19 (1)(C)(ii), such term means the date of the eli-
20 gibility determination.

21 (v) For lands referred to in paragraph
22 (1)(D), such term means the date of the with-
23 drawal.

1 **SEC. 102. RIGHTS UNDER THIS ACT.**

2 The holder of a mining claim located or converted
3 under this Act and maintained in compliance with this Act
4 shall have the exclusive right of possession and use of the
5 claimed land for mineral activities, including the right of
6 ingress and egress to such claimed lands for such activi-
7 ties, subject to the rights of the United States under this
8 Act and other applicable Federal law. Such rights of the
9 claim holder shall terminate upon completion of mineral
10 activities of lands to the satisfaction of the Secretary. In
11 cases where an area is determined unsuitable under sec-
12 tion 209, holders of claims converted or located under this
13 Act shall be entitled to receive a refund of claim mainte-
14 nance fees.

15 **SEC. 103. LOCATION OF MINING CLAIMS.**

16 (a) GENERAL RULE.—A person may locate a mining
17 claim covering lands open to the location of mining claims
18 by posting a notice of location, containing the person's
19 name and address, the time of location (which shall be
20 the date and hour of location and posting), and a legal
21 description of the claim. The notice of location shall be
22 posted on a suitable, durable monument erected as near
23 as practicable to the northeast corner of the mining claim.
24 No person who is not a citizen of the United States, or
25 a corporation organized under the laws of the United
26 States or of any State or the District of Columbia may

1 locate or hold a claim under this Act. On or after the en-
2 actment of this Act, a mining claim for a locatable mineral
3 on lands open to location—

4 (1) may be located only in accordance with this
5 Act,

6 (2) may be maintained only as provided in this
7 Act, and

8 (3) shall be subject to the requirements of this
9 Act.

10 (b) USE OF PUBLIC LAND SURVEY.—Except as pro-
11 vided in subsection (c), each mining claim located under
12 this Act shall (1) be located in accordance with the public
13 land survey system, and (2) conform to the legal subdivi-
14 sions thereof. Except as provided in subsection (c)(1), the
15 legal description of the mining claim shall be based on the
16 public land survey system and its legal subdivisions.

17 (c) EXCEPTIONS.—(1) If only a protracted survey ex-
18 ists for the public lands concerned, each of the following
19 shall apply in lieu of subsection (b):

20 (A) The legal description of the mining claim
21 shall be based on the protracted survey and the min-
22 ing claim shall be located as near as practicable in
23 conformance with a protracted legal subdivision.

1 (B) The mining claim shall be monumented on
2 the ground by the erection of a suitable, durable
3 monument at each corner of the claim.

4 (C) The legal description of the mining claim
5 shall include a reference to any existing survey
6 monument, or where no such monument can be
7 found within a reasonable distance, to a permanent
8 and conspicuous natural object.

9 (2) If no survey exists for the public lands concerned,
10 each of the following shall apply in lieu of subsection (b):

11 (A) The mining claim shall be a regular square,
12 with each side laid out in cardinal directions, 40
13 acres in size.

14 (B) The claim shall be monumented on the
15 ground by the erection of a suitable durable monu-
16 ment at each corner of the claim.

17 (C) The legal description of the mining claim
18 shall be expressed in metes and bounds and shall be
19 defined by and referenced to the closest existing sur-
20 vey monument, or where no such monument can be
21 found within a reasonable distance, to a permanent
22 and conspicuous natural object. Such description
23 shall be of sufficient accuracy and completeness to
24 permit recording of the claim upon the public land

1 records and to permit the claim to be readily found
2 upon the ground.

3 (3) In the case of a conflict between the boundaries
4 of a mining claim as monumented on the ground and the
5 description of such claim in the notice of location referred
6 to in subsection (a), the notice of location shall be deter-
7 minative, except where determined otherwise by the Sec-
8 retary.

9 (d) FILING WITH SECRETARY.—(1) Within 30 days
10 after the location of a mining claim pursuant to this sec-
11 tion, a copy of the notice of location referred to in sub-
12 section (a) shall be filed with the Secretary in an office
13 designated by the Secretary.

14 (2)(A) Whenever the Secretary receives a copy of a
15 notice of location of a mining claim under this Act, the
16 Secretary shall assign a serial number to the mining claim,
17 and immediately return a copy of the notice of location
18 to the locator of the claim, together with a certificate set-
19 ting forth the serial number, a description of the claim,
20 and the claim maintenance requirements of section 105.
21 The Secretary shall enter the claim on the public land
22 records.

23 (B) Return of the copy of the notice of location and
24 provision of the certificate under subparagraph (A) shall
25 not constitute a determination by the Secretary that a

1 claim is valid. Failure by the Secretary to provide such
2 copy and certificate shall not constitute a defense against
3 cancellation of a claim for failure to follow applicable re-
4 quirements of this Act.

5 (3) Notwithstanding any other provision of law, for
6 every unpatented mining claim located after the date of
7 enactment of this Act, the locator shall, at the time the
8 location notice is recorded with the Bureau of Land Man-
9 agement, pay a location fee of \$25.00 per claim. The loca-
10 tion fee shall be in addition to the claim maintenance fee
11 payable under section 105.

12 (4) Subsections (b) and (c) of section 314 of the Fed-
13 eral Land Policy and Management Act of 1976 (43 U.S.C.
14 1744(b)) are repealed.

15 (e) CONVERTED CLAIMS.—For mining claims and
16 mill sites deemed converted under this Act, for the pur-
17 poses of complying with the requirements of subsection
18 (d), upon receipt of the initial claim maintenance fee re-
19 quired under section 105, the Secretary shall issue a cer-
20 tificate referenced in subsection (d)(2) to the holder of the
21 mining claim or mill site.

22 (f) DATE OF LOCATION.—A mining claim located
23 under this Act shall be effective based upon the time of
24 location.

1 (g) LANDS COVERED BY CLAIM.—A mining claim lo-
2 cated or converted under this Act shall include all lands
3 and interests in lands open to location within the bound-
4 aries of the claim, subject to any prior mining claim lo-
5 cated or converted under this Act.

6 (h) CONFLICTING LOCATIONS.—Any conflicts be-
7 tween the holders of mining claims located or converted
8 under this Act relating to relative superiority under the
9 provisions of this Act may be resolved in adjudication pro-
10 ceedings in a court with proper jurisdiction, including, as
11 appropriate, State courts. It shall be incumbent upon the
12 holder of a mining claim asserting superior rights in such
13 proceedings to demonstrate that such person was the sen-
14 ior locator, or if such person is the junior locator, that
15 prior to the location of the claim by such locator—

16 (1) the senior locator failed to file a copy of the
17 notice of location within the time provided under
18 subsection (d); or

19 (2) the amount of claim maintenance fee paid
20 by the senior locator at the time of filing the loca-
21 tion notice referred to in subsection (d) was less
22 than the amount required to be paid by such locator.

23 (i) EXTENT OF MINERAL DEPOSIT.—The boundaries
24 of a mining claim located under this Act shall extend verti-
25 cally downward.

1 **SEC. 104. CONVERSION OF EXISTING CLAIMS.**

2 (a) EXISTING CLAIMS.—Notwithstanding any other
3 provision of law, on the effective date of this Act any
4 unpatented mining claim for a locatable mineral located
5 under the general mining laws prior to the date of enact-
6 ment of this Act shall become subject to this Act's provi-
7 sions and shall be deemed a converted mining claim under
8 this Act. Nothing in this Act shall be construed to affect
9 extralateral rights in any valid lode mining claim existing
10 on the date of enactment of this Act. After the effective
11 date of this Act, there shall be no distinction made as to
12 whether such claim was originally located as a lode or
13 placer claim.

14 (b) MILL AND TUNNEL SITES.—On the effective date
15 of this Act, any unpatented mill or tunnel site located
16 under the general mining laws before the date of enact-
17 ment of this Act shall become subject to this Act's provi-
18 sions and shall be deemed a converted mining claim under
19 this Act.

20 (c) POSTCONVERSION.—Any unpatented mining
21 claim or mill site located under the general mining laws
22 shall be deemed to be a prior claim for the purposes of
23 section 103(g) when converted pursuant to subsection (a)
24 or (b).

25 (d) DISPOSITION OF LAND.—In the event a mining
26 claim is located under this Act for lands encumbered by

1 a prior mining claim or mill site located under the general
2 mining laws, such lands shall become part of the claim
3 located under this Act if the claim or mill site located
4 under the general mining laws is declared null and void
5 under this section or is otherwise declared null and void
6 thereafter.

7 (e) CONFLICTS.—(1) Any conflicts in existence before
8 the effective date of this Act between holders of mining
9 claims, mill sites and tunnel sites located under the gen-
10 eral mining laws shall be subject to, and shall be resolved
11 in accordance with, applicable laws governing such con-
12 flicts in effect before the effective date of enactment of
13 this Act in a court of proper jurisdiction.

14 (2) Any conflicts not relating to matters provided for
15 under section 103(h) between the holders of a mining
16 claim located under this Act and a mining claim, mill, or
17 tunnel site located under the general mining laws arising
18 either before or after the conversion of any such claim or
19 site under this section shall be resolved in a court with
20 proper jurisdiction.

21 **SEC. 105. CLAIM MAINTENANCE REQUIREMENTS.**

22 (a) IN GENERAL.—(1) The holder of each mining
23 claim converted pursuant to this Act shall pay to the Sec-
24 retary an annual claim maintenance fee of \$100 per claim.

1 (2) The holder of each mining claim located pursuant
2 to this Act shall pay to the Secretary an annual claim
3 maintenance fee of \$200 per claim.

4 (b) TIME OF PAYMENT.—The claim maintenance fee
5 payable pursuant to subsection (a) for any year shall be
6 paid on or before August 31 of each year, except that in
7 the case of claims referred to in subsection (a)(2), for the
8 initial calendar year in which the location is made, the
9 locator shall pay the initial claim maintenance fee at the
10 time the location notice is recorded with the Bureau of
11 Land Management.

12 (c) OIL SHALE CLAIMS SUBJECT TO CLAIM MAINTENANCE FEES UNDER ENERGY POLICY ACT OF 1992.—
13 This section shall not apply to any oil shale claims for
14 which a fee is required to be paid under section 2511(e)(2)
15 of the Energy Policy Act of 1992 (Public Law 102–486;
16 106 Stat. 3111; 30 U.S.C. 242).

17 (d) CLAIM MAINTENANCE FEES PAYABLE UNDER
18 1993 ACT.—The claim maintenance fees payable under
19 this section for any period with respect to any claim shall
20 be reduced by the amount of the claim maintenance fees
21 paid under section 10101 of the Omnibus Budget Rec-
22 onciliation Act of 1993 with respect to that claim and with
23 respect to the same period.
24

1 (e) WAIVER.—(1) The claim maintenance fee re-
2 quired under this section may be waived for a claim holder
3 who certifies in writing to the Secretary that on the date
4 the payment was due, the claim holder and all related par-
5 ties held not more than 10 mining claims on lands open
6 to location. Such certification shall be made on or before
7 the date on which payment is due.

8 (2) For purposes of paragraph (1), with respect to
9 any claim holder, the term “related party” means each
10 of the following:

11 (A) The spouse and dependent children (as de-
12 fined in section 152 of the Internal Revenue Code of
13 1986), of the claim holder.

14 (B) Any affiliate of the claim holder.

15 (f) CO-OWNERSHIP.—Upon the failure of any one or
16 more of several co-owners to contribute such co-owner or
17 owners’ portion of the fee under this section, any co-owner
18 who has paid such fee may, after the payment due date,
19 give the delinquent co-owner or owners notice of such fail-
20 ure in writing (or by publication in the newspaper nearest
21 the claim for at least once a week for at least 90 days).
22 If at the expiration of 90 days after such notice in writing
23 or by publication, any delinquent co-owner fails or refuses
24 to contribute his portion, his interest in the claim shall

1 become the property of the co-owners who have paid the
2 required fee.

3 (g) FUND.—All monies received under this section
4 shall be deposited in the Abandoned Locatable Minerals
5 Mine Reclamation Fund established under title III of this
6 Act.

7 (h) CREDIT AGAINST ROYALTY.—The amount of the
8 annual claim maintenance fee required to be paid under
9 this section for any claim for any period shall be credited
10 against the amount of royalty required to be paid under
11 section 306 for the same period with respect to that claim.

12 **SEC. 106. FAILURE TO COMPLY.**

13 (a) FORFEITURE.—The failure of the claim holder to
14 file the notice of location, to pay the location fee, or to
15 pay the claim maintenance fee for a mining claim as re-
16 quired by this title shall be deemed conclusively to con-
17 stitute forfeiture of the mining claim by operation of law.
18 Forfeiture shall not relieve any person of any obligation
19 created under this Act, including reclamation.

20 (b) PROHIBITION.—No claim holder may locate a new
21 claim on the lands such claim holder included in a for-
22 feited claim for 1 year from the date such claim is deemed
23 forfeited.

24 (c) RELINQUISHMENT.—A claim holder deciding not
25 to pursue mineral activities on a claim may relinquish such

1 claim by notifying the Secretary. A claim holder relin-
2 quishing a claim is responsible for reclamation as required
3 by section 207 of this Act and all other applicable require-
4 ments. A claim holder who relinquishes a claim shall not
5 be subject to the prohibition of subsection (b) of this sec-
6 tion unless the Secretary determines that the claim is
7 being relinquished and relocated for the purpose of avoid-
8 ing compliance with any provision of this Act, including
9 payment of the claim maintenance fee.

10 **SEC. 107. BASIS FOR CONTEST.**

11 (a) DISCOVERY.—(1) After the effective date of this
12 Act, a mining claim may not be contested or challenged
13 on the basis of discovery under the general mining laws,
14 except as follows:

15 (A) Any claim located before the effective date
16 of this Act may be contested by the United States
17 on the basis of discovery under the general mining
18 laws as in effect prior to the effective date of this
19 Act if such claim is located within any National
20 Conservation System unit, or within any area re-
21 ferred to in section 101(b).

22 (B) Any mining claim located before the effec-
23 tive date of this Act may be contested by the United
24 States on the basis of discovery under the general
25 mining laws as in effect prior to the effective date

1 of this Act if such claim was located for a mineral
2 material that purportedly has a property giving it
3 distinct and special value within the meaning of sec-
4 tion 3(a) of the Act of July 23, 1955 (as in effect
5 prior to the date of enactment of this Act), or if
6 such claim was located for a mineral that was not
7 locatable under the general mining laws before the
8 effective date of this Act.

9 (2) The Secretary may initiate contest proceedings
10 against those mining claims referred to in paragraph (1)
11 at any time, except that nothing in this subsection may
12 be construed as requiring the Secretary to inquire into,
13 or contest, the validity of a mining claim for the purpose
14 of the conversion referred to in section 104, except as pro-
15 vided in section 412.

16 (3) Nothing in this subsection may be construed as
17 limiting any contest proceedings initiated by the United
18 States on issues other than discovery, or any contest pro-
19 ceedings filed before the effective date of this Act.

20 (4) Any contest proceeding initiated pursuant to
21 paragraph (1) shall determine whether the mining claim
22 or claims subject to such proceeding supported a discovery
23 of a valuable mineral deposit within the meaning of the
24 general mining laws on the effective date of this Act.

1 (b) CONTINUED SUFFICIENCY OF MINING CLAIM.—

2 (1) At any time, upon request of the Secretary, the claim
3 holder shall demonstrate that the continued retention of
4 a mining claim located or converted under this Act is ex-
5 clusively related to mineral activities at the site.

6 (2) Where the Secretary requests demonstration of
7 the continuing sufficiency of any mining claim under this
8 section, the claim holder shall have the burden of showing
9 each of the following:

10 (A) The lands or interests in lands included in
11 the mining claim are not used predominantly for rec-
12 reational, residential or other purposes rather than
13 for mineral activities and are being held in good
14 faith for the ultimate exploration for, development
15 of, or production of locatable minerals, as dem-
16 onstrated by the claimholder or his or her assigns
17 through showings satisfactory to the Secretary.

18 (B) The claim holder or operator does not re-
19 strict access to the lands or interests in lands in-
20 cluded in the mining claim in a manner that is not
21 required for mineral activities.

22 (C) The mineral being or to be mined on the
23 mining claim is a locatable mineral (unless such
24 lands are used for beneficiation or processing).

1 (D) The claim holder or operator has not con-
2 structed, improved, maintained or used a structure
3 located on a mining claim in a manner not specifi-
4 cally authorized by the Secretary in accordance with
5 this Act.

6 (3) Any mining claim for which the claim holder fails
7 to demonstrate continued sufficiency, in the determination
8 of the Secretary, pursuant to subsection (b) of this section,
9 shall thereupon be deemed forfeited and be declared null
10 and void.

11 (c) REMEDIES.—(1) The Secretary may assess a civil
12 penalty of not more than \$5,000 per claim against the
13 claimholder upon declaring a mining claim null and void
14 pursuant to subsection (b) of this section.

15 (2) Upon declaring a mining claim null and void pur-
16 suant to subsection (b), the Secretary shall provide a rea-
17 sonable opportunity for the mining claim holder or opera-
18 tor to remove any real or personal property which such
19 person had previously placed upon the claim. If the prop-
20 erty is not removed within the time provided, the Sec-
21 retary may retain the property or provide for its disposi-
22 tion or destruction.

23 (d) OTHER LAW.—The Secretary shall take such ac-
24 tions as may be necessary to ensure the compliance by

1 claim holders with section 4 of the Act of July 23, 1955
2 (30 U.S.C. 612), consistent with this section.

3 **TITLE II—ENVIRONMENTAL CON-**
4 **SIDERATIONS OF MINERAL**
5 **EXPLORATION AND DEVELOP-**
6 **MENT**

7 **SEC. 201. SURFACE MANAGEMENT STANDARD.**

8 Notwithstanding the last sentence of section 302(b)
9 of the Federal Land Policy and Management Act of 1976,
10 and in accordance with this title and other applicable law,
11 the Secretary, and for National Forest System lands the
12 Secretary of Agriculture, shall require that mineral activi-
13 ties on Federal lands conducted by any person minimize
14 adverse impacts to the environment.

15 **SEC. 202. PERMITS.**

16 (a) PERMITS REQUIRED.—No person may engage in
17 mineral activities on Federal lands that may cause a dis-
18 turbance of surface resources, including but not limited
19 to, land, air, ground water and surface water, fish, wild-
20 life, and biota unless—

21 (1) the claim was properly located or converted
22 under this Act and properly maintained; and

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

1 (b) NEGLIGIBLE DISTURBANCE.—Notwithstanding
2 subsection (a)(2), a permit under this title shall not be
3 required for mineral activities related to exploration, or
4 gathering of data, required to comply with section 203 or
5 204 that cause a negligible disturbance of surface re-
6 sources and do not involve any of the following:

7 (1) The use of mechanized earth moving equip-
8 ment, suction dredging, explosives.

9 (2) The use of motor vehicles in areas closed to
10 off-road vehicles.

11 (3) The construction of roads, drill pads, or the
12 use of toxic or hazardous materials.

13 Persons engaging in such activities shall provide prior
14 written notice. The Secretary and the Secretary of Agri-
15 culture may provide, by joint regulations the manner in
16 which such notice shall be provided.

17 (c) WAIVER OF THE SOVEREIGN IMMUNITY OF IN-
18 DIAN TRIBES.—The Secretary is authorized to require In-
19 dian tribes to waive sovereign immunity as a condition of
20 obtaining a permit under this Act.

21 **SEC. 203. EXPLORATION PERMITS.**

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

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

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

14 (1) The name, mailing address, and social secu-
15 rity number or tax identification number, as applica-
16 ble, of each of the following:

17 (A) The applicant for the permit and any
18 agent of the applicant.

19 (B) The operator (if different than the ap-
20 plicant) of the claim concerned.

21 (C) Each claim holder (if different than
22 the applicant) of the claim concerned.

23 (2) A statement of whether any person referred
24 to in subparagraphs (A) through (C) of paragraph
25 (1) is currently in violation of, or was, during the 3-

1 year period preceding the date of the application,
2 found to be in violation of, any of the following and,
3 if so, a brief explanation of the facts involved, in-
4 cluding identification of the site and nature of the
5 violation:

6 (A) Any provision of this Act or any regu-
7 lation under this Act.

8 (B) Any applicable toxic substance, solid
9 waste, air, water quality, or fish and wildlife
10 conservation law or regulation at any site where
11 mining, beneficiation, or processing activities
12 are occurring or have occurred.

13 (C) The Surface Mining Control and Rec-
14 lamation Act of 1977 (30 U.S.C. 1201 and fol-
15 lowing) or any regulation under that Act at any
16 site where surface coal mining operations have
17 occurred or are occurring.

18 (3) A description of the type and method of ex-
19 ploration activities proposed, the engineering tech-
20 niques proposed to be used and the equipment pro-
21 posed to be used.

22 (4) The anticipated starting and termination
23 dates of each phase of the exploration activities pro-
24 posed, including any planned temporary cessation of
25 exploration.

1 (5) A map, to an appropriate scale, clearly
2 showing the land to be affected by the proposed ex-
3 ploration.

4 (6) Information determined necessary by the
5 Secretary concerned to assess the cumulative im-
6 pacts, as required to comply with the National Envi-
7 ronmental Policy Act.

8 (7) Evidence of appropriate financial assurance
9 as specified in section 206.

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

15 (1) A description of the condition of the land,
16 including the fish and wildlife resources and habitat
17 contained thereon, subject to the permit prior to the
18 commencement of any exploration activities.

19 (2) A description of reclamation measures pro-
20 posed pursuant to the requirements of section 207.

21 (3) The engineering techniques to be used in
22 reclamation and the equipment proposed to be used.

23 (4) The anticipated starting and termination
24 dates of each phase of the reclamation proposed.

1 (5) A description of the proposed condition of
2 the land, including the fish and wildlife resources
3 and habitat contained thereon, following the comple-
4 tion of reclamation.

5 (d) PERMIT ISSUANCE OR DENIAL.—The Secretary,
6 or for National Forest System lands, the Secretary of Ag-
7 riculture, shall issue an exploration permit pursuant to an
8 application under this section if such Secretary makes
9 each of the following determinations, and such Secretary
10 shall deny a permit which he or she finds does not fully
11 meet the requirements of this subsection:

12 (1) The permit application, the exploration plan
13 and reclamation plan are complete and accurate.

14 (2) The applicant has demonstrated that pro-
15 posed reclamation can be accomplished.

16 (3) The proposed exploration activities and con-
17 dition of the land after the completion of exploration
18 activities and final reclamation would conform with
19 the land use plan applicable to the area subject to
20 mineral activities.

21 (4) The area subject to the proposed permit is
22 not included within an area designated unsuitable
23 under section 209 or not open to location under sec-
24 tion 101(b) for the types of exploration activities
25 proposed.

1 (5) The applicant has demonstrated that the
2 exploration plan and reclamation plan will be in
3 compliance with the requirements of this Act and all
4 other applicable Federal requirements, and any
5 State requirements agreed to by the Secretary of the
6 Interior (or Secretary of Agriculture, as appropriate)
7 pursuant to a cooperative agreement under section
8 208.

9 (6) The applicant has fully complied with the
10 requirements of section 206 (relating to financial as-
11 surance).

12 (e) TERM OF PERMIT.—An exploration permit shall
13 be for a stated term. The term shall be no greater than
14 that necessary to accomplish the proposed exploration,
15 and in no case for more than 5 years.

16 (f) PERMIT MODIFICATION.—During the term of an
17 exploration permit the permit holder may submit an appli-
18 cation to modify the permit. To approve a proposed modi-
19 fication to the permit, the Secretary concerned shall make
20 the same determinations as are required in the case of
21 an original permit, except that the Secretary and the Sec-
22 retary of Agriculture may specify by joint rule the extent
23 to which requirements for initial exploration permits under

1 this section shall apply to applications to modify an explo-
2 ration permit based on whether such modifications are
3 deemed significant or minor.

4 (g) FEES.—Each application for a permit pursuant
5 to this section shall be accompanied by a fee payable to
6 the Secretary of the Interior in such amount as may be
7 established by the Secretary of the Interior. Such amount
8 shall be equal to the actual or anticipated cost to the Sec-
9 retary or the Secretary of Agriculture, as the case may
10 be, of reviewing, administering, and enforcing such permit,
11 as determined by such Secretary. All moneys received
12 under this subsection shall be deposited in the Abandoned
13 Locatable Minerals Mine Reclamation Fund established
14 under title III of this Act.

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

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

1 (A) is eligible to receive a permit in accordance
2 with section 205;

3 (B) has submitted evidence of financial assur-
4 ance satisfactory under section 206; and

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

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

13 (4) Each application for approval of a permit trans-
14 fer, assignment, or sale pursuant to this subsection shall
15 be accompanied by a fee payable to the Secretary of the
16 Interior in such amount as may be established by such
17 Secretary. Such amount shall be equal to the actual or
18 anticipated cost to the Secretary or the Secretary of Agri-
19 culture, as appropriate, of reviewing and approving or dis-
20 approving such transfer, assignment, or sale, as deter-
21 mined by the Secretary of the Interior. All moneys re-
22 ceived under this subsection shall be deposited in the
23 Abandoned Locatable Minerals Mine Reclamation Fund
24 established under title III of this Act.

1 **SEC. 204. OPERATIONS PERMIT.**

2 (a) OPERATIONS PERMIT.—Any claim holder may
3 apply to the Secretary, or for National Forest System
4 lands, the Secretary of Agriculture, for an operations per-
5 mit authorizing the claim holder to carry out mineral ac-
6 tivities on Federal lands. The permit shall include such
7 terms and conditions as prescribed by such Secretary to
8 carry out this title.

9 (b) PERMIT APPLICATION REQUIREMENTS.—An ap-
10 plication for an operations permit under this section shall
11 be submitted in a manner satisfactory to the Secretary
12 concerned and shall contain an operations plan, a reclama-
13 tion plan, such documentation as necessary to ensure com-
14 pliance with applicable Federal and State environmental
15 laws and regulations, and each of the following:

16 (1) The name, mailing address, and social secu-
17 rity number or tax identification number, as applica-
18 ble, of each of the following:

19 (A) The applicant for the permit and any
20 agent of the applicant.

21 (B) The operator (if different than the ap-
22 plicant) at the claim concerned.

23 (C) Each claim holder (if different than
24 the applicant) of the claim concerned.

25 (D) Each affiliate and each officer or di-
26 rector of the applicant.

1 (2) A statement of whether a person referred to
2 in subparagraphs (A) through (D) of paragraph (1)
3 is currently in violation of, or was, during the 3-year
4 period preceding the date of application, found to be
5 in violation of, any of the following and if so, a brief
6 explanation of the facts involved, including identi-
7 fication of the site and the nature of the violation:

8 (A) Any provision of this Act or any regu-
9 lation under this Act.

10 (B) Any applicable toxic substance, solid
11 waste, air, water quality, or fish and wildlife
12 conservation law or regulation at any site where
13 mining, beneficiation, or processing activities
14 are occurring or have occurred.

15 (C) The Surface Mining Control and Rec-
16 lamation Act of 1977 (30 U.S.C. 1201 and fol-
17 lowing) or any regulation under that Act at any
18 site where surface coal mining operations have
19 occurred or are occurring.

20 (3) A statement of any current or previous per-
21 mits or plans of operations issued under the Surface
22 Mining Control and Reclamation Act or the Federal
23 Land Policy and Management Act.

1 (4) A description of the type and method of
2 mineral activities proposed, the engineering tech-
3 niques proposed to be used and the equipment pro-
4 posed to be used.

5 (5) The anticipated starting and termination
6 dates of each phase of the mineral activities pro-
7 posed, including any planned temporary cessation of
8 operations.

9 (6) Maps, to an appropriate scale, clearly show-
10 ing the lands, watersheds, and surface waters, to be
11 affected by the proposed mineral activities; surface
12 and mineral ownership; facilities, including roads
13 and other man-made structures; proposed disturb-
14 ances; soils and vegetation; topography; and water
15 supply intakes and surface water bodies.

16 (7) A description of the biological resources in
17 or associated with the area subject to mineral activi-
18 ties, including vegetation, fish and wildlife, riparian
19 and wetland habitats.

20 (8) A description of measures planned to ex-
21 clude fish and wildlife resources from the area sub-
22 ject to mineral activities by covering, containment,
23 or fencing of open waters, beneficiation, and process-
24 ing materials; or maintenance of all facilities in a
25 condition that is not harmful to fish and wildlife.

1 (9) A description of the quantity and quality of
2 surface and ground water resources in or associated
3 with the area subject to mineral activities, based on
4 pre-disturbance monitoring sufficient to establish
5 seasonal variations.

6 (10) An analysis of the probable hydrologic con-
7 sequences of the mineral activities, both on and off
8 the area subject to mineral activities, with respect to
9 the hydrologic regime, quantity and quality of water
10 in surface and ground water systems including the
11 dissolved and suspended solids under seasonal flow
12 conditions and the collection of sufficient data for
13 the mine site and surrounding areas so that an as-
14 sessment can be made by the Secretary concerned of
15 the probable cumulative impacts of the anticipated
16 mineral activities in the area upon the hydrology of
17 the area and particularly upon water availability.

18 (11) A description of the monitoring systems to
19 be used to detect and determine whether compliance
20 has and is occurring consistent with the surface
21 management requirements and to monitor the ef-
22 fects of mineral activities on the site and surround-
23 ing environment, including but not limited to,
24 ground water, surface water, air, soils, and fish and
25 wildlife resources.

1 (12) Accident contingency plans that include,
2 but are not limited to, immediate response strategies
3 and corrective measures to mitigate environmental
4 impacts and appropriate insurance to cover accident
5 contingencies.

6 (13) Any measures to comply with any condi-
7 tions on minerals activities that may be required in
8 the applicable land use plan or any condition stipu-
9 lated pursuant to section 209.

10 (14) Information determined necessary by the
11 Secretary concerned to assess the cumulative im-
12 pacts of mineral activities, as required to comply
13 with the National Environmental Policy Act.

14 (15) Such other environmental baseline data as
15 the Secretaries, by joint regulation, shall require suf-
16 ficient to validate the determinations required for is-
17 suanee of a permit under this Act.

18 (16) Evidence of appropriate financial assur-
19 ance as specified in section 206.

20 (17) A description of the site security provisions
21 designed to protect from theft the locatable min-
22 erals, concentrates or products derived therefrom
23 which will be produced or stored on a mining claim.

24 (18) A full characterization of soils and geology
25 in the area to be affected by mineral activities.

1 (19) A copy of the applicant's advertisement to
2 be published as required by section 403 (relating to
3 public participation).

4 (c) RECLAMATION PLAN APPLICATION REQUIRE-
5 MENTS.—The reclamation plan referred to in subsection
6 (b) shall include such reclamation measures as prescribed
7 by the Secretary, or for National Forest System lands the
8 Secretary of Agriculture, and each of the following:

9 (1) A description of the condition of the land,
10 including the fish and wildlife resources and habitat
11 contained thereon, subject to the permit prior to the
12 commencement of any mineral activities.

13 (2) A description of reclamation measures pro-
14 posed pursuant to the requirements of section 207.

15 (3) The engineering techniques to be used in
16 reclamation and the equipment proposed to be used.

17 (4) The anticipated starting and termination
18 dates of each phase of the reclamation proposed.

19 (5) A description of the proposed condition of
20 the land, including the fish and wildlife resources
21 and habitat contained thereon, following the comple-
22 tion of reclamation.

1 (6) A description of the maintenance measures
2 that will be necessary to meet the surface manage-
3 ment requirements of this Act, such as, but not lim-
4 ited to, drainage water treatment facilities, or liner
5 maintenance and control.

6 (7) The consideration which has been given to
7 making the condition of the land after the comple-
8 tion of mineral activities and final reclamation con-
9 sistent with the applicable land use plan.

10 (d) PERMIT ISSUANCE OR DENIAL.—(1) After pro-
11 viding notice and opportunity for public comment and
12 hearing, the Secretary, or for National Forest System
13 lands the Secretary of Agriculture, shall issue an oper-
14 ations permit if such Secretary makes each of the follow-
15 ing determinations in writing, and such Secretary shall
16 deny a permit which he or she finds does not fully meet
17 the requirements of this paragraph:

18 (A) The permit application, operations plan,
19 and reclamation plan are complete and accurate.

20 (B) The applicant has demonstrated that the
21 proposed reclamation in the reclamation plan can be
22 accomplished.

23 (C) The proposed mineral activities and condi-
24 tion of the land including the fish and wildlife re-
25 sources and habitat contained thereon, after the

1 completion of mineral activities and final reclama-
2 tion conform to the land use plan applicable to the
3 area subject to mineral activities.

4 (D) The area subject to the proposed plan is
5 not included within an area designated unsuitable or
6 not open to location for the types of mineral activi-
7 ties proposed.

8 (E) The applicant has demonstrated that the
9 mineral activities will be in compliance with this Act
10 and all other applicable Federal requirements, and
11 any State requirements agreed to by the appropriate
12 Secretary pursuant to cooperative agreements under
13 section 208.

14 (F) The assessment of the probable cumulative
15 impact of all anticipated mining in the area on the
16 hydrologic balance specified in subsection (b)(10)
17 has been made and the proposed operation has been
18 designed to minimize disturbances to the prevailing
19 hydrologic balance of the permit area.

20 (G) The applicant has fully complied with the
21 requirements of section 206 (relating to financial as-
22 surance).

23 (2) Issuance of an operations permit under this sec-
24 tion shall be based on information supplied by the appli-
25 cant or other interested parties and the applicant shall

1 have the burden of establishing that the application com-
2 plies with paragraph (1).

3 (3) With respect to any activities specified in the rec-
4 lamation plan referred to in subsection (b) which con-
5 stitute a removal or remedial action under section 101 of
6 the Comprehensive Environmental Response, Compensa-
7 tion and Liability Act of 1980, the Secretary shall consult
8 with the Administrator of the Environmental Protection
9 Agency prior to the issuance of an operating permit. To
10 the extent practicable, the Administrator shall ensure that
11 the reclamation plan does not require activities which
12 would increase the costs or likelihood of removal or reme-
13 dial actions under Comprehensive Environmental Re-
14 sponse, Compensation and Liability Act of 1980 or correc-
15 tive actions under the Solid Waste Disposal Act.

16 (e) TERM OF PERMIT; RENEWAL.—(1) An operations
17 permit shall be for a stated term. The term shall be no
18 greater than that necessary to accomplish the proposed
19 mineral activities subject to the permit, and in no case
20 for more than 10 years, unless the applicant demonstrates
21 to the satisfaction of the Secretary, or for National Forest
22 System lands the Secretary of Agriculture, that a specified
23 longer term is reasonably needed for such mineral activi-
24 ties.

1 (2) Failure by the operator to commence mineral ac-
2 tivities within one year of the date scheduled in an oper-
3 ations permit shall require a modification of the permit
4 unless the Secretary concerned determines that the delay
5 was beyond the control of the applicant.

6 (3) An operations permit shall carry with it the right
7 of successive renewal upon expiration only with respect to
8 operations on areas within the boundaries of the existing
9 permit as issued. A renewal of such permit shall not be
10 issued if such Secretary determines, in writing, any of the
11 following:

12 (A) The terms and conditions of the existing
13 permit are not being met.

14 (B) The operator has not demonstrated that
15 the financial assurance would continue to apply in
16 full force and effect for the renewal term.

17 (C) Any additional revised or updated informa-
18 tion required by the Secretary concerned has not
19 been provided.

20 (D) The applicant has not demonstrated that
21 the mineral activities will be in compliance with the
22 requirements of all other applicable Federal require-
23 ments, and any State requirements agreed to by the
24 Secretary concerned pursuant to cooperative agree-
25 ments under section 208.

1 (4) A renewal of an operations permit shall be for
2 a term of 10 years or for such additional term as the Sec-
3 retary concerned deems appropriate. Application for re-
4 newal shall be made at least one year prior to the expira-
5 tion of the existing permit. Where a renewal application
6 has been timely submitted and a permit expires prior to
7 Secretarial action on the renewal application, reclamation
8 shall and other mineral activities may continue in accord-
9 ance with the terms of the expired permit until the Sec-
10 retary concerned makes a decision on the renewal applica-
11 tion.

12 (f) PERMIT MODIFICATION.—(1) During the term of
13 an operations permit the operator may submit an applica-
14 tion to modify the permit (including the operations plan
15 or reclamation plan, or both). To approve a proposed
16 modification, the Secretary, or for National Forest System
17 lands the Secretary of Agriculture, shall make the same
18 determinations as are required in the case of an original
19 operations permit, except that the Secretaries may estab-
20 lish joint rules regarding the extent to which requirements
21 for original permits under this section shall apply to appli-
22 cations to modify a permit based on whether such modi-
23 fications are deemed significant or minor. Such rules shall
24 provide that all requirements applicable to a new permit

1 shall apply to any extension of the area covered by the
2 permit (except for incidental boundary revisions).

3 (2) The Secretary, or for National Forest System
4 lands the Secretary of Agriculture, may, at any time, re-
5 quire reasonable modification to any operations plan or
6 reclamation plan upon a determination that the require-
7 ments of this Act cannot be met if the plan is followed
8 as approved. Such determination shall be based on a writ-
9 ten finding and subject to notice and hearing requirements
10 established by the Secretary concerned.

11 (g) TEMPORARY CESSATION OF OPERATIONS.—(1)
12 No operator conducting mineral activities under an oper-
13 ations permit in effect under this title may temporarily
14 cease mineral activities for a period of 180 days or more
15 under an operations permit unless the Secretary concerned
16 has approved such temporary cessation or unless the tem-
17 porary cessation is permitted under the original permit.
18 Any operator temporarily ceasing mineral activities for a
19 period of 180 days or more under an existing operations
20 permit shall submit, before the expiration of such 180-day
21 period, a complete application for temporary cessation of
22 operations to the Secretary concerned for approval unless
23 the temporary cessation is permitted under the original
24 permit.

1 (2) An application for approval of temporary ces-
2 sation of operations shall include such provisions as pre-
3 scribed by the Secretary concerned, including but not lim-
4 ited to the steps that shall be taken during the cessation
5 of operations period to minimize impacts on the environ-
6 ment. After receipt of a complete application for tem-
7 porary cessation of operations such Secretary shall con-
8 duct an inspection of the area for which temporary ces-
9 sation of operations has been requested.

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

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

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

24 (C) A determination that the amount of finan-
25 cial assurance filed with the permit application is

1 sufficient to assure completion of the reclamation ac-
2 tivities identified in the approved reclamation plan in
3 the event of forfeiture.

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

11 (h) PERMIT REVIEWS.—The Secretary, or for Na-
12 tional Forest System lands the Secretary of Agriculture,
13 shall review each permit issued under this section every
14 3 years during the term of such permit and, based upon
15 a written finding, such Secretary may require the operator
16 to take such actions as the Secretary deems necessary to
17 assure that mineral activities conform to the permit, in-
18 cluding adjustment of financial assurance requirements.

19 (i) FEES.—Each application for a permit pursuant
20 to this section shall be accompanied by a fee payable to
21 the Secretary of the Interior in such amount as may be
22 established by such Secretary. Such amount shall be equal
23 to the actual or anticipated cost to the Secretary, or for
24 National Forest System lands the Secretary of Agri-
25 culture, of reviewing, administering, and enforcing such

1 permit, as determined by the Secretary of the Interior. All
2 moneys received under this subsection shall be deposited
3 in the Abandoned Locatable Minerals Mine Reclamation
4 Fund established under title III of this Act.

5 (j) TRANSFER, ASSIGNMENT, OR SALE OF RIGHTS.—

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

10 (2) The Secretary, or for National Forest System
11 lands the Secretary of Agriculture, may allow a person
12 holding a permit to transfer, assign, or sell rights under
13 the permit to a successor, if such Secretary finds, in writ-
14 ing, that the successor—

15 (A) is eligible to receive a permit in accordance
16 with section 205;

17 (B) has submitted evidence of financial assur-
18 ance satisfactory under section 206; and

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

21 (3) The successor in interest shall assume the liability
22 and reclamation responsibilities established by the existing
23 permit and shall conduct the mineral activities in full com-
24 pliance with this Act, and the terms and conditions of the

1 permit as in effect at the time of transfer, assignment,
2 or sale.

3 (4) Each application for approval of a permit trans-
4 fer, assignment, or sale pursuant to this subsection shall
5 be accompanied by a fee payable to the Secretary of the
6 Interior in such amount as may be established by such
7 Secretary. Such amount shall be equal to the actual or
8 anticipated cost to the Secretary or the Secretary of Agri-
9 culture of reviewing and approving or disapproving such
10 transfer, assignment, or sale, as determined by the Sec-
11 retary of the Interior. All moneys received under this sub-
12 section shall be deposited in the Abandoned Locatable
13 Minerals Mine Reclamation Fund established under title
14 III of this Act.

15 **SEC. 205. PERSONS INELIGIBLE FOR PERMITS.**

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

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

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

8 (3) The Surface Mining Control and Reclama-
9 tion Act of 1977 (30 U.S.C. 1201 and following) or
10 any regulation implementing that Act at any site
11 where surface coal mining operations have occurred
12 or are occurring.

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

20 (c) CORRECTION.—(1) The Secretary, or for National
21 Forest System lands the Secretary of Agriculture, may
22 issue or reinstate a permit under this title if the applicant
23 submits proof that the violation referred to in subsection
24 (a) or (b) has been corrected or is in the process of being
25 corrected to the satisfaction of such Secretary or if the

1 applicant submits proof that the violator has filed and is
2 presently pursuing, a direct administrative or judicial ap-
3 peal to contest the existence of the violation. For purposes
4 of this section, an appeal of any applicant's relationship
5 to an affiliate shall not constitute a direct administrative
6 or judicial appeal to contest the existence of the violation.

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

13 (d) PATTERN OF WILLFUL VIOLATIONS.—No permit
14 under this Act may be issued to any applicant if there
15 is a demonstrated pattern of willful violations of the sur-
16 face management requirements of this Act by the appli-
17 cant, any affiliate of the applicant, or the operator or
18 claim holder if different than the applicant, and such vio-
19 lations are of such nature and duration, and with such
20 resulting irreparable damage to the environment, as to
21 clearly indicate an intent not to comply with the surface
22 management requirements.

23 **SEC. 206. FINANCIAL ASSURANCE.**

24 (a) FINANCIAL ASSURANCE REQUIRED.—(1) Before
25 any permit is issued under this title, the operator shall

1 file with the Secretary, or for National Forest System
2 lands the Secretary of Agriculture, evidence of financial
3 assurance payable to the United States on a form pre-
4 scribed and furnished by such Secretary and conditional
5 upon faithful performance of such permit and all other
6 requirements of this Act. The financial assurance shall be
7 provided in the form of a surety bond, trust fund, letters
8 of credits, government securities, cash or equivalent.

9 (2) The financial assurance shall cover all lands with-
10 in the initial permit area and shall be extended to cover
11 all lands added pursuant to any permit modification made
12 under section 203(f), section 204(f), or section 204(h).
13 The financial assurance shall cover all lands to be affected
14 by mineral activities as described and depicted in the per-
15 mit application.

16 (b) AMOUNT.—The amount of the financial assur-
17 ance required under this section shall be sufficient to as-
18 sure the completion of reclamation satisfying the require-
19 ments of this Act if the work were to be performed by
20 the Secretary concerned in the event of forfeiture. The cal-
21 culation of such amount shall take into account the maxi-
22 mum level of financial exposure which shall arise during
23 the mineral activity.

24 (c) DURATION.—The financial assurance required
25 under this section shall be held for the duration of the

1 mineral activities and for an additional period to cover the
2 operator's responsibility for revegetation as specified
3 under subsection 207(b)(6)(B), and effluent treatment as
4 specified in subsection (g).

5 (d) ADJUSTMENTS.—The amount of the financial as-
6 surance and the terms of the acceptance of the assurance
7 may be adjusted by the Secretary concerned from time to
8 time as the area requiring coverage is increased or de-
9 creased, or where the costs of reclamation or treatment
10 change, or pursuant to section 204(h), but the financial
11 assurance must otherwise be in compliance with this sec-
12 tion. The Secretary concerned shall specify periodic times,
13 or set a schedule, for reevaluating or adjusting the amount
14 of financial assurance.

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

23 (1) A determination that reclamation covered
24 by the financial assurance has been accomplished as
25 required by this Act.

1 (2) A determination that the operator has de-
2 clared that the terms and conditions of any other
3 applicable Federal requirements, and State require-
4 ments applicable pursuant to cooperative agreements
5 under section 208, have been fulfilled.

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

8 (1) After the operator has completed any re-
9 quired backfilling, regrading, and drainage control of
10 an area subject to mineral activities and covered by
11 the financial assurance, and has commenced revege-
12 tation on the regraded areas subject to mineral ac-
13 tivities in accordance with the approved plan, that
14 portion of the total financial assurance secured for
15 the area subject to mineral activities attributable to
16 the completed activities may be released.

17 (2) After the operator has completed success-
18 fully all remaining mineral activities and reclamation
19 activities and all requirements of the operations plan
20 and the reclamation plan (including the provisions of
21 section 207(b)(6)(B) relating to revegetation and ef-
22 fluent treatment required by subsection (g)), and all
23 other requirements of this Act have in fact been
24 fully met, the remaining portion of the financial as-
25 surance may be released.

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

6 (g) EFFLUENT.—Where any discharge resulting from
7 the mineral activities requires treatment in order to meet
8 the applicable effluent limitations, the financial assurance
9 shall include the estimated cost of maintaining such treat-
10 ment for the projected period that will be needed after
11 the cessation of mineral activities. The portion of the fi-
12 nancial assurance attributable to such estimated cost of
13 treatment shall not be released until the discharge has
14 ceased, or, if the discharge continues, until the operator
15 has met all applicable effluent limitations and water qual-
16 ity standards for 5 full years without treatment.

17 (h) ENVIRONMENTAL HAZARDS.—If the Secretary,
18 or for National Forest System lands the Secretary of Agri-
19 culture, determines, after final release of financial assur-
20 ance, that an environmental hazard resulting from the
21 mineral activities exists, or the terms and conditions of
22 the operations permit of this Act were not fulfilled in fact
23 at the time of release, such Secretary shall issue an order
24 under section 407 requiring the claimholder or operator

1 (or any person who controls the claimholder or operator)
2 to correct the condition.

3 **SEC. 207. RECLAMATION.**

4 (a) GENERAL RULE.—(1) Except as provided under
5 paragraphs (5) and (7) of subsection (b), the operator
6 shall restore lands subject to mineral activities carried out
7 under a permit issued under this title to a condition capa-
8 ble of supporting—

9 (A) the uses, including fish and wildlife habitat
10 uses, which such lands were capable of supporting
11 prior to surface disturbance by the operator, or

12 (B) other beneficial uses which conform to ap-
13 plicable land use plans as determined by the Sec-
14 retary or for National Forest System lands, the Sec-
15 retary of Agriculture.

16 (2) Reclamation shall proceed as contemporaneously
17 as practicable with the conduct of mineral activities and
18 shall use, with respect to this subsection and subsection
19 (b), the best technology currently available. To the extent
20 practicable, reclamation shall be conducted in a manner
21 that does not increase the costs or likelihood of a removal
22 or remedial action under section 101 of the Comprehensive
23 Environmental Response, Compensation and Liability Act
24 of 1980 or a corrective action under the Solid Waste Dis-
25 posal Act.

1 (b) RECLAMATION STANDARDS.—Mineral activities
2 shall be conducted in accordance with the following stand-
3 ards; as well as any additional standards the Secretaries
4 may jointly promulgate under section 201 and subsection
5 (a) of this section to address specific environmental im-
6 pacts of selected methods of mining:

7 (1) SOILS.—(A) Soils, including top soils and
8 subsoils removed from lands subject to mineral ac-
9 tivities shall be segregated from waste material and
10 protected for later use in reclamation. If such soil is
11 not replaced on a backfill area within a time-frame
12 short enough to avoid deterioration of the topsoil,
13 vegetative cover or other means shall be used so that
14 the soil is preserved from wind and water erosion,
15 remains free of contamination by acid or other toxic
16 material, and is in a usable condition for sustaining
17 vegetation when restored during reclamation.

18 (B) In the event the topsoil from lands subject
19 to mineral activities is of insufficient quantity or of
20 inferior quality for sustaining vegetation, and other
21 suitable growth media removed from the lands sub-
22 ject to the mineral activities are available that shall
23 support vegetation, the best available growth me-
24 dium shall be removed, segregated and preserved in

1 a like manner as under subparagraph (A) for sus-
2 taining vegetation when restored during reclamation.

3 (C) In the event the soil (other than topsoil)
4 from lands subject to mineral activities is of insuffi-
5 cient quantity or of inferior quality for sustaining
6 vegetation, and other suitable growth media removed
7 from the lands subject to the mineral activities are
8 available that support revegetation, these substitute
9 materials shall be removed, segregated or preserved
10 in a like manner as under subparagraph (A) for
11 later use in reclamation.

12 (D) Mineral activities shall be conducted to pre-
13 vent contamination of soils to the extent possible
14 using the best technology currently available. If con-
15 tamination occurs, the operator shall decontaminate
16 or dispose of any contaminated soils which have re-
17 sulted from the mineral activities.

18 (2) STABILIZATION.—All surface areas subject
19 to mineral activities, including segregated soils or
20 other growth medium, waste material piles, ore piles,
21 subgrade ore piles, and open or partially backfilled
22 mine pits which meet the requirements of paragraph
23 (5) shall be stabilized and protected during mineral
24 activities so as to effectively control fugitive dust

1 and erosion and otherwise comply with toxic sub-
2 stance, solid waste, air and water pollution control
3 laws and other environmental laws.

4 (3) SEDIMENTS, EROSION, AND DRAINAGE.—
5 Facilities such as but not limited to basins, ditches,
6 stream bank stabilization, diversions or other meas-
7 ures, shall be designed, constructed and maintained
8 where necessary to control sediments, erosion, and
9 drainage of the area subject to mineral activities.

10 (4) HYDROLOGIC BALANCE.—(A) Mineral ac-
11 tivities shall be conducted to minimize disturbances
12 to the prevailing hydrologic balance of the permit
13 area and surrounding watershed existing prior to the
14 mineral activities in the permit area and in the sur-
15 rounding watershed, as established by the baseline
16 information provided pursuant to section
17 204(b)(10). Hydrologic balance includes the quality
18 and quantity of ground water and surface water and
19 their interrelationships, including recharge and dis-
20 charge rates. In all cases, the operator shall comply
21 with Federal and State laws related to the quality
22 and quantity of such waters.

23 (B) Mineral activities shall be conducted using
24 the technology standard referred to in subsection
25 (a)(2) to prevent where possible the formation of

1 acidic, toxic or other contaminated water. Where the
2 formation of acidic, toxic or other contaminated
3 water occurs despite the use of such technology
4 standard, mineral activities shall be conducted using
5 such technology so as to minimize the formation of
6 acidic, toxic or other contaminated water.

7 (C) Mineral activities shall prevent any con-
8 tamination of surface and ground water with acid or
9 other toxic mine pollutants and shall prevent or re-
10 move water from contact with acid or toxic produc-
11 ing deposits.

12 (D) Reclamation shall restore approximate hy-
13 drologic balance existing prior to the mineral activi-
14 ties.

15 (E) Where the quality of surface water or
16 ground water used for domestic, municipal, agricul-
17 tural, or industrial purposes is adversely impacted
18 by mineral activities, such water shall be treated, or
19 replaced with the same quantity and approximate
20 quality of water, comparable to premining conditions
21 as established in paragraph (10) of section 204(b).

22 (5) SURFACE RESTORATION.—(A) The surface
23 area disturbed by mineral activities shall be shaped,
24 graded, and contoured to its natural topography.
25 Backfilling of an open pit mine shall be required

1 only if the Secretary, or for National Forest System
2 lands the Secretary of Agriculture, finds that such
3 open pit or partially backfilled, graded, or contoured
4 pit would pose a significant threat to the public
5 health safety or have a significant adverse effect on
6 the environment in terms of surface water or
7 groundwater pollution.

8 (B) In instances where complete backfilling of
9 an open pit is not required, the pit shall be graded
10 to blend with the surrounding topography as much
11 as practicable and revegetated in accordance with
12 paragraph (6).

13 (6) VEGETATION.—(A) The area subject to
14 mineral activities shall be vegetated in order to es-
15 tablish a diverse, effective and permanent vegetative
16 cover of the same seasonal variety native to the area
17 subject to mineral activities, capable of self-regen-
18 eration and plant succession and at least equal in
19 extent of cover to the natural revegetation of the
20 surrounding area, except that introduced species
21 may be used at the discretion of the Secretary, or
22 for National Forest System lands the Secretary of
23 Agriculture, in consultation with the Director, Fish
24 and Wildlife Service, if such introduction of such
25 species is necessary as an interim step in, and is

1 part of a program to restore a native plant commu-
2 nity. In such instances where the complete backfill
3 of an open mine pit is not required under paragraph
4 (5), such Secretary shall prescribe such vegetation
5 requirements as conform to the applicable land use
6 plan.

7 (B) In order to insure compliance with subpara-
8 graph (A), the period for determining successful re-
9 vegetation shall be for a period of 5 full years after
10 the last year of augmented seeding, fertilizing, irri-
11 gation or other work, except that such period shall
12 be 10 full years where the annual average precipita-
13 tion is 26 inches or less. The period may be for a
14 longer time at the discretion of the Secretary con-
15 cerned where the average precipitation is 26 inches
16 or less.

17 (7) EXCESS WASTE.—(A) Waste material in ex-
18 cess of that required to comply with paragraph (5)
19 shall be transported and placed in approved areas,
20 in a controlled manner in such a way so as to assure
21 long-term mass stability, to prevent mass movement
22 and to facilitate reclamation. In addition to the
23 measures described under paragraph (3), internal
24 drainage systems shall be employed, as may be re-
25 quired, to control erosion and drainage. The design

1 of such excess waste material piles shall be certified
2 by a qualified professional engineer.

3 (B) Excess waste material piles shall be graded
4 and contoured to blend with the surrounding topog-
5 raphy as much as practicable and revegetated in ac-
6 cordance with paragraph (6).

7 (8) SEALING.—All drill holes, and openings on
8 the surface associated with underground mineral ac-
9 tivities, shall be backfilled, sealed or otherwise con-
10 trolled when no longer needed for the conduct of
11 mineral activities to ensure protection of the public
12 and the environment, and management of fish and
13 wildlife and livestock.

14 (9) STRUCTURES.—All buildings, structures or
15 equipment constructed, used or improved during
16 mineral activities shall be removed, unless the Sec-
17 retary concerned in consultation with the affected
18 land managing agency, determines that use of the
19 buildings, structures or equipment would be consist-
20 ent with subsection (a) or for environmental mon-
21 itoring and the Secretary concerned takes ownership
22 of such structures.

23 (10) FISH AND WILDLIFE.—Fish and wildlife
24 habitat in areas subject to mineral activities shall be
25 restored in a manner commensurate with or superior

1 to habitat conditions which existed prior to the min-
2 eral activities, including such conditions as may be
3 prescribed by the Director, Fish and Wildlife
4 Service.

5 (c) APPLICATION OF RECLAMATION STANDARDS TO
6 EXPLORATION.—The provisions of this section shall apply
7 to mineral exploration pursuant to a permit under this
8 Act, except that paragraphs (5) and (6) of subsection (b)
9 shall not apply during any interim periods between com-
10 pletion of the approved exploration and the commence-
11 ment of further mineral activities, not to exceed 2 years,
12 if the operator maintains a sufficient financial assurance
13 to reclaim the disturbed surface should further mineral ac-
14 tivities not be authorized. The Secretary concerned shall
15 prescribe standards for interim stabilization and revegeta-
16 tion.

17 (d) SPECIAL RULE.—A modified reclamation plan
18 shall not be required for mineral activities related to rec-
19 lamation where a mining claim is forfeited, relinquished
20 or lapsed, or a plan is revoked or suspended or has expired
21 in any such case. Reclamation activities shall continue
22 only as approved by the Secretary, or for National Forest
23 System lands the Secretary of Agriculture, pursuant to the
24 previously approved reclamation plan.

25 (e) DEFINITIONS.—As used in this section:

1 (1) The term “best technology currently avail-
2 able” means equipment, devices, systems, methods,
3 or techniques which have demonstrated engineering
4 and economic feasibility, success and practicality.
5 Within the constraints of the surface management
6 requirements of this Act, the Secretary, or for Na-
7 tional Forest System lands the Secretary of Agri-
8 culture, shall have the discretion to determine the
9 best technology currently available on a case-by-case
10 basis.

11 (2) The term “waste material” means the mate-
12 rial resulting from mineral activities involving ex-
13 traction, beneficiation and processing, including but
14 not limited to tailings, and such material resulting
15 from mineral activities involving processing, to the
16 extent such material is not subject to subtitle C of
17 the Solid Waste Disposal Act or the Uranium Mill
18 Tailings Radiation Control Act.

19 (3) The term “ore piles” means ore stockpiled
20 for beneficiation prior to the completion of mineral
21 activities.

22 (4) The term “subgrade ore” means ore that is
23 too low in grade to be processed at the time of ex-
24 traction but which could reasonably be processed in
25 the foreseeable future.

1 (5) The term “soil” means the earthy or sandy
2 layer, ranging in thickness from a few inches to sev-
3 eral feet, composed of finely divided rock debris, of
4 whatever origin, mixed with decomposing vegetal and
5 animal matter, which forms the surface of the
6 ground and in which plants grow or may grow.

7 **SEC. 208. STATE LAW AND REGULATION.**

8 (a) STATE LAW.—(1) Any reclamation standard or
9 requirement in State law or regulation that meets or ex-
10 ceeds the requirements of section 207 shall not be con-
11 strued to be inconsistent with any such standard.

12 (2) Any bonding standard or requirement in State
13 law or regulation that meets or exceeds the requirements
14 of section 206 shall not be construed to be inconsistent
15 with such requirements.

16 (3) Any inspection standard or requirement in State
17 law or regulation that meets or exceeds the requirements
18 of section 404 shall not be construed to be inconsistent
19 with such requirements.

20 (b) APPLICABILITY OF OTHER STATE REQUIRE-
21 MENTS.—(1) Nothing in this Act shall be construed as af-
22 fecting any toxic substance, solid waste, or air or water
23 quality, standard or requirement of any State law or regu-
24 lation, or of tribal law or regulation, which may be applica-
25 ble to mineral activities on lands subject to this Act.

1 (2) Nothing in this Act shall be construed as affecting
2 in any way the right of any person to enforce or protect,
3 under applicable law, such person's interest in water re-
4 sources affected by mineral activities on lands subject to
5 this Act.

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

13 (2) In such instances where the proposed mineral ac-
14 tivities would affect lands not subject to this Act in addi-
15 tion to lands subject to this Act, in order to approve a
16 plan of operations the Secretary concerned shall enter into
17 a cooperative agreement with the State that sets forth a
18 common regulatory framework consistent with the surface
19 management requirements of this Act for the purposes of
20 such plan of operations.

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

1 (d) PRIOR AGREEMENTS.—Any cooperative agree-
2 ment or such other understanding between the Secretary
3 concerned and any State, or political subdivision thereof,
4 relating to the surface management of mineral activities
5 on lands subject to this Act that was in existence on the
6 date of enactment of this Act may only continue in force
7 until the effective date of this Act, after which time the
8 terms and conditions of any such agreement or under-
9 standing shall only be applicable to plans of operations
10 approved by the Secretary concerned prior to the effective
11 date of this Act.

12 (e) DELEGATION.—The Secretary, or for National
13 Forest System lands the Secretary of Agriculture, shall
14 not delegate to any State, or political subdivision thereof,
15 the Secretary's authorities, duties and obligations under
16 this Act, including with respect to any cooperative agree-
17 ments entered into under this section.

18 (f) PREEMPTION.—Subject to section 414(b), the re-
19 quirements of this Act shall preempt any conflicting re-
20 quirements of any State, or political subdivision thereof
21 relating to mineral activities for locatable minerals.

22 **SEC. 209. UNSUITABILITY REVIEW.**

23 (a) AUTHORITY.—(1) As provided for in this section,
24 the Secretary of the Interior, in carrying out the Sec-
25 retary's responsibilities under the Federal Land Policy

1 and Management Act of 1976, and the Secretary of Agri-
2 culture, in carrying out the Secretary's responsibilities
3 under the Forest and Rangeland Renewable Resources
4 Planning Act of 1974, as amended by the National Forest
5 Management Act of 1976, shall each review lands that are
6 subject to this Act in order to determine, in accordance
7 with the provisions of subsection (b), whether there are
8 any areas on such lands which are either unsuitable for
9 all types of mineral activities or conditionally suitable for
10 certain types of mineral activities.

11 (2) Any determination made in accordance with sub-
12 section (b) shall be immediately effective. Such determina-
13 tion shall be incorporated into the applicable land use plan
14 when such plan is adopted, revised, or significantly amend-
15 ed pursuant to provisions of law other than this Act.

16 (3) In any instance where a determination is made
17 in accordance with subsection (b) that an area is condi-
18 tionally suitable for all or certain mineral activities, the
19 Secretary concerned shall take appropriate steps to notify
20 the public that any operations permit application relevant
21 to that area shall be conditioned accordingly.

22 (b) SPECIAL CHARACTERISTICS.—(1) The Secretary,
23 or for National Forest System lands the Secretary of Agri-
24 culture, shall determine that an area open to location is

1 unsuitable for all or certain mineral activities if such Sec-
2 retary finds that such activities would result in significant,
3 permanent and irreparable damage to special characteris-
4 ties as described in paragraph (3) which cannot be pre-
5 vented by the imposition of conditions in the operations
6 permit required under section 204 (b).

7 (2) The Secretary, or for National Forest System
8 lands, the Secretary of Agriculture, may determine, after
9 notice and opportunity for public comment, that an area
10 is conditionally suitable for all or certain types of mineral
11 activities, if the Secretary concerned determines that any
12 of the special characteristics of such area, as listed in
13 paragraph (3), require protection from the effects of min-
14 eral activities.

15 (3) Any of the following shall be considered special
16 characteristics of an area which contains lands or interests
17 in lands open to location under this Act:

18 (A) The existence of significant water quality or
19 supplies in or associated with such area, such as
20 aquifers and aquifer recharge areas.

21 (B) The presence in such area of publicly
22 owned places which are listed on or are determined
23 eligible for listing on the National Register of His-
24 toric Places.

1 (C) The designation of all or any portion of
2 such area or any adjacent area as a National Con-
3 servation System unit.

4 (D) The designation of all or any portion of
5 such area or any adjacent area as critical habitat for
6 threatened or endangered species under the Endan-
7 gered Species Act.

8 (E) The designation of all or any portion of
9 such area as Class I under section 162 of the Clean
10 Air Act (42 U.S.C. 7401).

11 (F) The presence of such other resource values
12 as the Secretary, or for National Forest System
13 lands, the Secretary of Agriculture, may, by joint
14 rule, specify based upon field testing that verifies
15 such criteria.

16 (c) PERMIT APPLICATION PRIOR TO REVIEW.—(1) If
17 an area covered by an application for a permit required
18 under section 204, has not been reviewed pursuant to sub-
19 section (a) prior to submission of the application, the Sec-
20 retary, or for National Forest System lands, the Secretary
21 of Agriculture, shall review the area that would be affected
22 by the proposed mineral activities to determine, according
23 to the provisions of subsection (b), whether the area is
24 unsuitable for all types of mineral activities or condi-
25 tionally suitable for certain types of mineral activities.

1 Such review and determination shall precede the final de-
2 cision on the permit application.

3 (2) The Secretary concerned shall use such review in
4 the next revision or significant amendment to the applica-
5 ble land use plan to the extent necessary to reflect the
6 unsuitability or conditional suitability of such lands.

7 (d) EFFECT OF DETERMINATION.—(1) In any in-
8 stance in which a determination of unsuitability is made
9 for any area in accordance with subsection (b)(1), all min-
10 eral activities shall be prohibited in such area, and the
11 Secretary shall (with the consent of the Secretary of Agri-
12 culture for National Forest System lands) withdraw such
13 area pursuant to section 204 of the Federal Land Policy
14 and Management Act of 1976 (43 U.S.C. 1714). The Sec-
15 retary's determination under this section shall constitute
16 the documentation required to be provided under section
17 204(c)(12) of the Federal Land Policy and Management
18 Act of 1976 (43 U.S.C. 1714).

19 (2) In any instance where the Secretary, or for Na-
20 tional Forest System lands, the Secretary of Agriculture,
21 determines in accordance with subsection (b)(2) that, by
22 reason of any of the special characteristics listed in sub-
23 section (b)(3), an area is conditionally suitable for all or
24 certain mineral activities, the Secretary concerned shall in-
25 clude such additional conditions in each permit for mineral

1 activities in such area as necessary to limit or control min-
2 eral activities to the extent necessary to protect the special
3 characteristics concerned.

4 (3) Nothing in this section shall be construed as af-
5 fecting lands where mineral activities were being con-
6 ducted on the date of enactment of this Act under ap-
7 proved plans of operations or under notice (as provided
8 for in the regulations of the Secretary of the Interior in
9 effect prior to the date of enactment of this Act relating
10 to operations that cause a cumulative disturbance of 5
11 acres or less).

12 (4) Nothing in this section shall be construed as pro-
13 hibiting mineral activities at a specific site, where substan-
14 tial legal and financial commitments in such mineral ac-
15 tivities were in existence on the date of enactment of this
16 Act, but nothing in this section shall be construed as pro-
17 hibiting either Secretary from regulating such activities in
18 accordance with other authority of law. As used in this
19 paragraph, the term “substantial legal and financial com-
20 mitments” means, with respect to a specific site, signifi-
21 cant investments, expenditures, or undertakings that have
22 been made to explore or develop any mining claim or and
23 millsite located at such site under the general mining laws
24 or converted under this Act, such as but not limited to:
25 contracts for minerals produced; construction; contracts

1 for the construction; or commitment to raise capital for
2 the construction of processing, beneficiation, extraction, or
3 refining facilities, or transportation or utility infrastruc-
4 ture; exploration activities conducted to delineate proven
5 or probable ore reserves; acquisition of mining claims (but
6 only if such acquisition is part of other significant invest-
7 ments specified in this paragraph); and such other costs
8 or expenditures related to mineral activities at such site
9 as are similar to the foregoing itemized costs or expendi-
10 tures and as may be specified by the Secretaries by joint
11 rule.

12 (e) WITHDRAWAL REVIEW.—(1) In carrying out the
13 responsibilities referred to in subsection (a), the Secretary
14 or, for National Forest System lands, the Secretary of Ag-
15 riculture, shall review all administrative withdrawals of
16 land under such Secretary's jurisdiction (other than wil-
17 derness study areas) to determine whether the revocation
18 or modification of such withdrawal for the purpose of al-
19 lowing such lands to be opened to the location of mining
20 claims under this Act is appropriate as a result of either
21 of the following:

22 (A) The imposition of any conditions imposed
23 as part of the land use planning process or the im-
24 position of any conditions as a result to the review
25 process under subsection (a).

(f) EXPLORATION REVIEWS.—In conjunction with review of a permit application submitted pursuant to section 203, and upon request of the applicant, the Secretary, or for National Forest System lands, the Secretary of Agriculture, shall review the area proposed to be affected by mineral activities to determine whether the area would be unsuitable or conditionally suitable for all or certain mineral activities.

21 This title shall not apply to any mineral activities
22 which are subject to the Stock Raising Homestead Act.

1 **TITLE III—ABANDONED LOCAT-**
2 **ABLE MINERALS MINE REC-**
3 **LAMATION FUND**

4 **SEC. 301. ABANDONED LOCATABLE MINERALS MINE REC-**
5 **LAMATION.**

6 (a) ESTABLISHMENT.—(1) There is established on
7 the books of the Treasury of the United States a trust
8 fund to be known as the Abandoned Locatable Minerals
9 Mine Reclamation Fund (hereinafter in this title referred
10 to as the “Fund”). The Fund shall be administered by
11 the Secretary acting through the Director of the Office
12 of Surface Mining Reclamation and Enforcement.

13 (2) The Secretary shall notify the Secretary of the
14 Treasury as to what portion of the Fund is not, in the
15 Secretary’s judgment, required to meet current withdraw-
16 als. The Secretary of the Treasury shall invest such por-
17 tion of the Fund in public debt securities with maturities
18 suitable for the needs of such Fund and bearing interest
19 at rates determined by the Secretary of the Treasury, tak-
20 ing into consideration current market yields on outstand-
21 ing marketplace obligations of the United States of com-
22 parable maturities. The income on such investments shall
23 be credited to, and form a part of, the Fund.

24 (b) AMOUNTS.—The following amounts shall be cred-
25 ited to the Fund:

1 (1) All moneys received from the collection of
2 claim maintenance fees under section 105.

3 (2) All moneys collected pursuant to section
4 106 (relating to failure to comply), section 407 (re-
5 lating to enforcement) and section 405 (relating to
6 citizens suits).

7 (3) All permit fees and transfer fees received
8 under sections 203 and 204.

9 (4) All donations by persons, corporations, as-
10 sociations, and foundations for the purposes of this
11 title.

12 (5) All amounts referred to in section 306 (re-
13 lating to royalties and penalties for underreporting).

14 (6) All other receipts from fees, royalties, pen-
15 alties and other sources collected under this Act.

16 (c) ADMINISTRATIVE COSTS.—(1) In calculating the
17 amount to be deposited in the Fund during any fiscal year
18 under subsection (b), the enacted appropriation of the De-
19 partment of the Interior during the preceding year attrib-
20 utable to administering this Act shall be deducted from
21 the total of the amounts listed in subsection (b) prior to
22 the transfer of such amounts to the Fund.

1 (2) The amount deducted under paragraph (1) of this
2 section shall be available to the Secretary, subject to ap-
3 propriation, for payment of the costs of administering this
4 Act.

5 **SEC. 302. USE AND OBJECTIVES OF THE FUND.**

6 (a) IN GENERAL.—The Secretary is authorized, sub-
7 ject to appropriations, to use moneys in the Fund for the
8 reclamation and restoration of land and water resources
9 adversely affected by past mineral activities on lands the
10 legal and beneficial title to which resides in the United
11 States, land within the exterior boundary of any national
12 forest system unit, or other lands described in subsection
13 (d) or section 303, including any of the following:

14 (1) Prevention, abatement, treatment and con-
15 trol of water pollution created by abandoned mine
16 drainage.

17 (2) Reclamation and restoration of abandoned
18 surface and underground mined areas.

19 (3) Reclamation and restoration of abandoned
20 milling and processing areas.

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

23 (5) Revegetation of land adversely affected by
24 past mineral activities to prevent erosion and sedi-
25 mentation and to enhance wildlife habitat.

1 (6) Control of surface subsidence due to aban-
2 doned underground mines.

3 Moneys in the Fund shall also be available for purposes
4 of compensation (and other payments) under section 422.

5 (b) PRIORITIES.—To the extent that moneys in the
6 fund are in excess of the amount of compensation (and
7 other payments) paid under section 422, expenditures of
8 moneys from the Fund shall reflect the following priorities
9 in the order stated:

10 (1) The protection of public health, safety, gen-
11 eral welfare and property from extreme danger from
12 the adverse effects of past mineral activities, espe-
13 cially as relates to surface water and groundwater
14 contaminates.

15 (2) The protection of public health, safety, and
16 general welfare from the adverse effects of past min-
17 eral activities.

18 (3) The restoration of land, water and fish and
19 wildlife resources previously degraded by the adverse
20 effects of past mineral activities.

21 (c) HABITAT.—Reclamation and restoration activities
22 under this title, particularly those identified under sub-
23 section (a)(4), shall include appropriate mitigation meas-
24 ures to provide for the continuation of any established

1 habitat for wildlife in existence prior to the commencement
2 of such activities.

3 (d) OTHER AFFECTED LANDS.—Where mineral ex-
4 ploration, mining, beneficiation, processing, or reclamation
5 activities has been carried out with respect to any mineral
6 which would be a locatable mineral if the legal and bene-
7 ficial title to the mineral were in the United States, if such
8 activities directly affect lands managed by the Bureau of
9 Land Management as well as other lands and if the legal
10 and beneficial title to more than 50 percent of the affected
11 lands resides in the United States, the Secretary is author-
12 ized, subject to appropriations, to use moneys in the fund
13 for reclamation and restoration under subsection (a) for
14 all directly affected lands.

15 (e) RESPONSE OR REMOVAL ACTIONS.—Reclamation
16 and restoration activities under this title which constitute
17 a removal or remedial action under section 101 of the
18 Comprehensive Environmental Response, Compensation
19 and Liability Act of 1980, shall be conducted with the con-
20 currence of the Administrator of the Environmental Pro-
21 tection Agency. The Secretary and the Administrator shall
22 enter into a Memorandum of Understanding to establish
23 procedures for consultation, concurrence, training, ex-
24 change of technical expertise and joint activities under the
25 appropriate circumstances, which provide assurances that

1 reclamation or restoration activities under this title, to the
2 extent practicable, shall not be conducted in a manner that
3 increases the costs or likelihood of removal or remedial
4 actions under the Comprehensive Environmental Re-
5 sponse, Compensation and Liability Act of 1980, and
6 which avoid oversight by multiple agencies to the maxi-
7 mum extent practicable.

8 **SEC. 303. ELIGIBLE LANDS AND WATERS.**

9 (a) **ELIGIBILITY.**—Reclamation expenditures under
10 this title may only be made with respect to Federal lands
11 or Indian lands or water resources that traverse or are
12 contiguous to Federal lands or Indian lands where such
13 lands or waters resources have been affected by past min-
14 eral activities, including any of the following:

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

19 (2) Lands for which the Secretary makes a de-
20 termination that there is no continuing reclamation
21 responsibility of a claim holder, operator, or other
22 person who abandoned the site prior to completion
23 of required reclamation under State or other Federal
24 laws.

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

7 (b) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—
8 The provisions of section 411(d) of the Surface Mining
9 Control and Reclamation Act of 1977 shall apply to ex-
10 penditures made from the Fund established under this
11 title.

12 (c) INVENTORY.—The Secretary shall prepare and
13 maintain an inventory of abandoned locatable minerals
14 mines on Federal lands and any abandoned mine on In-
15 dian lands which may be eligible for expenditures under
16 this title.

17 **SEC. 304. FUND EXPENDITURES.**

18 Moneys available from the Fund may be expended for
19 the purposes specified in section 302 directly by the Direc-
20 tor of the Office of Surface Mining Reclamation and En-
21 forcement. The Director may also make such money avail-
22 able for such purposes to the Director of the Bureau of
23 Land Management, the Chief of the United States Forest
24 Service, the Director of the National Park Service, Direc-
25 tor of the United States Fish and Wildlife Service, to any

1 other agency of the United States, to an Indian tribe, or
 2 to any public entity that volunteers to develop and imple-
 3 ment, and that has the ability to carry out, all or a signifi-
 4 cant portion of a reclamation program under this title.

5 **SEC. 305. AUTHORIZATION OF APPROPRIATIONS.**

6 Amounts credited to the Fund are authorized to be
 7 appropriated for the purpose of this title without fiscal
 8 year limitation.

9 **SEC. 306. ROYALTY.**

10 (a) RESERVATION OF ROYALTY.—Production of all
 11 locatable minerals from any mining claim located or con-
 12 verted under this Act, or mineral concentrates or products
 13 derived from locatable minerals from any mining claim lo-
 14 cated or converted under this Act, as the case may be,
 15 shall be subject to a royalty of 8 percent of the net smelter
 16 return from such production. The claimholder and any op-
 17 erator to whom the claimholder has assigned the obliga-
 18 tion to make royalty payments under the claim and any
 19 person who controls such claimholder or operator shall be
 20 jointly and severally liable for payment of such royalties.

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

23 (A) who is required to make any royalty pay-
 24 ment under this section shall make such payments

1 to the United States at such times and in such man-
2 ner as the Secretary may by rule prescribe; and

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

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

20 (3) A person conducting mineral activities shall—

21 (A) develop and comply with the site security
22 provisions in operations permit designed to protect
23 from theft the locatable minerals, concentrates or
24 products derived therefrom which are produced or
25 stored on a mining claim, and such provisions shall

1 conform with such minimum standards as the Sec-
2 retary may prescribe by rule, taking into account the
3 variety of circumstances on mining claims; and

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

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

18 (c) RECORDKEEPING AND REPORTING REQUIRE-
19 MENTS.—(1) A claim holder, operator, or other person di-
20 rectly involved in developing, producing, processing, trans-
21 porting, purchasing, or selling locatable minerals, con-
22 centrates, or products derived therefrom, subject to this
23 Act, through the point of royalty computation shall estab-
24 lish and maintain any records, make any reports, and pro-
25 vide any information that the Secretary may reasonably

1 require for the purposes of implementing this section or
2 determining compliance with rules or orders under this
3 section. Such records shall include, but not be limited to,
4 periodic reports, records, documents, and other data. Such
5 reports may also include, but not be limited to, pertinent
6 technical and financial data relating to the quantity, qual-
7 ity, composition volume, weight, and assay of all minerals
8 extracted from the mining claim. Upon the request of any
9 officer or employee duly designated by the Secretary or
10 any State conducting an audit or investigation pursuant
11 to this section, the appropriate records, reports, or infor-
12 mation which may be required by this section shall be
13 made available for inspection and duplication by such offi-
14 cer or employee or State.

15 (2) Records required by the Secretary under this sec-
16 tion shall be maintained for 6 years after release of finan-
17 cial assurance under section 206 unless the Secretary noti-
18 fies the operator that he or she has initiated an audit or
19 investigation involving such records and that such records
20 must be maintained for a longer period. In any case when
21 an audit or investigation is underway, records shall be
22 maintained until the Secretary releases the operator of the
23 obligation to maintain such records.

24 (d) AUDITS.—The Secretary is authorized to conduct
25 such audits of all claim holders, operators, transporters,

1 purchasers, processors, or other persons directly or indi-
2 rectly involved in the production or sales of minerals cov-
3 ered by this Act, as the Secretary deems necessary for the
4 purposes of ensuring compliance with the requirements of
5 this section. For purposes of performing such audits, the
6 Secretary shall, at reasonable times and upon request,
7 have access to, and may copy, all books, papers and other
8 documents that relate to compliance with any provision
9 of this section by any person.

10 (e) COOPERATIVE AGREEMENTS.—(1) The Secretary
11 is authorized to enter into cooperative agreements with the
12 Secretary of Agriculture to share information concerning
13 the royalty management of locatable minerals, con-
14 centrates, or products derived therefrom, to carry out in-
15 spection, auditing, investigation, or enforcement (not in-
16 cluding the collection of royalties, civil or criminal pen-
17 alties, or other payments) activities under this section in
18 cooperation with the Secretary, and to carry out any other
19 activity described in this section.

20 (2) Except as provided in paragraph (4)(A) of this
21 subsection (relating to trade secrets), and pursuant to a
22 cooperative agreement, the Secretary of Agriculture shall,
23 upon request, have access to all royalty accounting infor-
24 mation in the possession of the Secretary respecting the

1 production, removal, or sale of locatable minerals, con-
2 centrates, or products derived therefrom from claims on
3 lands open to location under this Act.

4 (3) Trade secrets, proprietary, and other confidential
5 information shall be made available by the Secretary pur-
6 suant to a cooperative agreement under this subsection to
7 the Secretary of Agriculture upon request only if—

8 (A) the Secretary of Agriculture consents in
9 writing to restrict the dissemination of the informa-
10 tion to those who are directly involved in an audit
11 or investigation under this section and who have a
12 need to know;

13 (B) the Secretary of Agriculture accepts liabil-
14 ity for wrongful disclosure; and

15 (C) the Secretary of Agriculture demonstrates
16 that such information is essential to the conduct of
17 an audit or investigation under this subsection.

18 (f) INTEREST AND SUBSTANTIAL UNDERREPORTING
19 ASSESSMENTS.—(1) In the case of mining claims where
20 royalty payments are not received by the Secretary on the
21 date that such payments are due, the Secretary shall
22 charge interest on such underpayments at the same inter-
23 est rate as is applicable under section 6621(a)(2) of the

1 Internal Revenue Code of 1986. In the case of an under-
2 payment, interest shall be computed and charged only on
3 the amount of the deficiency and not on the total amount.

4 (2) If there is any underreporting of royalty owed on
5 production from a claim for any production month by any
6 person liable for royalty payments under this section, the
7 Secretary may assess a penalty of 10 percent of the
8 amount of that underreporting.

9 (3) If there is a substantial underreporting of royalty
10 owed on production from a claim for any production
11 month by any person responsible for paying the royalty,
12 the Secretary may assess a penalty of 10 percent of the
13 amount of that underreporting.

14 (4) For the purposes of this subsection, the term
15 “substantial underreporting” means the difference be-
16 tween the royalty on the value of the production which
17 should have been reported and the royalty on the value
18 of the production which was reported, if the value which
19 should have been reported is greater than the value which
20 was reported. An underreporting constitutes a “substan-
21 tial underreporting” if such difference exceeds 10 percent
22 of the royalty on the value of production which should
23 have been reported.

24 (5) The Secretary shall not impose the assessment
25 provided in paragraphs (2) or (3) of this subsection if the

1 person liable for royalty payments under this section cor-
2 rects the underreporting before the date such person re-
3 ceives notice from the Secretary that an underreporting
4 may have occurred, or before 90 days after the date of
5 the enactment of this section, whichever is later.

6 (6) The Secretary shall waive any portion of an as-
7 sessment under paragraph (2) or (3) of this subsection
8 attributable to that portion of the underreporting for
9 which the person responsible for paying the royalty dem-
10 onstrates that—

11 (A) such person had written authorization from
12 the Secretary to report royalty on the value of the
13 production on basis on which it was reported, or

14 (B) such person had substantial authority for
15 reporting royalty on the value of the production on
16 the basis on which it was reported, or

17 (C) such person previously had notified the Sec-
18 retary, in such manner as the Secretary may by rule
19 prescribe, of relevant reasons or facts affecting the
20 royalty treatment of specific production which led to
21 the underreporting, or

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

24 (7) All penalties collected under this subsection shall
25 be deposited in the Fund.

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

5 (h) EXPANDED ROYALTY OBLIGATIONS.—Each per-
6 son liable for royalty payments under this section shall
7 be jointly and severally liable for royalty on all locatable
8 minerals, concentrates, or products derived therefrom lost
9 or wasted from a mining claim located or converted under
10 this section when such loss or waste is due to negligence
11 on the part of any person or due to the failure to comply
12 with any rule, regulation, or order issued under this sec-
13 tion.

14 (i) EXCEPTION.—No royalty shall be payable under
15 subsection (a) with respect to minerals processed at a fa-
16 cility by the same person or entity which extracted the
17 minerals if an urban development action grant has been
18 made under section 119 of the Housing and Community
19 Development Act of 1974 with respect to any portion of
20 such facility.

21 (j) DEFINITION.—For the proposes of this section,
22 for any locatable mineral, the term “net smelter return”
23 shall have the same meaning as the term defined in section
24 613(c)(1) of the Internal Revenue Code.

1 (k) EFFECTIVE DATE.—The royalty under this sec-
2 tion shall take effect with respect to the production of
3 locatable minerals after the enactment of this Act, but any
4 royalty payments attributable to production during the
5 first 12 calendar months after the enactment of this Act
6 shall be payable at the expiration of such 12-month period.

7 **TITLE IV—ADMINISTRATIVE AND**
8 **MISCELLANEOUS PROVISIONS**

9 **Subtitle A—Administrative**
10 **Provisions**

11 **SEC. 401. POLICY FUNCTIONS.**

12 (a) MINERALS POLICY.—Section 2 of the Mining and
13 Minerals Policy Act of 1970 (30 U.S.C. 21a) is amended
14 by adding at the end thereof the following: “It shall also
15 be the responsibility of the Secretary of Agriculture to
16 carry out the policy provisions of paragraphs (1) and (2)
17 of this section.”.

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

1 **SEC. 402. USER FEES.**

2 The Secretary and the Secretary of Agriculture are
3 each authorized to establish and collect from persons sub-
4 ject to the requirements of this Act such user fees as may
5 be necessary to reimburse the United States for the ex-
6 penses incurred in administering such requirements. Fees
7 may be assessed and collected under this section only in
8 such manner as may reasonably be expected to result in
9 an aggregate amount of the fees collected during any fiscal
10 year which does not exceed the aggregate amount of ad-
11 ministrative expenses referred to in this section.

12 **SEC. 403. PUBLIC PARTICIPATION REQUIREMENTS.**

13 (a) OPERATIONS PERMIT.—(1) Concurrent with sub-
14 mittal of an application for an operations permit under
15 section 204 or a renewal or significant modification there-
16 of, the applicant shall publish a notice in a newspaper of
17 local circulation at least once a week for 4 consecutive
18 weeks. The notice shall include: the name of the applicant,
19 the location of the proposed mineral activities, the type
20 and expected duration of the proposed mineral activities,
21 the proposed use of the land after the completion of min-
22 eral activities and a location where such plans are publicly
23 available. The applicant shall also notify in writing other
24 Federal, State and local government agencies and Indian
25 tribes that regulate mineral activities or land planning de-
26 cisions in the area subject to mineral activities or that

1 manage lands adjacent to the area subject to mineral ac-
2 tivities. The applicant shall provide proof of such notifica-
3 tion to the Secretary, or for National Forest System lands
4 the Secretary of Agriculture.

5 (2) The applicant for an operations permit shall make
6 copies of the complete permit application available for
7 public review at the office of the responsible Federal sur-
8 face management agency located nearest to the location
9 of the proposed mineral activities, and at such other public
10 locations deemed appropriate by the State or local govern-
11 ment for the county in which the proposed mineral activi-
12 ties will occur prior to final decision by the Secretary, or
13 for National Forest System lands the Secretary of Agri-
14 culture. Any person, and the authorized representative of
15 a Federal, State or local governmental agency or Indian
16 tribe, shall have the right to file written comments relating
17 to the approval or disapproval of the permit application
18 until 30 days after the last day of newspaper publication.
19 The Secretary concerned shall promptly make such com-
20 ments available to the applicant.

21 (3) Any person may file written comments during the
22 comment period specified in paragraph (2) and any person
23 who is, or may be, adversely affected by the proposed min-
24 eral activities may request a nonadjudicatory public hear-
25 ing to be held in the county in which the mineral activities

1 are proposed. The Secretary concerned shall consider all
2 written comments filed during such period. If a hearing
3 is requested by any person who is, or may be, adversely
4 affected by the proposed mineral activities, the Secretary
5 concerned shall consider such request and may conduct
6 such hearing. When a hearing is to be held, notice of such
7 hearing shall be published in a newspaper of local circula-
8 tion at least once a week for 2 weeks prior to the hearing
9 date.

10 **SEC. 404. INSPECTION AND MONITORING.**

11 (a) INSPECTIONS.—(1) The Secretary, or for Na-
12 tional Forest System lands the Secretary of Agriculture,
13 shall make inspections of mineral activities so as to ensure
14 compliance with the surface management requirements of
15 title II.

16 (2) The Secretary concerned shall establish a fre-
17 quency of inspections for mineral activities conducted
18 under a permit issued under title II, but in no event shall
19 such inspection frequency be less than one complete in-
20 spection per calendar quarter or, two per calendar quarter
21 in the case of a permit for which the Secretary concerned
22 approves an application under section 204(g) (relating to
23 temporary cessation of operations). After revegetation has
24 been established in accordance with a reclamation plan,

1 such Secretary shall conduct annually 2 complete inspec-
2 tions. Such Secretary shall have the discretion to modify
3 the inspection frequency for mineral activities that are
4 conducted on a seasonal basis. Inspections shall continue
5 under this subsection until final release of financial assur-
6 ance.

7 (3)(A) Any person who has reason to believe he or
8 she is or may be adversely affected by mineral activities
9 due to any violation of the surface management require-
10 ments may request an inspection. The Secretary, or for
11 National Forest System lands the Secretary of Agri-
12 culture, shall determine within 10 working days of receipt
13 of the request whether the request states a reason to be-
14 lieve that a violation exists. If the person alleges and pro-
15 vides reason to believe that an imminent threat to the en-
16 vironment or danger to the health or safety of the public
17 exists, the 10-day period shall be waived and the inspec-
18 tion shall be conducted immediately. When an inspection
19 is conducted under this paragraph, the Secretary con-
20 cerned shall notify the person requesting the inspection,
21 and such person shall be allowed to accompany the Sec-
22 retary concerned or the Secretary's authorized representa-
23 tive during the inspection. The Secretary shall not incur

1 any liability for allowing such person to accompany an au-
2 thorized representative. The identity of the person supply-
3 ing information to the Secretary relating to a possible vio-
4 lation or imminent danger or harm shall remain confiden-
5 tial with the Secretary if so requested by that person, un-
6 less that person elects to accompany an authorized rep-
7 resentative on the inspection.

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

16 (b) MONITORING.—(1) The Secretary, or for Na-
17 tional Forest System lands the Secretary of Agriculture,
18 shall require all operators to develop and maintain a mon-
19 itoring and evaluation system which shall identify compli-
20 ance with all surface management requirements.

21 (2) Monitoring shall be conducted as close as tech-
22 nically feasible to the mineral activity involved, and in all
23 cases such monitoring shall be conducted within the per-
24 mit area.

1 (3) The point of compliance referred to in paragraph
2 (1) shall be as close to the mineral activity involved as
3 is technically feasible, but in any event shall be located
4 to comply with applicable State and Federal standards.
5 In no event shall the point of compliance be outside the
6 permit area.

7 (4) The Secretary concerned may require additional
8 monitoring be conducted as necessary to assure compli-
9 ance with the reclamation and other environmental stand-
10 ards of this Act.

11 (5) The operator shall file reports with the Secretary,
12 or for National Forest System lands the Secretary of Agri-
13 culture, on a frequency determined by the Secretary con-
14 cerned, on the results of the monitoring and evaluation
15 process, except that if the monitoring and evaluation show
16 a violation of the surface management requirements, it
17 shall be reported immediately to the Secretary concerned.
18 Information received pursuant to this subsection from any
19 natural person shall not be used against any such natural
20 person in any criminal case, except a prosecution for per-
21 jury or for giving a false statement. The Secretary shall
22 evaluate the reports submitted pursuant to this para-
23 graph, and based on those reports and any necessary in-
24 spection shall take enforcement action pursuant to this
25 section.

1 (6) The Secretary, or for National Forest System
2 lands the Secretary of Agriculture, shall determine what
3 information must be reported by the operator pursuant
4 to paragraph (5). A failure to report as required by the
5 Secretary concerned shall constitute a violation of this Act
6 and subject the operator to enforcement action pursuant
7 to section 407.

8 **SEC. 405. CITIZENS SUITS.**

9 (a) IN GENERAL.—Except as provided in subsection
10 (b), any person having an interest which is or may be ad-
11 versely affected may commence a civil action on his or her
12 own behalf to compel compliance—

13 (1) against any person (including the Secretary
14 or the Secretary of Agriculture) alleged to have vio-
15 lated (if there is evidence the alleged violation has
16 been repeated), or to be in violation of, any of the
17 provisions of title II or section 404 of this Act or
18 any regulation promulgated pursuant to title II or
19 section 404 of this Act or any term or condition of
20 any permit issued under title II of this Act; or

21 (2) against the Secretary or the Secretary of
22 Agriculture where there is alleged a failure of such
23 Secretary to perform any act or duty under title II
24 or section 404 of this Act, or to promulgate any reg-
25 ulation under title II or section 404 of this Act,

1 which is not within the discretion of the Secretary
2 concerned.

3 The United States district courts shall have jurisdiction
4 over actions brought under this section, without regard to
5 the amount in controversy or the citizenship of the parties,
6 including actions brought to apply any civil penalty under
7 this Act. The district courts of the United States shall
8 have jurisdiction to compel agency action unreasonably de-
9 layed, except that an action to compel agency action
10 reviewable under section 406 may only be filed in a United
11 States District Court within the circuit in which such ac-
12 tion would be reviewable under section 406.

13 (b) EXCEPTIONS.—(1) No action may be commenced
14 under subsection (a) prior to 60 days after the plaintiff
15 has given notice in writing of such alleged violation to the
16 Secretary, or for National Forest System lands the Sec-
17 retary of Agriculture, except that any such action may be
18 brought immediately after such notification if the violation
19 complained of constitutes an imminent threat to the envi-
20 ronment or to the health or safety of the public.

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

1 (3) No action may be commenced under paragraph
2 (2) of subsection (a) against either Secretary to review any
3 rule promulgated by, or to any permit issued or denied
4 by such Secretary if such rule or permit issuance or denial
5 is judicially reviewable under section 406 or under any
6 other provision of law at any time after such promulga-
7 tion, issuance, or denial is final.

8 (c) VENUE.—Venue of all actions brought under this
9 section shall be determined in accordance with title 28
10 U.S.C. 1391.

11 (d) INTERVENTION; NOTICE.—(1) In any action
12 under this section, the Secretary, or for National Forest
13 System lands the Secretary of Agriculture, may intervene
14 as a matter of right at any time. A judgment in an action
15 under this section to which the United States is not a
16 party shall not have any binding effect upon the United
17 States.

18 (2) Whenever an action is brought under this section
19 the plaintiff shall serve a copy of the complaint on the
20 Attorney General of the United States and on the Sec-
21 retary, or for National Forest System lands the Secretary
22 of Agriculture. No consent judgment shall be entered in
23 an action brought under this section in which the United
24 States is not a party prior to 45 days following the date

1 on which a copy of the proposed consent judgment is sub-
2 mitted to the Attorney General and the Secretary, or for
3 National Forest System lands the Secretary of Agri-
4 culture. During such 45-day period the Attorney General
5 or such Secretary may submit comments on the proposed
6 consent judgment to the court and parties or may inter-
7 vene as a matter of right.

8 (e) COSTS.—The court, in issuing any final order in
9 any action brought pursuant to this section may award
10 costs of litigation (including attorney and expert witness
11 fees) to any prevailing party whenever the court deter-
12 mines such award is appropriate. The court may, if a tem-
13 porary restraining order or preliminary injunction is
14 sought, require the filing of a bond or equivalent security
15 in accordance with the Federal Rules of Civil Procedure.

16 (f) SAVINGS CLAUSE.—Nothing in this section shall
17 restrict any right which any person (or class of persons)
18 may have under chapter 7 of title 5 of the United States
19 Code, under section 406 of this Act or under any other
20 statute or common law to bring an action to seek any relief
21 against the Secretary or the Secretary of Agriculture or
22 against any other person, including any action for any vio-
23 lation of this Act or of any regulation or permit issued
24 under this Act or for any failure to act as required by
25 law. Nothing in this section shall affect the jurisdiction

1 of any court under any provision of title 28 of the United
2 States Code, including any action for any violation of this
3 Act or of any regulation or permit issued under this Act
4 or for any failure to act as required by law. Nothing in
5 this Act shall be construed to be a waiver of the sovereign
6 immunity of an Indian tribe except as provided for in sec-
7 tion 202(c).

8 **SEC. 406. ADMINISTRATIVE AND JUDICIAL REVIEW.**

9 (a) REVIEW BY SECRETARY.—(1)(A) Any person is-
10 sued a notice of violation or cessation order under section
11 407, or any person having an interest which is or may
12 be adversely affected by such notice or order, may apply
13 to the Secretary, or for National Forest System lands the
14 Secretary of Agriculture, for review of the notice or order
15 within 30 days of receipt thereof, or as the case may be,
16 within 30 days of such notice or order being modified, va-
17 cated or terminated.

18 (B) Any person who is subject to a penalty assessed
19 under section 106, section 107(c), or section 407 may
20 apply to the Secretary concerned for review of the assess-
21 ment within 30 days of notification of such penalty.

22 (C) Any person having an interest which is or may
23 be adversely affected by a decision made by the Secretary
24 or the Secretary of Agriculture under section 203, 204,

1 205, 206, 209, or 404(a)(3) may apply to such Secretary
2 for review of the decision within 30 days after it is made.

3 (2) The Secretary concerned shall provide an oppor-
4 tunity for a public hearing at the request of any party
5 to the proceeding as specified in paragraph (1). The filing
6 of an application for review under this subsection shall not
7 operate as a stay of any order or notice issued under sec-
8 tion 407.

9 (3) For any review proceeding under this subsection,
10 the Secretary concerned shall make findings of fact and
11 shall issue a written decision incorporating therein an
12 order vacating, affirming, modifying or terminating the
13 notice, order or decision, or with respect to an assessment,
14 the amount of penalty that is warranted. Where the appli-
15 cation for review concerns a cessation order issued under
16 section 407, the Secretary concerned shall issue the writ-
17 ten decision within 30 days of the receipt of the applica-
18 tion for review or within 30 days after the conclusion of
19 any hearing referred to in paragraph (2), whichever is
20 later, unless temporary relief has been granted by the Sec-
21 retary concerned under paragraph (4).

22 (4) Pending completion of any review proceedings
23 under this subsection, the applicant may file with the Sec-
24 retary, or for National Forest System lands the Secretary
25 of Agriculture, a written request that the Secretary grant

1 temporary relief from any order issued under section 407
2 together with a detailed statement giving reasons for such
3 relief. The Secretary concerned shall expeditiously issue
4 an order or decision granting or denying such relief. The
5 Secretary concerned may grant such relief under such con-
6 ditions as he may prescribe only if such relief shall not
7 adversely affect the health or safety of the public or cause
8 significant, imminent environmental harm to land, air or
9 water resources.

10 (5) The availability of review under this subsection
11 shall not be construed to limit the operation of rights
12 under section 405.

13 (b) JUDICIAL REVIEW.—(1) Any final action by the
14 Secretaries of the Interior and Agriculture in promulgat-
15 ing regulations to implement this Act, or any other final
16 actions constituting rulemaking to implement this Act,
17 shall be subject to judicial review only in the United States
18 Court of Appeals for the District of Columbia. Any action
19 subject to judicial review under this subsection shall be
20 affirmed unless the court concludes that such action is ar-
21 bitrary, capricious, or otherwise inconsistent with law. A
22 petition for review of any action subject to judicial review
23 under this subsection shall be filed within 60 days from
24 the date of such action, or after such date if the petition
25 is based solely on grounds arising after the sixtieth day.

1 Any such petition may be made by any person who com-
2 mented or otherwise participated in the rulemaking or any
3 person who may be adversely affected by the action of the
4 Secretaries.

5 (2) Final agency action under this Act, including
6 such final action on those matters described under sub-
7 section (a), shall be subject to judicial review in accord-
8 ance with paragraph (4) and pursuant to 28 U.S.C. 1391
9 of the United States Code on or before 60 days from the
10 date of such final action. Any action subject to judicial
11 review under this subsection shall be affirmed unless the
12 court concludes that such action is arbitrary, capricious,
13 or otherwise inconsistent with law.

14 (3) The availability of judicial review established in
15 this subsection shall not be construed to limit the oper-
16 ations of rights under section 405 (relating to citizens
17 suits).

18 (4) The court shall hear any petition or complaint
19 filed under this subsection solely on the record made be-
20 fore the Secretary or Secretaries concerned. The court
21 may affirm or vacate any order or decision or may remand
22 the proceedings to the Secretary or Secretaries for such
23 further action as it may direct.

24 (5) The commencement of a proceeding under this
25 section shall not, unless specifically ordered by the court,

1 operate as a stay of the action, order or decision of the
2 Secretary or Secretaries concerned.

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

18 **SEC. 407. ENFORCEMENT.**

19 (a) ORDERS.—(1) If the Secretary, or for National
20 Forest System lands the Secretary of Agriculture, or an
21 authorized representative of such Secretary, determines
22 that any person is in violation of any surface management
23 or monitoring requirement, such Secretary or authorized
24 representative shall issue to such person a notice of viola-
25 tion describing the violation and the corrective measures

1 to be taken. The Secretary concerned, or the authorized
2 representative of such Secretary, shall provide such person
3 with a period of time not to exceed 30 days to abate the
4 violation. Such period of time may be extended by the Sec-
5 retary concerned upon a showing of good cause by such
6 person. If, upon the expiration of time provided for such
7 abatement, the Secretary concerned, or the authorized
8 representative of such Secretary, finds that the violation
9 has not been abated he shall immediately order a cessation
10 of all mineral activities or the portion thereof relevant to
11 the violation.

12 (2) If the Secretary concerned, or the authorized rep-
13 resentative of the Secretary concerned, determines that
14 any condition or practice exists, or that any person is in
15 violation of any surface management or monitoring re-
16 quirement, and such condition, practice or violation is
17 causing, or can reasonably be expected to cause—

18 (A) an imminent danger to the health or safety
19 of the public; or

20 (B) significant, imminent environmental harm
21 to land, air, water, fish or wildlife resources;

22 such Secretary or authorized representative shall imme-
23 diately order a cessation of mineral activities or the por-
24 tion thereof relevant to the condition, practice or violation.

1 (3)(A) A cessation order pursuant to paragraphs (1)
2 or (2) shall remain in effect until such Secretary, or au-
3 thorized representative, determines that the condition,
4 practice or violation has been abated, or until modified,
5 vacated or terminated by the Secretary or authorized rep-
6 resentative. In any such order, the Secretary or authorized
7 representative shall determine the steps necessary to abate
8 the violation in the most expeditious manner possible and
9 shall include the necessary measures in the order. The
10 Secretary concerned shall require appropriate financial as-
11 surances to ensure that the abatement obligations are met.

12 (B) Any notice or order issued pursuant to para-
13 graphs (1) or (2) may be modified, vacated or terminated
14 by the Secretary concerned or an authorized representa-
15 tive of such Secretary. Any person to whom any such no-
16 tice or order is issued shall be entitled to a hearing on
17 the record.

18 (4) If, after 30 days of the date of the order referred
19 to in paragraph (3)(A) the required abatement has not
20 occurred the Secretary concerned shall take such alter-
21 native enforcement action against the claimholder or oper-
22 ator (or any person who controls the claimholder or opera-
23 tor) as will most likely bring about abatement in the most
24 expeditious manner possible. Such alternative enforcement

1 action may include, but is not necessarily limited to, seek-
2 ing appropriate injunctive relief to bring about abatement.
3 Nothing in this paragraph shall preclude the Secretary,
4 or for National Forest System lands the Secretary of Agri-
5 culture, from taking alternative enforcement action prior
6 to the expiration of 30 days.

7 (5) If a claimholder or operator (or any person who
8 controls the claimholder or operator) fails to abate a viola-
9 tion or defaults on the terms of the permit, the Secretary,
10 or for National Forest System lands the Secretary of Agri-
11 culture, shall forfeit the financial assurance for the plan
12 as necessary to ensure abatement and reclamation under
13 this Act. The Secretary concerned may prescribe condi-
14 tions under which a surety may perform reclamation in
15 accordance with the approved plan in lieu of forfeiture.

16 (6) The Secretary, or for National Forest System
17 lands the Secretary of Agriculture, shall not cause forfeit-
18 ure of the financial assurance while administrative or judi-
19 cial review is pending.

20 (7) In the event of forfeiture, the claim holder, opera-
21 tor, or any affiliate thereof, as appropriate as determined
22 by the Secretary by rule, shall be jointly and severally lia-
23 ble for any remaining reclamation obligations under this
24 Act.

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

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

12 (2) interferes with, hinders or delays the Sec-
13 retary concerned in carrying out an inspection under
14 section 404.

15 Such court shall have jurisdiction to provide such relief
16 as may be appropriate. Any relief granted by the court
17 to enforce an order under paragraph (1) shall continue
18 in effect until the completion or final termination of all
19 proceedings for review of such order unless the district
20 court granting such relief sets it aside.

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

1 (d) PENALTIES.—(1) Any person who fails to comply
2 with any surface management requirement shall be liable
3 for a penalty of not more than \$25,000 per violation. Each
4 day of violation may be deemed a separate violation for
5 purposes of penalty assessments.

6 (2) A person who fails to correct a violation for which
7 a cessation order has been issued under subsection (a)
8 within the period permitted for its correction shall be as-
9 sessed a civil penalty of not less than \$1,000 per violation
10 for each day during which such failure continues, but in
11 no event shall such assessment exceed a 30-day period.

12 (3) Whenever a corporation is in violation of a surface
13 management requirement or fails or refuses to comply
14 with an order issued under subsection (a), any director,
15 officer or agent of such corporation who knowingly author-
16 ized, ordered, or carried out such violation, failure or re-
17 fusal shall be subject to the same penalties as may be im-
18 posed upon the person referred to in paragraph (1).

19 (e) SUSPENSIONS OR REVOCATIONS.—The Secretary,
20 or for National Forest System lands the Secretary of Agri-
21 culture, may suspend or revoke a permit issued under title
22 II, in whole or in part, if the operator or person conduct-
23 ing mineral activities—

24 (1) knowingly made or knowingly makes any
25 false, inaccurate, or misleading material statement

1 in any mining claim, notice of location, application,
2 record, report, plan, or other document filed or re-
3 quired to be maintained under this Act;

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

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

8 (4) refuses to permit an audit pursuant to this
9 Act;

10 (5) fails to maintain an adequate financial as-
11 surance under section 206;

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

14 (7) with regard to plans conditionally approved
15 under section 205(c)(2), fails to abate a violation to
16 the satisfaction of the Secretary concerned, or if the
17 validity of the violation is upheld on the appeal
18 which formed the basis for the conditional approval.

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

21 (1) makes any false material statement, rep-
22 resentation, or certification in, or omits or conceals
23 material information from, or unlawfully alters, any
24 mining claim, notice of location, application, record,

1 report, plan, or other documents filed or required to
2 be maintained under this Act; or

3 (2) falsifies, tampers with, renders inaccurate,
4 or fails to install any monitoring device or method
5 be required to be maintained under this Act,
6 shall upon conviction, be punished by a fine of not more
7 than \$10,000, or by imprisonment for not more than 2
8 years, or by both. If a conviction of a person is for a viola-
9 tion committed after a first conviction of such person
10 under this paragraph, punishment shall be by a fine of
11 not more than \$20,000 per day of violation, or by impris-
12 onment of not more than 4 years, or both. Each day of
13 continuing violation may be deemed a separate violation
14 for purposes of penalty assessments.

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

17 (1) engages in mineral activities without a per-
18 mit required under title II, or

19 (2) violates any other surface management re-
20 quirement of this Act or any provision of a permit
21 issued under this Act (including any exploration or
22 operations plan on which such permit is based), or
23 condition or limitation thereof,

24 shall upon conviction be punished by a fine of not less
25 than \$5,000 nor more than \$50,000 per day of violation,

1 or by imprisonment for not more than 3 years, or both.
2 If a conviction of a person is for a violation committed
3 after the first conviction of such person under this para-
4 graph, punishment shall be a fine of not less than \$10,000
5 per day of violation, or by imprisonment of not more than
6 6 years, or both.

7 (h) FAILURE TO COMPLY WITH ROYALTY REQUIRE-
8 MENTS.—(1) Any person who fails to comply with the re-
9 quirements of section 306 or any regulation or order is-
10 sued to implement section 306 shall be liable for a civil
11 penalty under section 109 of the Federal Oil and Gas Roy-
12 alty Management Act (30 U.S.C. 1719) to the same extent
13 as if the claim located or converted under this Act were
14 a lease under that Act.

15 (2) Any person who knowingly and willfully commits
16 an act for which a civil penalty is provided in paragraph
17 (1) shall, upon conviction, be punished by a fine of not
18 more than \$50,000, or by imprisonment for not more than
19 2 years, or both.

20 (i) DEFINITION. For purposes of this section, the
21 term “person” includes a person as defined in section 3(a)
22 and any officer, agent, or employee of any such person.

1 **SEC. 408. REGULATIONS; EFFECTIVE DATES.**

2 (a) EFFECTIVE DATE.—The provisions of this Act
3 shall take effect on the date of enactment of this Act, ex-
4 cept as otherwise provided in this Act.

5 (b) REGULATIONS.—The Secretary and the Secretary
6 of Agriculture may issue such regulations as may be nec-
7 essary under this Act. The regulations implementing title
8 II and the provisions of title IV which affect United States
9 Forest Service shall be joint regulations issued by both
10 Secretaries.

11 (c) NOTICE.—Within 180 days after the date of en-
12 actment of this Act, the Secretary shall give notice to hold-
13 ers of mining claims and mill sites maintained under the
14 general mining laws as to the requirements of sections
15 104, 105, and 106.

16 **Subtitle B—Miscellaneous**
17 **Provisions**

18 **SEC. 411. TRANSITIONAL RULES; SURFACE MANAGEMENT**
19 **REQUIREMENTS.**

20 (a) NEW CLAIMS.—Notwithstanding any other provi-
21 sion of law, any mining claim for a locatable mineral on
22 lands subject to this Act located after the date of enact-
23 ment of this Act shall be subject to the requirements of
24 title II.

25 (b) PREEXISTING CLAIMS.—(1) Notwithstanding any
26 other provision of law, any unpatented mining claim or

1 mill site located under the general mining laws before the
2 date of enactment of this Act for which a plan of operation
3 has not been approved or a notice filed prior to the date
4 of enactment shall upon the effective date of this Act, be
5 subject to the requirements of title II, except as provided
6 in paragraphs (2) and (3).

7 (2)(A) If a plan of operations had been approved for
8 mineral activities on any claim or site referred to in para-
9 graph (1) prior to the date of enactment this Act, for a
10 period of 5 years after the effective date of this Act min-
11 eral activities at such claim or site shall be subject to such
12 plan of operations (or a modification or amendment there-
13 to prepared in accordance with the provisions of law appli-
14 cable prior to the enactment of this Act). During such 5-
15 year period, modifications of, or amendments to, any such
16 plan may be made in accordance with the provisions of
17 law applicable prior to the enactment of this Act if such
18 modifications or amendments are deemed minor by the
19 Secretary concerned. After such 5-year period the require-
20 ments of title II shall apply, subject to the limitations of
21 section 209. In order to meet the requirements of title II,
22 the person conducting mineral activities under such plan
23 of operations (or modified or amended plan) shall apply
24 for a modification under section 203(f) and 204(f) no later
25 than 3 years after the date of enactment of this Act. For

1 purposes of this paragraph, any modification or amend-
2 ment which extends the area covered by the plan (except
3 for incidental boundary revisions) or which significantly
4 increases the risk of adverse effects on the environment
5 shall not be subject to this paragraph and shall be subject
6 to other provisions of this Act.

7 (B) During the 5-year period referred to in subpara-
8 graph (A) the provisions of section 404 (relating to inspec-
9 tion and monitoring) and section 407 (relating to enforce-
10 ment) shall apply on the basis of the surface management
11 requirements applicable to such plans of operations prior
12 to the effective date of this Act.

13 (C) Where an application for modification or amend-
14 ment of a plan of operations referred to in subparagraph
15 (A) has been timely submitted and an approved plan ex-
16 pires prior to Secretarial action on the application, mineral
17 activities and reclamation may continue in accordance
18 with the terms of the expired plan until the Secretary
19 makes an administrative decision on the application.

20 (3)(A) If a substantially complete application for ap-
21 proval of a plan of operations or for a modification of,
22 or amendment to, a plan of operations had been submitted
23 by January 5, 1995 and either a scoping document or an
24 Environmental Assessment prepared for purposes of com-
25 pliance with the National Environmental Policy Act of

1 1969 had been published with respect to such plan, modi-
2 fication, or amendment before the date of the enactment
3 of this Act but the submitted plan of operations or modi-
4 fication or amendment had not been approved for mineral
5 activities on any claim or site referred to in paragraph
6 (1) prior to such date of enactment, for a period of 5 years
7 after the effective date of this Act mineral activities at
8 such claim or site shall be subject to the provisions of law
9 applicable prior to the enactment of this Act. During such
10 5-year period, subsequent modifications of, or amend-
11 ments to, any such plan may be made in accordance with
12 the provisions of law applicable prior to the enactment of
13 this Act if such subsequent modifications or amendments
14 are deemed minor by the Secretary concerned. After such
15 5-year period, the requirements of title II shall apply, sub-
16 ject to the limitations of section 209. For purposes of this
17 paragraph, any subsequent modification or amendment
18 which extends the area covered by the plan (except for
19 incidental boundary revisions) or which significantly in-
20 creases the risk of adverse effects on the environment shall
21 not be subject to this paragraph and shall be subject to
22 other provisions of this Act.

1 (B) In order to meet the requirements of title II, the
2 person conducting mineral activities under a plan of oper-
3 ations (or modified or amended plan referred to in sub-
4 paragraph (A)) shall apply for a modification under sec-
5 tion 203(f) and 204(f) no later than 3 years after the date
6 of enactment of this Act. During such 5-year period the
7 provisions of section 404 (relating to inspection and mon-
8 itoring) and section 407 (relating to enforcement) shall
9 apply on the basis of the surface management require-
10 ments applicable to such plans of operations prior to the
11 effective date of this Act.

12 (C) Where an application for modification or amend-
13 ment of a plan of operations referred to in subparagraph
14 (A) has been timely submitted and an approved plan ex-
15 pires prior to Secretarial action on the application, mineral
16 activities and reclamation may continue in accordance
17 with the terms of the expired plan until the Secretary
18 makes an administrative decision on the application.

19 (4) If a notice or notice of intent had been filed with
20 the authorized officer in the applicable office of the Bu-
21 reau of Land Management or the United States Forest
22 Service (as provided for in the regulations of the Secretary
23 of the Interior or the Secretary of Agriculture, respec-
24 tively, in effect prior to the date of enactment of this Act)
25 prior to the date of enactment this Act, mineral activities

1 may continue under such notice or notice of intent for a
2 period of 2 years after the effective date of this Act, after
3 which time the requirements of title II shall apply, subject
4 to the limitations of section 209(d)(2). In order to meet
5 the requirements of title II, the person conducting mineral
6 activities under such notice or notice of intent must apply
7 for a permit under section 203 or 204 no later than 18
8 months after the effective date of this Act, unless such
9 mineral activities are conducted pursuant to section
10 202(b). During such 2-year period the provisions of sec-
11 tion 404 (relating to inspection and monitoring) and 407
12 (relating to enforcement) shall apply on the basis of the
13 surface management requirements applicable to such no-
14 tices prior to the effective date of this Act.

15 **SEC. 412. CLAIMS SUBJECT TO SPECIAL RULES.**

16 (a) CERTAIN CLAIMS NOT CONVERTED.—Notwith-
17 standing any other provision of law, except as provided
18 under subsection (c), an unpatented mining claim referred
19 to in section 37 of the Mineral Leasing Act (30 U.S.C.
20 193) shall not be converted under section 104 of this Act
21 until the Secretary determines that the claim was valid
22 on the date of enactment of the Mineral Leasing Act of
23 1920 and has been maintained in compliance with the gen-
24 eral mining laws.

1 (b) CONTEST PROCEEDINGS.—As soon as practicable
 2 after the date of enactment of this Act, the Secretary shall
 3 initiate contest proceedings challenging the validity of all
 4 unpatented claims referred to in subsection (a), including
 5 those claims for which a patent application has not been
 6 filed. If a claim is determined to be invalid, the Secretary
 7 shall promptly declare the claim to be null and void. If,
 8 as a result of such proceeding, a claim is determined valid,
 9 the claim shall be converted and thereby become subject
 10 to this Act’s provisions on the date of the completion of
 11 the contest proceeding.

12 (c) OIL SHALE CLAIMS.—(1) The provisions of sec-
 13 tion 411 shall apply to oil shale claims referred to in sec-
 14 tion 2511(e)(2) of the Energy Policy Act of 1992 (Public
 15 Law 102–486)

16 (2) Section 2511(f) of the Energy Policy Act of 1992
 17 (Public Law 102–486) is amended as follows:

18 (A) Strike “as prescribed by the Secretary”.

19 (B) Insert the following before the period: “in
 20 the same manner as if such claims were subject to
 21 title II of the Mineral Exploration and Development
 22 Act of 1995”.

23 **SEC. 413. PURCHASING POWER ADJUSTMENT.**

24 The Secretary shall adjust all location fees, claim
 25 maintenance rates, penalty amounts, and other dollar

1 amounts established in this Act for changes in the pur-
2 chasing power of the dollar every 10 years following the
3 date of enactment of this Act, employing the Consumer
4 Price Index for all-urban consumers published by the De-
5 partment of Labor as the basis for adjustment, and round-
6 ing according to the adjustment process of conditions of
7 the Federal Civil Penalties Inflation Adjustment Act of
8 1990 (104 Stat. 890).

9 **SEC. 414. SAVINGS CLAUSE.**

10 (a) SPECIAL APPLICATION OF MINING LAWS.—Noth-
11 ing in this Act shall be construed as repealing or modify-
12 ing any Federal law, regulation, order or land use plan,
13 in effect prior to the date of enactment of this Act that
14 prohibits or restricts the application of the general mining
15 laws, including laws that provide for special management
16 criteria for operations under the general mining laws as
17 in effect prior to the date of enactment of this Act, to
18 the extent such laws provide environmental protection
19 greater than required under this Act, and any such prior
20 law shall remain in force and effect with respect to claims
21 located (or proposed to be located) or converted under this
22 Act. Nothing in this Act shall be construed as applying
23 to or limiting mineral investigations, studies, or other min-
24 eral activities conducted by any Federal or State agency

1 acting in its governmental capacity pursuant to other au-
2 thority. Nothing in this Act shall affect or limit any as-
3 sessment, investigation, evaluation or listing pursuant to
4 the Comprehensive Environmental Response, Compensa-
5 tion and Liability Act of 1980, or the Solid Waste Dis-
6 posal Act.

7 (b) EFFECT ON OTHER FEDERAL LAWS.—The provi-
8 sions of this Act shall supersede the general mining laws,
9 but, except for the general mining laws, nothing in this
10 Act shall be construed as superseding, modifying, amend-
11 ing or repealing any provision of Federal law not expressly
12 superseded, modified, amended or repealed by this Act.
13 Nothing in this Act shall be construed as altering, affect-
14 ing, amending, modifying, or changing, directly or indi-
15 rectly, any law which refers to and provides authorities
16 or responsibilities for, or is administered by, the Environ-
17 mental Protection Agency or the Administrator of the En-
18 vironmental Protection Agency, including the Federal
19 Water Pollution Control Act, title XIV of the Public
20 Health Service Act (the Safe Drinking Water Act), the
21 Clean Air Act, the Pollution Prevention Act of 1990, the
22 Toxic Substances Control Act, the Federal Insecticide,
23 Fungicide, and Rodenticide Act, the Federal Food, Drug,
24 and Cosmetic Act, the Motor Vehicle Information and
25 Cost Savings Act, the Federal Hazardous Substances Act,

1 the Atomic Energy Act, the Noise Control Act of 1972,
2 the Solid Waste Disposal Act, the Comprehensive Environ-
3 mental Response, Compensation, and Liability Act of
4 1980, the Superfund Amendments and Reauthorization
5 Act of 1986, the Ocean Dumping Act, the Environmental
6 Research, Development, and Demonstration Authorization
7 Act, the Pollution Prosecution Act of 1990, and the Fed-
8 eral Facilities Compliance Act of 1992, or any statute con-
9 taining amendment to any of such Acts. Nothing in this
10 Act shall be construed as modifying or affecting any provi-
11 sion of the Native American Graves Protection and Repa-
12 triation Act (Public Law 101–601) or any provision of the
13 American Indian Religious Freedom Act (42 U.S.C.
14 1996).

15 (c) PROTECTION OF CONSERVATION AREAS.—In
16 order to protect the resources and values of National Con-
17 servation System units, the Secretary, as appropriate,
18 shall utilize authority under this Act and other applicable
19 law to the fullest extent necessary to prevent mineral ac-
20 tivities within the boundaries of such units that could have
21 an adverse impact on the resources or values for which
22 such units were established.

23 **SEC. 415. AVAILABILITY OF PUBLIC RECORDS.**

24 Copies of records, reports, inspection materials or in-
25 formation obtained by the Secretary or the Secretary of

1 Agriculture under this Act shall be made immediately
2 available to the public, consistent with section 552 of title
3 5 of the United States Code, in central and sufficient loca-
4 tions in the county, multi county, and State area of min-
5 eral activity or reclamation so that such items are conven-
6 iently available to residents in the area proposed or ap-
7 proved for mineral activities.

8 **SEC. 416. MISCELLANEOUS POWERS.**

9 (a) IN GENERAL.—In carrying out his or her duties
10 under this Act, the Secretary, or for National Forest Sys-
11 tem lands the Secretary of Agriculture, may conduct any
12 investigation, inspection, or other inquiry necessary and
13 appropriate and may conduct, after notice, any hearing
14 or audit, necessary and appropriate to carrying out his
15 duties.

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

21 (1) Require, by special or general order, any
22 person to submit in writing such affidavits and an-
23 swers to questions as the Secretary concerned may
24 reasonably prescribe, which submission shall be

1 made within such reasonable period and under oath
2 or otherwise, as may be necessary.

3 (2) Administer oaths.

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

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

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

17 (c) ENFORCEMENT.—In cases of refusal to obey a
18 subpoena served upon any person under this section, the
19 district court of the United States for any district in which
20 such person is found, resides, or transacts business, upon
21 application by the Attorney General at the request of the
22 Secretary concerned and after notice to such person, shall
23 have jurisdiction to issue an order requiring such person
24 to appear and produce documents before the Secretary
25 concerned. Any failure to obey such order of the court may

1 be punished by such court as contempt thereof and subject
2 to a penalty of up to \$10,000 a day.

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

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

11 (2) may at reasonable times, and without delay,
12 have access to any copy any records, inspect any
13 monitoring equipment or method of operation re-
14 quired under this Act;

15 (3) may engage in any work and to do all
16 things necessary or expedient to implement and ad-
17 minister the provisions of this Act;

18 (4) may, on any mining claim located or con-
19 verted under this Act, and without advance notice,
20 stop and inspect any motorized form of transpor-
21 tation that he has probable cause to believe is carry-
22 ing locatable minerals, concentrates, or products de-
23 rived therefrom from a claim site for the purpose of
24 determining whether the operator of such vehicle has
25 documentation related to such locatable minerals,

1 concentrates, or products derived therefrom as re-
2 quired by law, if such documentation is required
3 under this Act; and

4 (5) may, if accompanied by any appropriate law
5 enforcement officer, or an appropriate law enforce-
6 ment officer alone may stop and inspect any motor-
7 ized form of transportation which is not on a claim
8 site if he has probable cause to believe such vehicle
9 is carrying locatable minerals, concentrates, or prod-
10 ucts derived therefrom from a claim site on Federal
11 lands or allocated to such claim site. Such inspection
12 shall be for the purpose of determining whether the
13 operator of such vehicle has the documentation re-
14 quired by law, if such documentation is required
15 under this Act.

16 **SEC. 417. LIMITATION ON PATENT ISSUANCE.**

17 (a) MINING CLAIMS.—After January 7, 1997, no pat-
18 ent shall be issued by the United States for any mining
19 claim located under the general mining laws or under this
20 Act unless the Secretary determines that, for the claim
21 concerned—

22 (1) a patent application was filed with the Sec-
23 retary on or before January 7, 1997; and

24 (2) all requirements established under sections
25 2325 and 2326 of the Revised Statutes (30 U.S.C.

1 29 and 30) for vein or lode claims and sections
2 2329, 2330, 2331, and 2333 of the Revised Statutes
3 (30 U.S.C. 35, 36, and 37) for placer claims were
4 fully complied with by that date.

5 If the Secretary makes the determinations referred to in
6 paragraphs (1) and (2) for any mining claim, the holder
7 of the claim shall be entitled to the issuance of a patent
8 in the same manner and degree to which such claim holder
9 would have been entitled to prior to the enactment of this
10 Act, unless and until such determinations are withdrawn
11 or invalidated by the Secretary or by a court of the United
12 States.

13 (b) MILL SITES.—After January 7, 1997, no patent
14 shall be issued by the United States for any mill site claim
15 located under the general mining laws unless the Secretary
16 determines that for the mill site concerned—

17 (1) a patent application for such land was filed
18 with the Secretary on or before January 7, 1997;
19 and

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

22 If the Secretary makes the determinations referred to in
23 paragraphs (1) and (2) for any mill site claim, the holder
24 of the claim shall be entitled to the issuance of a patent
25 in the same manner and degree to which such claim holder

1 would have been entitled to prior to the enactment of this
 2 Act, unless and until such determinations are withdrawn
 3 or invalidated by the Secretary or by a court of the United
 4 States.

5 **SEC. 418. MULTIPLE MINERAL DEVELOPMENT AND SUR-**
 6 **FACE RESOURCES.**

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

13 **SEC. 419. MINERAL MATERIALS.**

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

16 (1) Insert “(a)” before the first sentence.

17 (2) Insert “mineral materials, including but not
 18 limited to” after “varieties of” in the first sentence.

19 (3) Strike “or cinders” and insert in lieu there-
 20 of “cinders, and clay”.

21 (4) Add the following new subsection at the end
 22 thereof:

23 “(b)(1) Subject to valid existing rights, after the date
 24 of enactment of the Mineral Exploration and Development

1 Act of 1995, notwithstanding the reference to common va-
2 rieties in subsection (a) and to the exception to such term
3 relating to a deposit of materials with some property giv-
4 ing it distinct and special value, all deposits of mineral
5 materials referred to in such subsection, including the
6 block pumice referred to in such subsection, shall be sub-
7 ject to disposal only under the terms and conditions of
8 the Materials Act of 1947.

9 “(2) For purposes of paragraph (1), the term ‘valid
10 existing rights’ means that a mining claim located for any
11 such mineral material had some property giving it the dis-
12 tinct and special value referred to in subsection (a), or
13 as the case may be, met the definition of block pumice
14 referred to in such subsection, was properly located and
15 maintained under the general mining laws prior to the
16 date of enactment of the Mineral Exploration and Devel-
17 opment Act of 1995, and was supported by a discovery
18 of a valuable mineral deposit within the meaning of the
19 general mining laws as in effect immediately prior to the
20 date of enactment of the Mineral Exploration and Devel-
21 opment Act of 1995 and that such claim continues to be
22 valid under this Act.”.

23 (b) MINERAL MATERIALS DISPOSAL CLARIFICA-
24 TION.—Section 4 of the Act of July 23, 1955 (30 U.S.C.
25 612), is amended as follows:

1 (1) In subsection (b) insert “and mineral mate-
2 rial” after “vegetative”.

3 (2) In subsection (c) insert “and mineral mate-
4 rial” after “vegetative”.

5 (c) CONFORMING AMENDMENT.—Section 1 of the
6 Act of July 31, 1947, entitled “An Act to provide for the
7 disposal of materials on the public lands of the United
8 States” (30 U.S.C. 601 and following) is amended by
9 striking “common varieties of” in the first sentence.

10 (d) SHORT TITLES.—

11 (1) SURFACE RESOURCES.—The Act of July
12 23, 1955, is amended by inserting after section 7
13 the following new section:

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

16 (2) MINERAL MATERIALS.—The Act of July 31,
17 1947, entitled “An Act to provide for the disposal of
18 materials on the public lands of the United States”
19 (30 U.S.C. 601 and following) is amended by insert-
20 ing after section 4 the following new section:

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

23 (e) REPEALS.—(1) Subject to valid existing rights,
24 the Act of August 4, 1892 (27 Stat. 348, 30 U.S.C. 161)

1 commonly known as the Building Stone Act is hereby re-
2 pealed.

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

6 **SEC. 420. APPLICATION OF ACT TO BENEFICIATION AND**
7 **PROCESSING OF NONFEDERAL MINERALS ON**
8 **FEDERAL LANDS.**

9 The provisions of this Act (including the surface
10 management requirements of title II) shall apply in the
11 same manner and to the same extent to Federal lands
12 used for beneficiation or processing activities for any min-
13 eral without regard to whether or not the legal and bene-
14 ficial title to the mineral is held by the United States. This
15 section applies only to minerals which are locatable min-
16 erals or minerals which would be locatable minerals if the
17 legal and beneficial title to such minerals were held by the
18 United States.

19 **SEC. 421. COMPLIANCE WITH BUY AMERICAN ACT.**

20 No funds appropriated pursuant to this Act may be
21 expended by an entity unless the entity agrees that in ex-
22 pending the funds the entity will comply with section 2
23 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a-
24 10c), popularly known as the “Buy American Act”.

1 **SEC. 308. SENSE OF CONGRESS.**

2 In the case of any equipment or products purchased
3 with funding provided under this Act, it is the sense of
4 the Congress that such funding should be used to pur-
5 chase only American-made equipment and products.

6 **SEC. 309. PROHIBITION OF CONTRACTS.**

7 If it has been finally determined by a court of Federal
8 agency that any person intentionally affixed a label bear-
9 ing a “Made in America” inscription, or any inscription
10 with the same meaning, to any product sold in or shipped
11 to the United States that is not made in the United
12 States, such person shall be ineligible to receive any con-
13 tract or subcontract made with funds provided pursuant
14 to this Act, pursuant to the debarment, suspension, and
15 ineligibility procedures described in sections 9.400 through
16 9.409 of title 48 of the Code of Federal Regulations.

17 **SEC. 422. SEVERABILITY.**

18 If any provision of this Act or the applicability there-
19 of to any person or circumstances is held invalid, the re-
20 mainder of this Act and the application of such provision
21 to other persons or circumstances shall not be affected
22 thereby.

1 **SEC. 423. AWARD OF COMPENSATION FOR TAKINGS FROM**
2 **FUND.**

3 To the extent a court of competent jurisdiction, after
4 adjudication, finds that Federal action undertaken pursu-
5 ant to this Act effects a taking under the Fifth Amend-
6 ment of the United States Constitution and enters a final
7 judgment against the United States, the court shall award
8 just compensation to the plaintiff, from the fund estab-
9 lished under title III, subject to appropriation, together
10 with appropriate reasonable fees and expenses to the ex-
11 tent provided by section 304 of the Uniform Relocation
12 Assistance and Real Property Acquisition Policies Act of
13 1970 (42 U.S.C. 4654(c)). In any case in which the Attor-
14 ney General effects a settlement of any proceeding brought
15 under section 1346(a)(2) or 1491 of title 28 of the United
16 States Code alleging that any Federal action undertaken
17 pursuant to this Act effects a taking under the Fifth
18 Amendment of the United States Constitution, the Attor-
19 ney General shall use amounts available in the Fund sub-
20 ject to appropriations to pay any award necessary pursu-
21 ant to such settlement.

1 **SEC. 424. REPORT TO CONGRESS ON MINING CLAIMS IN**
2 **THE UNITED STATES HELD BY FOREIGN**
3 **FIRMS.**

4 (a) REPORT.—Not later than one year after the date
5 of enactment of this Act and annually thereafter, the Sec-
6 retary of the Interior shall submit a report to the Congress
7 describing the percentage of each mining claim held by
8 a foreign firm.

9 (b) FOREIGN FIRM.—(1) For the purposes of this
10 section, the term “foreign firm” means any firm that is
11 not a domestic firm.

12 (2) For the purposes of paragraph (1), the term “do-
13 mestic firm” means a business entity—

14 (A) that is incorporated or organized in the
15 United States;

16 (B) that conducts business operations in the
17 United States; and

18 (C) the assets of which at least 50 percent are
19 held by United States citizens, permanent resident
20 aliens, or other domestic firms.

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