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116TH CONGRESS
2^D SESSION

H. R. 2579

[Report No. 116-467]

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

MAY 8, 2019

Mr. GRIJALVA (for himself, Mr. BEYER, Mr. BLUMENAUER, Mr. CARTWRIGHT, Mr. DEFazio, Ms. DEGETTE, Mr. GARAMENDI, Ms. HAALAND, Mr. HUFFMAN, Mr. LEVIN of California, Mr. LOWENTHAL, Mr. MCGOVERN, Mrs. NAPOLITANO, Ms. NORTON, Mr. POCAN, and Mr. SOTO) introduced the following bill; which was referred to the Committee on Natural Resources

AUGUST 4, 2020

Additional sponsors: Mr. LUJÁN, Mr. VAN DREW, Ms. ROYBAL-ALLARD, Ms. LOFGREN, Mr. MALINOWSKI, Ms. VELÁZQUEZ, Mrs. DINGELL, Mr. TONKO, Mr. NEGUSE, Ms. MCCOLLUM, Ms. PINGREE, and Ms. TLAIB

AUGUST 4, 2020

Reported with an amendment; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on May 8, 2019]

A BILL

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

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

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

4 (a) *SHORT TITLE.*—*This Act may be cited as the*
 5 *“Hardrock Leasing and Reclamation Act of 2019”.*

6 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 7 *this Act is as follows:*

Sec. 1. Short title; table of contents.

Sec. 2. Definitions and references.

Sec. 3. Application rules.

TITLE I—MINERAL LEASING, EXPLORATION, AND DEVELOPMENT

Sec. 101. Closure to entry and location.

Sec. 102. Limitation on patents.

Sec. 103. Prospecting license and hardrock leases.

Sec. 104. Competitive leasing.

Sec. 105. Small miners leases.

Sec. 106. Lands containing nonhardrock minerals; other uses.

Sec. 107. Royalty.

Sec. 108. Existing production.

Sec. 109. Hardrock mining claim maintenance fee.

Sec. 110. Effect of payments for use and occupancy of claims.

Sec. 111. Protection of special places.

Sec. 112. Suitability determination.

TITLE II—CONSULTATION PROCEDURE

Sec. 201. Requirement for consultation.

Sec. 202. Timing.

Sec. 203. Scoping stage consultation.

Sec. 204. Decision stage procedures.

Sec. 205. Documentation and reporting.

Sec. 206. Implementation.

Sec. 207. Sensitive Tribal information.

*TITLE III—ENVIRONMENTAL CONSIDERATIONS OF MINERAL
 EXPLORATION AND DEVELOPMENT*

Sec. 301. General standard for hardrock mining on Federal land.

Sec. 302. Permits.

Sec. 303. Exploration permit.

Sec. 304. Operations permit.

Sec. 305. Persons ineligible for permits.

Sec. 306. Financial assurance.

Sec. 307. Operation and reclamation.

Sec. 308. State law and regulation.

TITLE IV—ABANDONED HARDROCK MINE RECLAMATION

- Sec. 401. *Establishment of Fund.*
 Sec. 402. *Contents of Fund.*
 Sec. 403. *Displaced material reclamation fee.*
 Sec. 404. *Use and objectives of the Fund.*
 Sec. 405. *Eligible lands and waters.*
 Sec. 406. *Authorization of appropriations.*

TITLE V—ADDITIONAL PROVISIONS

- Sec. 501. *Policy functions.*
 Sec. 502. *User fees and inflation adjustment.*
 Sec. 503. *Inspection and monitoring.*
 Sec. 504. *Citizens suits.*
 Sec. 505. *Administrative and judicial review.*
 Sec. 506. *Reporting requirements.*
 Sec. 507. *Enforcement.*
 Sec. 508. *Regulations.*
 Sec. 509. *Oil shale claims.*
 Sec. 510. *Savings clause.*
 Sec. 511. *Availability of public records.*
 Sec. 512. *Miscellaneous powers.*
 Sec. 513. *Mineral materials.*
 Sec. 514. *Effective date.*

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

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

3 (1) *The term “adjacent land” means any land*
 4 *not more than two miles from the boundary of a de-*
 5 *scribed land tract.*

6 (2) *The term “affiliate” means, with respect to*
 7 *any person, any of the following:*

8 (A) *Any person who controls, is controlled*
 9 *by, or is under common control with such per-*
 10 *son.*

11 (B) *Any partner of such person.*

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

1 (3) *The term “agency” means any authority of*
2 *the United States that is an “agency” under section*
3 *3502(1) of title 44, United States Code.*

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

8 (5) *The term “beneficiation” means the crushing*
9 *and grinding of hardrock mineral ore and such proc-*
10 *esses as are employed to free the mineral from other*
11 *constituents, including physical and chemical separa-*
12 *tion techniques.*

13 (6) *The term “casual use”—*

14 (A) *subject to subparagraphs (B) and (C),*
15 *means mineral activities that do not ordinarily*
16 *result in any disturbance of public lands and re-*
17 *sources;*

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

21 (C) *does not include—*

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

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

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

3 (iv) the use of toxic or hazardous mate-
4 rials.

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

10 (8) The term “control” means having the ability,
11 directly or indirectly, to determine (without regard to
12 whether exercised through one or more corporate
13 structures) the manner in which an entity conducts
14 mineral activities, through any means, including
15 ownership interest, authority to commit the entity’s
16 real or financial assets, position as a director, officer,
17 or partner of the entity, or contractual arrangement.

18 (9) The term “crude ore” means ore in its un-
19 processed form, containing profitable amounts of the
20 target mineral.

21 (10) The term “displaced material” means any
22 crude ore and waste dislodged from its location at the
23 time hardrock mineral activities begin at a surface,
24 underground, or in-situ mine.

25 (11) The term “exploration”—

1 (A) subject to subparagraphs (B) and (C),
2 means creating surface disturbance other than
3 casual use, to evaluate the type, extent, quantity,
4 or quality of minerals present;

5 (B) includes mineral activities associated
6 with sampling, drilling, and analyzing hardrock
7 mineral values; and

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

10 (12) The term “Federal land” means any land,
11 and any interest in land, that is owned by the United
12 States, except lands in the National Park System, In-
13 dian lands, and lands on the Outer Continental Shelf.

14 (13) The term “Fund” means the Hardrock Min-
15 erals Reclamation Fund established by this Act.

16 (14) The term “Indian lands” means lands held
17 in trust for the benefit of an Indian Tribe or indi-
18 vidual or held by an Indian Tribe or individual sub-
19 ject to a restriction by the United States against
20 alienation, or held by an Alaska Native village, vil-
21 lage corporation, or regional corporation as defined
22 in or established pursuant to the Alaska Native
23 Claims Settlement Act (43 U.S.C. 1601 et seq.).

24 (15) The term “Indian Tribe” means any In-
25 dian Tribe, band, nation, pueblo, or other organized

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

8 (16) *The term “hardrock mineral”—*

9 (A) *subject to subparagraph (B), means any*
10 *mineral that was subject to location under the*
11 *general mining laws as of the date of enactment*
12 *of this Act, and that is not subject to disposition*
13 *under—*

14 (i) *the Mineral Leasing Act (30 U.S.C.*
15 *181 et seq.);*

16 (ii) *the Geothermal Steam Act of 1970*
17 *(30 U.S.C. 1001 et seq.);*

18 (iii) *the Act of July 31, 1947, com-*
19 *monly known as the Materials Act of 1947*
20 *(30 U.S.C. 601 et seq.); or*

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

23 (B) *does not include any mineral that is*
24 *subject to a restriction against alienation im-*
25 *posed by the United States and is—*

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

5 (ii) owned by any Indian or Indian
6 Tribe, as defined in that section.

7 (17) The term “mineral activities” means any
8 activity on a mining claim, millsite claim, or tunnel
9 site claim, or a lease, license, or permit issued under
10 this Act, for, related to, or incidental to, mineral ex-
11 ploration, mining, beneficiation, processing, or rec-
12 lamation activities for any hardrock mineral.

13 (18) The term “memorandum of agreement”
14 means a document that records the terms and condi-
15 tions agreed upon by an agency and an Indian Tribe
16 through the consultation process regarding an activ-
17 ity.

18 (19) The term “National Conservation System
19 unit” means any unit of the National Park System,
20 National Wildlife Refuge System, National Wild and
21 Scenic Rivers System, National Wilderness Preserva-
22 tion System, National Landscape Conservation Sys-
23 tem, or National Trails System, or a National Con-
24 servation Area, a National Recreation Area, a Wil-
25 derness Study Area, a National Monument, or any

1 *unit of the National Wilderness Preservation System*
2 *or lands within the National Forest System, includ-*
3 *ing:*

4 *(A) National Volcanic Monuments.*

5 *(B) Recreation Areas, Scenic Recreation*
6 *Areas, and Winter Recreation Areas.*

7 *(C) Scenic Areas, Scenic-Research Areas,*
8 *Scenic Highways, National Scenic and Wildlife*
9 *Areas.*

10 *(D) National Game and Wildlife Preserves.*

11 *(E) Special Management, Wildlife, Con-*
12 *servation and Protection Areas, including botan-*
13 *ical, hydrological (watershed), geological, histor-*
14 *ical, paleontological, and zoological areas.*

15 *(F) Experimental Forests, Ranges, and Wa-*
16 *tersheds.*

17 *(G) Research Sites and Research Natural*
18 *Areas.*

19 *(H) Inventoried Roadless Area, Colorado*
20 *Roadless Area, and Idaho Roadless Area.*

21 *(I) Recommended Wilderness and Primitive*
22 *Areas.*

23 *(20) The term “operator” means any person pro-*
24 *posing or authorized by a permit issued under this*

1 *Act to conduct mineral activities and any agent of*
2 *such person.*

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

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

14 (23) *The term “sacred site” means any specific*
15 *delineated location on Federal land that is identified*
16 *by an Indian Tribe—*

17 (A) *as sacred by virtue of its established re-*
18 *ligious significance to, or ceremonial use by, an*
19 *Indian religion; or*

20 (B) *to be of established cultural signifi-*
21 *cance.*

22 (24) *The term “Secretary” means the Secretary*
23 *of the Interior, unless otherwise specified.*

24 (25) *The term “Secretary concerned” means—*

1 (A) *the Secretary of Agriculture (acting*
2 *through the Chief of the Forest Service) with re-*
3 *spect to National Forest System land; and*

4 (B) *the Secretary of the Interior (acting*
5 *through the Director of the Bureau of Land*
6 *Management) with respect to other Federal land.*

7 (26)(A) *The term “small miner” means a person*
8 *(including all related parties thereto) that—*

9 (i) *holds not more than 10 mining claims,*
10 *mill sites, or tunnel sites, or any combination*
11 *thereof, on public lands;*

12 (ii) *holds leases and permits under this Act*
13 *with respect to not more than 200 acres of Fed-*
14 *eral land;*

15 (iii) *certifies to the Secretary in writing*
16 *that the person had annual gross income in the*
17 *preceding calendar year from mineral produc-*
18 *tion in an amount less than \$50,000; and*

19 (iv) *has performed assessment work required*
20 *under the Mining Law of 1872 (30 U.S.C. 28 et*
21 *seq.) to maintain any mining claims held by the*
22 *person (including such related parties) for the*
23 *assessment year ending on noon of September 1*
24 *of the calendar year in which payment of the*
25 *claim maintenance fee was due.*

1 (B) For purposes of subparagraph (A), with re-
2 spect to any person, the term “all related parties”
3 means—

4 (i) the spouse and dependent children (as
5 defined in section 152 of the Internal Revenue
6 Code of 1986), of the person concerned; or

7 (ii) a person affiliated with the person con-
8 cerned, including—

9 (I) another person controlled by, con-
10 trolling, or under common control with the
11 person concerned; or

12 (II) a subsidiary or parent company
13 or corporation of the person concerned.

14 (C) For purposes of subparagraph (A)(iii), the
15 dollar amount shall be applied, for a person, to the
16 aggregate of all annual gross income from mineral
17 production under all mining claims held by or as-
18 signed to such person or all related parties with re-
19 spect to such person, including mining claims located
20 or for which a patent was issued before the date of the
21 enactment of this Act.

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

1 (28) *The term “ton” means 2,000 pounds avoirdupois (.90718 metric ton).*

3 (29) *The term “undue degradation” means irreparable harm to significant scientific, cultural, or environmental resources on public lands.*

6 (30) *The term “valuable mineral deposit” means a deposit of hardrock minerals that is of sufficient value for a prudent operator to economically mine.*

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

12 **(b) REFERENCES TO OTHER LAWS.—**

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

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

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

2 (a) *IN GENERAL.*—*This Act applies to any mining*
3 *claim, millsite claim, or tunnel site claim located under the*
4 *general mining laws, before or on the date of enactment of*
5 *this Act.*

6 (b) *APPLICATION OF ACT TO BENEFICIATION AND*
7 *PROCESSING OF NON-FEDERAL MINERALS ON FEDERAL*
8 *LANDS.*—*The provisions of this Act shall apply in the same*
9 *manner and to the same extent to mining claims, millsite*
10 *claims, tunnel site claims, and any land included in a lease*
11 *or license issued under this Act, used for beneficiation or*
12 *processing activities for any hardrock mineral.*

13 **TITLE I—MINERAL LEASING, EX-**
14 **PLORATION, AND DEVELOP-**
15 **MENT**

16 **SEC. 101. CLOSURE TO ENTRY AND LOCATION.**

17 (a) *CLOSURE.*—*Except as otherwise provided in this*
18 *section, as of the effective date of this Act all Federal lands*
19 *are closed to entry and location under the general mining*
20 *laws, and no new rights under the general mining laws may*
21 *be acquired.*

22 (b) *EXISTING NONPRODUCING CLAIMS.*—

23 (1) *CLAIMS WITHOUT PLAN OF OPERATIONS.*—
24 *Any claim under the general mining laws existing on*
25 *the effective date of this Act for which a plan of oper-*
26 *ations is not approved, or a notice of operations is*

1 *not filed, before such date shall be subject to the re-*
2 *quirements of this Act, and may remain in effect*
3 *until not later than the end of the 10-year period be-*
4 *ginning on the date of enactment of this Act if the*
5 *claimholder remains in compliance with section 109,*
6 *unless the claim holder—*

7 *(A) relinquishes the claim; or*

8 *(B) demonstrates eligibility for a lease and*
9 *requests conversion under the regulations issued*
10 *under subsection (d).*

11 *(2) SHORTENING OF PERIOD.—The 10-year pe-*
12 *riod referred to in paragraph (1) shall be shortened*
13 *to 3 years if—*

14 *(A) the claim is for an area that is located*
15 *in an area withdrawn or temporarily segregated*
16 *from location under the general mining laws as*
17 *of the effective date of this Act; or*

18 *(B) the claim belongs to a small miner.*

19 *(3) CONVERSION.—Upon showing to the satisfac-*
20 *tion of the Secretary of a valuable mineral deposit on*
21 *lands subject to such a claim, the Secretary may con-*
22 *vert the claim to a noncompetitive lease under the*
23 *regulations issued under subsection (d).*

24 *(4) CLAIMS NOT CONVERTED.—Any such claims*
25 *not converted to leases at the end of the applicable pe-*

1 *riod under paragraph (1) or (2) shall be considered*
2 *invalid and void.*

3 *(c) EXISTING CLAIMS WITH PLAN OF OPERATION.—*

4 *(1) IN GENERAL.—In the case of any claim*
5 *under the general mining laws for which a plan of*
6 *operations has been approved but for which oper-*
7 *ations have not commenced before the date of enact-*
8 *ment of this Act—*

9 *(A) during the 10-year period beginning on*
10 *the date of enactment of this Act—*

11 *(i) mineral activities on lands subject*
12 *to such claim shall be subject to such plan*
13 *of operations; and*

14 *(ii) modification of such plan may be*
15 *made in accordance with the provisions of*
16 *law applicable before the date of the enact-*
17 *ment of this Act if such modifications are*
18 *considered minor by the Secretary con-*
19 *cerned; and*

20 *(B) the operator shall bring such mineral*
21 *activities into compliance with this Act by the*
22 *end of such 10-year period.*

23 *(2) ACTIVITIES PENDING DECISION ON MODIFICA-*
24 *TION TO PLAN OF OPERATIONS.—If an application for*
25 *modification of a plan of operations referred to in*

1 paragraph (1)(A)(ii) has been timely submitted and
2 an approved plan expires before the Secretary con-
3 cerned takes action on the application, mineral ac-
4 tivities and reclamation may continue in accordance
5 with the terms of the expired plan until such Sec-
6 retary makes an administrative decision on the appli-
7 cation.

8 (3) *CONVERSION REQUIREMENT.*—Any claims re-
9 ferred to in paragraph (1) may remain in effect for
10 a period of up to 10 years. Any claim not converted
11 to a lease under subsection (d) before the end of that
12 period shall be subject to a fee of \$100 per acre per
13 day until the claim is converted to a lease.

14 (d) *CONVERSION REGULATIONS.*—

15 (1) *IN GENERAL.*—The Secretary shall issue reg-
16 ulations not later than one year after the date of the
17 enactment of this Act to provide for the conversion of
18 mining claims to noncompetitive mining leases.

19 (2) *CONTENT.*—The regulations issued under
20 paragraph (1) shall—

21 (A) prohibit the conversion of a mining
22 claim to a mining lease by a claimholder who is
23 in violation of this Act or other State or Federal
24 environmental, health, or worker safety law;

1 (B) allow the Secretary to exercise discre-
2 tion to include nonmineral lands within the
3 boundaries of any mill site associated with the
4 mining claim to be converted to a noncompeti-
5 tive lease;

6 (C) prohibit the area in any noncompetitive
7 mining lease issued under this subsection to ex-
8 ceed the maximum area authorized by this Act
9 to be leased to any person;

10 (D) require the consent of the surface man-
11 aging agency for conversion of a mining claim
12 to a noncompetitive mining lease;

13 (E) require the fiscal terms of the converted
14 noncompetitive mining lease to be the same as
15 provided in this Act for other hardrock mining
16 leases;

17 (F) require compliance with all provisions
18 of this Act; and

19 (G) include any other terms the Secretary
20 considers appropriate.

21 (e) NATIONAL ENVIRONMENTAL POLICY ACT.—The
22 Secretary is not required to conduct an environmental
23 analysis under the National Environmental Policy Act of
24 1969 (42 U.S.C. 4321 et seq.) for the issuance of a non-
25 competitive lease under this section, unless the noncompeti-

1 *tive lease modifies or extends the surface disturbance al-*
2 *ready authorized under a mine plan of operations covering*
3 *the mining claim that is converted.*

4 **SEC. 102. LIMITATION ON PATENTS.**

5 (a) *MINING CLAIMS.*—

6 (1) *DETERMINATIONS REQUIRED.*—*After the date*
7 *of enactment of this Act, no patent shall be issued by*
8 *the United States for any mining claim located under*
9 *the general mining laws unless the Secretary deter-*
10 *mines that, for the claim concerned—*

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

13 (B) *all requirements established under sec-*
14 *tions 2325 and 2326 of the Revised Statutes (30*
15 *U.S.C. 29 and 30), in the case of a vein or lode*
16 *claim, or sections 2329, 2330, 2331, and 2333 of*
17 *the Revised Statutes (30 U.S.C. 35, 36, and 37),*
18 *in the case of a placer claim, were fully complied*
19 *with by that date.*

20 (2) *RIGHT TO PATENT.*—*If the Secretary makes*
21 *the determinations referred to in subparagraphs (A)*
22 *and (B) of paragraph (1) for any mining claim, the*
23 *holder of the claim shall be entitled to the issuance of*
24 *a patent in the same manner and degree to which*
25 *such claim holder would have been entitled to prior*

1 to the enactment of this Act, unless such determina-
2 tions are withdrawn or invalidated by the Secretary
3 or by a court of the United States.

4 **(b) MILLSITE CLAIMS.—**

5 **(1) DETERMINATIONS REQUIRED.—**After the date
6 of enactment of this Act, no patent shall be issued by
7 the United States for any millsite claim located under
8 the general mining laws unless the Secretary deter-
9 mines that for such millsite—

10 **(A)** a patent application for the land sub-
11 ject to such claim was filed with the Secretary
12 on or before September 30, 1994; and

13 **(B)** all requirements applicable to such pat-
14 ent application were fully complied with before
15 that date.

16 **(2) RIGHT TO PATENT.—**If the Secretary makes
17 the determinations described in subparagraphs (A)
18 and (B) of paragraph (1) for any millsite claim, the
19 holder of the claim shall be entitled to the issuance of
20 a patent in the same manner and degree to which
21 such claim holder would have been entitled to prior
22 to the enactment of this Act, unless such determina-
23 tions are withdrawn or invalidated by the Secretary
24 or by a court of the United States.

1 **SEC. 103. PROSPECTING LICENSE AND HARDROCK LEASES.**

2 (a) *IN GENERAL.*—No person may conduct mineral
3 prospecting for commercial purposes for any hardrock min-
4 eral on Federal lands without a prospecting license or a
5 small miners lease.

6 (b) *PROSPECTING LICENSES.*—

7 (1) *IN GENERAL.*—The Secretary may, under
8 such rules and regulations as the Secretary may pre-
9 scribe and with the concurrence of the relevant surface
10 management agency, grant an applicant a
11 prospecting license that shall give the exclusive right
12 to prospect for specified hardrock minerals on Federal
13 lands for a period of not exceeding two years.

14 (2) *MAXIMUM AREA.*—The area subject to such a
15 license shall not exceed 2,560 acres of land, in reason-
16 ably compact form.

17 (3) *LICENSE APPLICATION FEE.*—The Secretary
18 shall charge a fee for each license application to cover
19 the costs of processing the license, and the license shall
20 be subject to annual rentals equal to \$10 per acre per
21 year.

22 (4) *TERMS AND CONDITIONS.*—A prospecting li-
23 cense must conform with the terms and conditions of
24 a comprehensive land use plan approved under the
25 Federal Land Policy and Management Act of 1976
26 (43 U.S.C. 1701 et seq.) or the Forest and Rangeland

1 *Renewable Resources Planning Act of 1974 (16*
2 *U.S.C. 1600 et seq.). For areas where a comprehensive*
3 *land use plan treating hardrock mining as a mul-*
4 *tiple-use activity has not been completed, the Sec-*
5 *retary concerned shall ensure that the land to be cov-*
6 *ered by the license is suitable for mineral activities.*

7 (5) *EXTENSION.*—*A prospecting license may be*
8 *extended for up to an additional four years upon a*
9 *showing by the licensee that the licensee explored with*
10 *reasonable diligence and was unable to determine the*
11 *existence and workability of a valuable deposit cov-*
12 *ered by the license, or that the failure to perform dili-*
13 *gent prospecting activities was due to conditions be-*
14 *yond the licensee’s control.*

15 (c) *NONCOMPETITIVE LEASES.*—

16 (1) *IN GENERAL.*—*Upon a showing to the satis-*
17 *faction of the Secretary by a prospecting licensee*
18 *under subsection (a) that a valuable deposit of a*
19 *hardrock mineral has been discovered by the licensee*
20 *within an area covered by the prospecting license and*
21 *with the consent of the surface agency, the licensee*
22 *shall be entitled to a lease for any or all of the land*
23 *included in the prospecting license, as well as any*
24 *nonmineral lands necessary for processing or milling*
25 *operations, at a royalty of no less than 12.5 percent*

1 of the gross value of production of hardrock minerals
2 or mineral concentrates or products derived from
3 hardrock minerals under the lease. Rentals for such
4 lease shall be set by the Secretary at no less than \$10
5 per acre per year, with rentals paid in any one year
6 credited against royalties accruing for that year. The
7 recipient of such lease is not entitled to an operations
8 permit.

9 (2) *LEASE PERIOD.*—

10 (A) *IN GENERAL.*—A lease under this sec-
11 tion shall be for a period of 20 years, with the
12 right to renew for successive periods of 10 years
13 if hardrock minerals are being produced in com-
14 mercial quantities under the lease.

15 (B) *EXTENSION DURING NONPRODUCTION.*—

16 If hardrock minerals are not being produced in
17 commercial quantities at the end of the primary
18 term or any subsequent term of such a lease, the
19 Secretary may issue a 10-year extension of the
20 lease in the interest of conservation, reclamation
21 maintenance, or upon a successful showing by
22 the lessee that the lease cannot be successfully op-
23 erated at a profit or for other reasons. No more
24 than one extension under this subparagraph may
25 be issued.

1 (d) *CUMULATIVE ACREAGE LIMITATION.*—No person
2 may take, hold, own, or control at one time, whether ac-
3 quired directly from the Secretary under this Act or other-
4 wise, hardrock mining leases or licenses for an aggregate
5 of more than 20,480 acres in any one State.

6 (e) *REDUCTION OF ROYALTY RATE.*—

7 (1) *Subject to paragraph (2), The Secretary—*

8 (A) may reduce the royalty rate for a lease
9 upon a showing by clear and convincing evi-
10 dence by the person conducting mineral activi-
11 ties under the lease that production would not
12 occur without the reduction in royalty; and

13 (B) may reduce royalty and rental rates for
14 a lease to encourage exploration for and develop-
15 ment of hardrock minerals classified as strategic
16 and critical by the Department of Energy.

17 (2) *The Secretary may not reduce the royalty*
18 *rate for a lease pursuant to paragraph (1) to a roy-*
19 *alty rate of less than 6.25 percent.*

20 (f) *PROTECTION OF LAND AND OTHER RESOURCES.*—

21 *The Secretary may include in any lease or license issued*
22 *under this Act such provisions as are necessary to ade-*
23 *quately protect the lands and other resources in the vicinity*
24 *of the area subject to the lease or license. For land not man-*
25 *aged by the Department of the Interior, the Secretary shall*

1 *consult with the appropriate surface management agency*
2 *in formulating such provisions.*

3 **SEC. 104. COMPETITIVE LEASING.**

4 (a) *IN GENERAL.*—Subject to sections 111 and 112,
5 *Federal lands known to contain valuable deposits of*
6 *hardrock minerals that are not covered by claims, licenses,*
7 *or leases may only be open to hardrock mineral exploration*
8 *or development through competitive leasing by the Secretary*
9 *by such methods the Secretary may adopt by regulation and*
10 *in such areas as the Secretary may determine, including*
11 *nonmineral lands the Secretary considers necessary for*
12 *processing or milling operations. The total area of land sub-*
13 *ject to any such lease shall not exceed 2,560 acres.*

14 (b) *TERMS AND REQUIREMENTS.*—All terms and re-
15 *quirements for competitive leases under this section shall*
16 *be the same as if the leases were issued noncompetitively*
17 *under section 103(c).*

18 **SEC. 105. SMALL MINERS LEASES.**

19 (a) *IN GENERAL.*—The Secretary may issue small
20 *miners leases to qualified small miners that apply, under*
21 *such rules and regulations as the Secretary may prescribe,*
22 *including conditions to require diligent development of the*
23 *lease and to ensure protection of surface resources and*
24 *groundwater.*

1 (b) *EXCLUSIVE RIGHT.*—A small miners lease shall
2 give the leaseholder the exclusive right to prospect for
3 hardrock minerals for 3 years on up to 200 acres of contig-
4 uous or non-contiguous Federal land.

5 (c) *APPLICATION FEE.*—The Secretary shall charge a
6 reasonable application fee for such a lease.

7 (d) *RENTALS.*—Rentals for such a lease shall be \$5 per
8 acre per year for the first 3 years.

9 (e) *RENEWAL.*—Such leases may be renewed for addi-
10 tional 3-year periods, with no limit, with a \$10 per acre
11 per year rental charged for renewed leases.

12 (f) *CHALLENGE.*—Any individual may file a challenge
13 with the Secretary that a leaseholder is in violation of the
14 diligence terms of a small miners lease or does not qualify
15 as a small miner. A small miners lease that is under such
16 a challenge may not be renewed unless the Secretary has
17 determined that the leaseholder is a small miner and is in
18 compliance with all the terms of the lease.

19 (g) *NO ROYALTIES.*—No royalties shall be charged for
20 commercial production under a small miners lease.

21 (h) *CONVERSION OF EXISTING CLAIMS.*—An existing
22 claim, as of January 1, 2019, that belongs to an individual
23 that qualifies as a small miner may be converted to a small
24 miners lease under the same terms and conditions that
25 apply to other small miners leases, except that such lease—

1 (1) shall not be subject to rental during the pri-
2 mary term of the lease;

3 (2) shall be subject to a rental of \$5 per acre per
4 year for the first 3-year renewal of the lease; and

5 (3) shall be subject to a rental of \$10 per acre
6 per year for any subsequent 3-year renewal of the
7 lease.

8 (i) *LIMITATIONS.*—A small miners lease—

9 (1) may only be held by the primary leaseholder,
10 a spouse thereof, or a direct descendent thereof;

11 (2) may not be sold or transferred, other than to
12 a spouse or direct descendent of the primary lease-
13 holder; and

14 (3) is subject to all permitting requirements
15 under this Act.

16 (j) *CONVERSION TO HARDROCK MINERAL LEASE.*—If,
17 with regards to a lease, the leaseholder no longer qualifies
18 as a small miner at the time such leaseholder applies for
19 a renewal of such lease, such leaseholder shall not be eligible
20 to renew the small miners lease, but shall be eligible for
21 a noncompetitive hardrock mineral lease issued under sec-
22 tion 103(c). Notwithstanding section 103(c)(1), royalties
23 under such a lease shall only be due on the gross income
24 that exceeds the amount of gross income specified in such

1 *definition as of the time the hardrock mineral lease is*
2 *issued.*

3 **SEC. 106. LANDS CONTAINING NONHARDROCK MINERALS;**
4 **OTHER USES.**

5 (a) *IN GENERAL.*—*In issuing licenses and leases under*
6 *this Act for lands that contain deposits of coal or other*
7 *nonhardrock minerals, the Secretary shall reserve to the*
8 *United States such nonhardrock minerals for disposal*
9 *under applicable laws.*

10 (b) *OTHER USES OF LICENSED AND LEASED*
11 *LANDS.*—

12 (1) *IN GENERAL.*—*The Secretary shall promul-*
13 *gate regulations to allow for other uses of the lands*
14 *covered by a prospecting license under this Act, in-*
15 *cluding leases for other minerals, if such other uses*
16 *would not unreasonably interfere with operations*
17 *under the prospecting license.*

18 (2) *PROSPECTING LICENSES.*—*The Secretary*
19 *shall include in such prospecting licenses such terms*
20 *and conditions as the Secretary finds necessary to*
21 *avoid unreasonable interference with other uses occur-*
22 *ring on, or other leases of, the licensed lands.*

23 (3) *LEASES.*—*The Secretary shall include in*
24 *leases under this Act stipulations to allow for simul-*

1 *taneous operations under other leases for the same*
2 *lands.*

3 **SEC. 107. ROYALTY.**

4 (a) *EXISTING PRODUCTION.*—*Production of hardrock*
5 *minerals on Federal land under an operations permit from*
6 *which valuable hardrock minerals were produced in com-*
7 *mercial quantities before the date of the enactment of this*
8 *Act, other than production under a small miners lease, shall*
9 *be subject to a royalty established by the Secretary at no*
10 *less than 8 percent of the gross value of such production,*
11 *or of mineral concentrates or products derived from*
12 *hardrock minerals. Any Federal land added through a plan*
13 *modification to an operations permit on Federal land that*
14 *is submitted after the date of enactment of this Act shall*
15 *be subject to a royalty established by the Secretary for such*
16 *lease of no less than 12.5 percent of the gross value of pro-*
17 *duction of hardrock minerals, or mineral concentrates or*
18 *products derived from hardrock minerals.*

19 (b) *LIABILITY.*—*The claim or leaseholder, or any oper-*
20 *ator to whom the claim or lease holder has assigned the*
21 *obligation to make royalty payments under the claim or*
22 *lease and any person who controls such claim or lease hold-*
23 *er or operator, shall be liable for payment of such royalties.*

1 (c) *DISPOSITION.*—*Of the revenues collected under this*
2 *title, including rents, royalties, claim maintenance fees, in-*
3 *terest charges, fines, and penalties—*

4 (1) *25 percent shall be paid to the State within*
5 *the boundaries of which the leased, licensed, or*
6 *claimed lands, or operations subject to such interest*
7 *charges, fines, or penalties are or were located; and*

8 (2) *the remainder shall be deposited in the ac-*
9 *count established under section 401.*

10 (d) *DUTIES OF CLAIM OR LEASE HOLDERS, OPERA-*
11 *TORS, AND TRANSPORTERS.*—

12 (1) *REGULATION.*—*The Secretary shall prescribe*
13 *by rule the time and manner in which—*

14 (A) *a person who is required to make a roy-*
15 *alty payment under this section shall make such*
16 *payment; and*

17 (B) *shall notify the Secretary of any assign-*
18 *ment that such person may have made of the ob-*
19 *ligation to make any royalty or other payment*
20 *under a mining claim or lease under this title.*

21 (2) *WRITTEN INSTRUMENT.*—*Any person paying*
22 *royalties under this section shall file a written instru-*
23 *ment, together with the first royalty payment, affirm-*
24 *ing that such person is responsible for making proper*

1 *payments for all amounts due for all time periods for*
2 *which such person has a payment responsibility.*

3 (3) *ADDITIONAL AMOUNTS.*—*Such responsibility*
4 *for the periods referred to in paragraph (2) shall in-*
5 *clude any and all additional amounts billed by the*
6 *Secretary and determined to be due by final agency*
7 *or judicial action.*

8 (4) *JOINT AND SEVERAL LIABILITY.*—*Any person*
9 *liable for royalty payments under this section who as-*
10 *signs any payment obligation shall remain jointly*
11 *and severally liable for all royalty payments due for*
12 *the period.*

13 (5) *OBLIGATIONS.*—*A person conducting mineral*
14 *activities shall—*

15 (A) *develop and comply with the site secu-*
16 *rity provisions in the operations permit designed*
17 *to protect from theft the hardrock minerals, con-*
18 *centrates, or products derived therefrom that are*
19 *produced or stored on the area subject to a min-*
20 *ing claim or lease, and such provisions shall con-*
21 *form with such minimum standards as the Sec-*
22 *retary may prescribe by rule, taking into ac-*
23 *count the variety of circumstances on areas sub-*
24 *ject to mining claims and leases; and*

1 (B) not later than the 5th business day after
2 production begins anywhere on an area subject
3 to a mining claim or lease, or production re-
4 sumes after more than 90 days after production
5 was suspended, notify the Secretary, in the man-
6 ner prescribed by the Secretary, of the date on
7 which such production has begun or resumed.

8 (6) *REQUIRED DOCUMENTATION.*—The Secretary
9 may by rule require any person engaged in trans-
10 porting a hardrock mineral, concentrate, or product
11 derived therefrom to carry on his or her person, in his
12 or her vehicle, or in his or her immediate control, doc-
13 umentation showing, at a minimum, the amount, ori-
14 gin, and intended destination of the hardrock min-
15 eral, concentrate, or product derived therefrom in
16 such circumstances as the Secretary determines is ap-
17 propriate.

18 (e) *RECORDKEEPING AND REPORTING REQUIRE-*
19 *MENTS.*—

20 (1) *IN GENERAL.*—A claim or lease holder, oper-
21 ator, or other person directly involved in developing,
22 producing, processing, transporting, purchasing, or
23 selling hardrock minerals, concentrates, or products
24 derived therefrom, subject to this Act, through the
25 point of royalty computation shall establish and

1 *maintain any records, make any reports, and provide*
2 *any information that the Secretary may reasonably*
3 *require for the purposes of implementing this section*
4 *or determining compliance with rules or orders under*
5 *this section. Such records shall include periodic re-*
6 *ports, records, documents, and other data. Such re-*
7 *ports may also include pertinent technical and finan-*
8 *cial data relating to the quantity, quality, composi-*
9 *tion volume, weight, and assay of all minerals ex-*
10 *tracted from the mining claim or lease.*

11 (2) *AVAILABILITY FOR INSPECTION.*—*Upon the*
12 *request of any officer or employee duly designated by*
13 *the Secretary conducting an audit or investigation*
14 *pursuant to this section, the appropriate records, re-*
15 *ports, or information that may be required by this*
16 *section shall be made available for inspection and du-*
17 *plication by such officer or employee.*

18 (3) *FORFEITURE.*—*Failure by a claim or lease*
19 *holder, operator, or other person referred to in the*
20 *first sentence to cooperate with such an audit, provide*
21 *data required by the Secretary, or grant access to in-*
22 *formation may, at the discretion of the Secretary, re-*
23 *sult in involuntary forfeiture of the claim or lease.*

24 (4) *MAINTENANCE OF RECORDS.*—*Records re-*
25 *quired by the Secretary under this section shall be*

1 *maintained for 7 years after release of financial as-*
2 *urance under section 306 unless the Secretary noti-*
3 *fies the operator that the Secretary has initiated an*
4 *audit or investigation involving such records and that*
5 *such records must be maintained for a longer period.*
6 *In any case when an audit or investigation is under-*
7 *way, records shall be maintained until the Secretary*
8 *releases the operator of the obligation to maintain*
9 *such records.*

10 (f) *AUDITS.—The Secretary is authorized to conduct*
11 *such audits of all claim or lease holders, operators, trans-*
12 *porters, purchasers, processors, or other persons directly or*
13 *indirectly involved in the production or sale of minerals*
14 *covered by this Act, as the Secretary deems necessary for*
15 *the purposes of ensuring compliance with the requirements*
16 *of this section. For purposes of performing such audits, the*
17 *Secretary shall, at reasonable times and upon request, have*
18 *access to, and may copy, all books, papers and other docu-*
19 *ments that relate to compliance with any provision of this*
20 *section by any person.*

21 (g) *COOPERATIVE AGREEMENTS.—*

22 (1) *IN GENERAL.—The Secretary is authorized to*
23 *enter into cooperative agreements with the Secretary*
24 *of Agriculture to share information concerning the*
25 *royalty management of hardrock minerals, con-*

1 *concentrates, or products derived therefrom, to carry out*
2 *inspection, auditing, investigation, or enforcement*
3 *(not including the collection of royalties, civil or*
4 *criminal penalties, or other payments) activities*
5 *under this section in cooperation with the Secretary,*
6 *and to carry out any other activity described in this*
7 *section.*

8 (2) *SECRETARY OF AGRICULTURE.—Except as*
9 *provided in paragraph (3), and pursuant to a cooper-*
10 *ative agreement, the Secretary of Agriculture shall,*
11 *upon request, have access to all royalty accounting in-*
12 *formation in the possession of the Secretary respecting*
13 *the production, removal, or sale of hardrock minerals,*
14 *concentrates, or products derived therefrom from*
15 *claims or leases on lands open to location under this*
16 *Act.*

17 (3) *TRADE SECRETS.—Trade secrets, propri-*
18 *etary, and other confidential information protected*
19 *from disclosure under section 552 of title 5, United*
20 *States Code, shall be made available by the Secretary*
21 *to other Federal agencies as necessary to assure com-*
22 *pliance with this Act and other Federal laws. The*
23 *Secretary, the Secretary of Agriculture, the Adminis-*
24 *trator of the Environmental Protection Agency, and*
25 *other Federal officials shall ensure that such informa-*

1 *tion is provided protection in accordance with the re-*
2 *quirements of that section.*

3 *(h) INTEREST AND SUBSTANTIAL UNDERREPORTING*
4 *ASSESSMENTS.—*

5 *(1) PAYMENTS NOT RECEIVED.—In the case of*
6 *mining claims or leases where royalty payments are*
7 *not received by the Secretary on the date that such*
8 *payments are due, the Secretary shall charge interest*
9 *on such underpayments at the same interest rate as*
10 *the rate applicable under section 6621(a)(2) of the In-*
11 *ternal Revenue Code of 1986. In the case of an under-*
12 *payment, interest shall be computed and charged only*
13 *on the amount of the deficiency and not on the total*
14 *amount.*

15 *(2) UNDERREPORTING.—If there is any under-*
16 *reporting of royalty owed on production from a claim*
17 *or lease for any production month by any person lia-*
18 *ble for royalty payments under this section, the Sec-*
19 *retary shall assess a penalty of not greater than 25*
20 *percent of the amount of that underreporting.*

21 *(3) SELF-REPORTING.—The Secretary may*
22 *waive or reduce the assessment provided in paragraph*
23 *(2) of this subsection if the person liable for royalty*
24 *payments under this section corrects the under-*
25 *reporting before the date such person receives notice*

1 *from the Secretary that an underreporting may have*
2 *occurred, or before 90 days after the date of the enact-*
3 *ment of this section, whichever is later.*

4 (4) *WAIVER.—The Secretary shall waive any*
5 *portion of an assessment under paragraph (2) of this*
6 *subsection attributable to that portion of the under-*
7 *reporting for which the person responsible for paying*
8 *the royalty demonstrates that—*

9 (A) *such person had written authorization*
10 *from the Secretary to report royalty on the value*
11 *of the production on basis on which it was re-*
12 *ported;*

13 (B) *such person had substantial authority*
14 *for reporting royalty on the value of the produc-*
15 *tion on the basis on which it was reported;*

16 (C) *such person previously had notified the*
17 *Secretary, in such manner as the Secretary may*
18 *by rule prescribe, of relevant reasons or facts af-*
19 *fecting the royalty treatment of specific produc-*
20 *tion which led to the underreporting; or*

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

23 (5) *DEFINITION.—For the purposes of this sub-*
24 *section, the term “underreporting” means the dif-*
25 *ference between the royalty on the value of the produc-*

1 *tion that should have been reported and the royalty*
2 *on the value of the production which was reported, if*
3 *the value that should have been reported is greater*
4 *than the value that was reported.*

5 (6) *HARDROCK MINERALS RECLAMATION*
6 *FUND.—All penalties collected under this subsection*
7 *shall be deposited in the Hardrock Minerals Reclama-*
8 *tion Fund established by this Act.*

9 (i) *EXPANDED ROYALTY OBLIGATIONS.—Each person*
10 *liable for royalty payments under this section shall be joint-*
11 *ly and severally liable for royalty on all hardrock minerals,*
12 *concentrates, or products derived therefrom lost or wasted*
13 *from a mining claim or lease when such loss or waste is*
14 *due to negligence on the part of any person or due to the*
15 *failure to comply with any rule, regulation, or order issued*
16 *under this section.*

17 (j) *GROSS INCOME FROM MINING DEFINED.—For the*
18 *purposes of this section, for any hardrock mineral, the term*
19 *“gross income from mining” has the same meaning as the*
20 *term “gross income” in section 613(c) of the Internal Rev-*
21 *enue Code of 1986.*

22 (k) *EFFECTIVE DATE.—Royalties under this Act shall*
23 *take effect with respect to the production of hardrock min-*
24 *erals after the enactment of this Act, but any royalty pay-*
25 *ments attributable to production during the first 12 cal-*

1 *endar months after the enactment of this Act shall be pay-*
2 *able at the expiration of such 12-month period.*

3 *(l) FAILURE TO COMPLY WITH ROYALTY REQUIRE-*
4 *MENTS.—Any person who fails to comply with the require-*
5 *ments of this section or any regulation or order issued to*
6 *implement this section shall be liable for a civil penalty*
7 *under section 109 of the Federal Oil and Gas Royalty Man-*
8 *agement Act (30 U.S.C. 1719) to the same extent as if the*
9 *claim or lease maintained in compliance with this Act were*
10 *a lease under such Act.*

11 **SEC. 108. EXISTING PRODUCTION.**

12 *The holder of a mining claim located or converted*
13 *under this Act for which mineral activities have already*
14 *commenced under an approved plan of operations as of the*
15 *date of enactment of this Act shall have the exclusive right*
16 *of possession and use of the claimed land for mineral activi-*
17 *ties, including the right of ingress and egress to such*
18 *claimed lands for such activities, subject to the rights of the*
19 *United States under this Act and other applicable Federal*
20 *law. Such rights of the claim holder shall terminate upon*
21 *completion of mineral activities on such lands to the satis-*
22 *faction of the Secretary.*

23 **SEC. 109. HARDROCK MINING CLAIM MAINTENANCE FEE.**

24 *(a) FEE.—*

25 *(1) IN GENERAL.—*

1 (A) *REQUIRED FEES.*—*Except as provided*
2 *in section 2511(e)(2) of the Energy Policy Act of*
3 *1992 (30 U.S.C. 242), or as otherwise provided*
4 *in this Act, for each unpatented mining claim,*
5 *mill, or tunnel site on federally owned lands,*
6 *whether located before or on the date of enact-*
7 *ment of this Act, each claimant shall pay to the*
8 *Secretary, on or before August 31 of each year,*
9 *a claim maintenance fee of \$200 per claim to*
10 *hold such unpatented mining claim, mill or tun-*
11 *nel site for the assessment year beginning at*
12 *noon on the next day, September 1. Such claim*
13 *maintenance fee shall be in lieu of the assessment*
14 *work requirement contained in the Mining Law*
15 *of 1872 (30 U.S.C. 28 et seq.) and the related fil-*
16 *ing requirements contained in section 314 (a)*
17 *and (c) of the Federal Land Policy and Manage-*
18 *ment Act of 1976 (43 U.S.C. 1744 (a) and (c)).*

19 (B) *FEE ADJUSTMENTS.*—*Any adjustment*
20 *to the fees under this subsection under section*
21 *502 shall begin to apply the calendar year fol-*
22 *lowing the calendar year in which such adjust-*
23 *ment is made.*

24 (C) *EXCEPTION FOR SMALL MINERS.*—*Sub-*
25 *paragraph (A) and the assessment work require-*

1 *ment contained in the Mining Law of 1872 (30*
2 *U.S.C. 28 et seq.) shall not apply with respect to*
3 *any claim held by a small miner.*

4 (2) *Moneys received under this subsection that*
5 *are not otherwise allocated for the administration of*
6 *the mining laws by the Department of the Interior*
7 *shall be deposited in the Hardrock Minerals Reclama-*
8 *tion Fund established by section 401.*

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

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

19 (d) *OTHER REQUIREMENTS.*—

20 (1) *REQUIRED FILINGS.*—*Nothing in this section*
21 *shall change or modify the requirements of section*
22 *314(b) of the Federal Land Policy and Management*
23 *Act of 1976 (43 U.S.C. 1744(b)), or the requirements*
24 *of section 314(c) of the Federal Land Policy and*
25 *Management Act of 1976 (43 U.S.C. 1744(c)) related*

1 to filings required by section 314(b), which remain in
2 effect.

3 (2) *MINING LAW OF 1872.*—Section 2324 of the
4 *Revised Statutes of the United States (30 U.S.C. 28)*
5 is amended by inserting “or section 103(a) of the
6 *Hardrock Leasing and Reclamation Act of 2019*”
7 after “Act of 1993”.

8 **SEC. 110. EFFECT OF PAYMENTS FOR USE AND OCCUPANCY**
9 **OF CLAIMS.**

10 *Except as otherwise provided in section 101, timely*
11 *payment of the claim maintenance fee required by section*
12 *109 or any related law relating to the use of Federal land,*
13 *asserts the claimant’s authority to use and occupy the Fed-*
14 *eral land concerned for prospecting and exploration, con-*
15 *sistent with the requirements of this Act and other applica-*
16 *ble law.*

17 **SEC. 111. PROTECTION OF SPECIAL PLACES.**

18 (a) *PROTECTION OF NATIONAL PARK SYSTEM UNITS*
19 *AND NATIONAL MONUMENTS.*—No permit shall be issued
20 under this Act that authorizes mineral activities that would
21 impair the land or resources of a unit of the National Park
22 System or a national monument. For purposes of this sub-
23 section, the term “impair” includes any diminution of the
24 affected land including wildlife, scenic assets, water re-
25 sources, air quality, and acoustic qualities, or other changes

1 *that would impair a citizen's experience at the National*
2 *Park System unit or a national monument.*

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

10 **(c) LANDS NOT OPEN TO MINING.**—*Notwithstanding*
11 *any other provision of law and subject to valid existing*
12 *rights, no hardrock mining activity shall be allowed in any*
13 *of the following:*

14 (1) *Sacred sites.*

15 (2) *Wilderness study areas.*

16 (3) *Designated critical habitat.*

17 (4) *Areas of critical environmental concern.*

18 (5) *Units of the National Conservation System.*

19 (6) *Areas designated for inclusion in the Na-*
20 *tional Wild and Scenic Rivers System pursuant to*
21 *the Wild and Scenic Rivers Act (16 U.S.C. 1271 et*
22 *seq.), areas designated for potential addition to such*
23 *system pursuant to section 5(a) of that Act (16*
24 *U.S.C. 1276(a)), and areas determined to be eligible*

1 *for inclusion in such system pursuant to section 5(d)*
2 *of such Act (16 U.S.C. 1276(d)).*

3 (7) *Inventoried Roadless Areas under the*
4 *Roadless Area Conservation Rule, part 294 of title 36,*
5 *Code of Federal Regulations, Colorado Roadless*
6 *Areas, or Idaho Roadless Areas.*

7 **SEC. 112. SUITABILITY DETERMINATION.**

8 (a) *IN GENERAL.*—*The Secretary concerned shall make*
9 *each determination of whether lands are suitable for min-*
10 *eral activities that is otherwise required by this Act, in ac-*
11 *cordance with subsection (b).*

12 (b) *SUITABILITY.*—

13 (1) *IN GENERAL.*—*The Secretary concerned shall*
14 *consider lands suitable for mineral activities if the*
15 *Secretary concerned finds that such activities would*
16 *not result in undue degradation to a special char-*
17 *acteristic described in paragraph (2) that cannot be*
18 *prevented by the imposition of conditions in the per-*
19 *mit required for such activities under title III.*

20 (2) *SPECIAL CHARACTERISTICS.*—*For purposes*
21 *of paragraph (1) the Secretary concerned shall con-*
22 *sider each of the following to be a special char-*
23 *acteristic:*

24 (A) *The existence of a significant water re-*
25 *source or supply in or associated with such*

1 *lands, including any aquifer or aquifer recharge*
2 *area.*

3 *(B) The presence on such lands, or any ad-*
4 *acent land, of a publicly owned place that is*
5 *listed on, or determined by the Secretary of the*
6 *Interior to be eligible for listing on, the National*
7 *Register of Historic Places.*

8 *(C) The designation of all or any portion of*
9 *such lands, or any adjacent land, as a National*
10 *Conservation System unit.*

11 *(D) The designation of all or any portion of*
12 *such lands, or any adjacent land, as critical*
13 *habitat under the Endangered Species Act of*
14 *1973 (16 U.S.C. 1531 et seq.).*

15 *(E) The designation of all or any portion of*
16 *such lands, or any adjacent land, as a class I*
17 *area under section 162 of the Clean Air Act (42*
18 *U.S.C. 7472).*

19 *(F) The presence of such other resource val-*
20 *ues as the Secretary concerned may by rule*
21 *specify, determined based upon field testing,*
22 *evaluation, or credible information that verifies*
23 *such values.*

24 *(G) The designation of such lands, or adja-*
25 *cent land, as a Research Natural Area.*

1 (H) *The presence on such lands, or any ad-*
2 *jacent land, of a sacred site.*

3 (I) *The presence or designation of such*
4 *lands adjacent to lands not open to mining pur-*
5 *suant to section 111.*

6 (3) *A determination under this subsection of*
7 *suitability for mineral activities shall be made after*
8 *publication of notice and an opportunity for submis-*
9 *sion of public comment for a period of not less than*
10 *60 days.*

11 (4) *Any determination made in accordance with*
12 *this subsection with respect to lands shall be incor-*
13 *porated into each Federal land use plan applicable to*
14 *such lands, at the time such plan is adopted, revised,*
15 *or significantly amended pursuant to any Federal*
16 *law other than this Act.*

17 (c) *CHANGE REQUEST.*—*The Secretary concerned*
18 *shall, by rule, provide for an opportunity for any person*
19 *to request a change in determination for any Federal land*
20 *found suitable under subsection (a).*

21 (d) *EXISTING OPERATIONS.*—*Nothing in this section*
22 *shall be construed as affecting lands on which mineral ac-*
23 *tivities were being conducted on the date of enactment of*
24 *this Act under an approved plan of operations or under*
25 *notice.*

1 **TITLE II—CONSULTATION**
2 **PROCEDURE**

3 **SEC. 201. REQUIREMENT FOR CONSULTATION.**

4 (a) *SCOPE.*—Agencies shall ensure meaningful and
5 *timely consultation with Indian Tribes and Tribal officials*
6 *prior to undertaking any mineral activities that may have*
7 *substantial direct, indirect, or cumulative impacts on—*

8 (1) *the lands, including allotted, ceded, or tradi-*
9 *tional lands, or interests of an Indian Tribe or a*
10 *member of an Indian Tribe;*

11 (2) *any part of any Federal land that shares a*
12 *border with Indian country, as such term is defined*
13 *in section 1151 of title 18, United States Code;*

14 (3) *the relationship between the Federal Govern-*
15 *ment and an Indian Tribe; or*

16 (4) *the distribution of power and responsibilities*
17 *between the Federal Government and an Indian*
18 *Tribe.*

19 (b) *MULTIAGENCY MINERAL ACTIVITIES.*—*If more*
20 *than one agency is involved in a mineral activity, some*
21 *or all of the agencies may designate a lead agency, which*
22 *shall be responsible for fulfilling the consultation required*
23 *under subsection (a). an agency that does not designate a*
24 *lead agency shall remain individually responsible for the*
25 *consultation required under subsection (a). All agencies in-*

1 *involved in the mineral activity shall remain involved in and*
2 *engaged with the consultation process regardless of whether*
3 *or not a lead agency has been designated.*

4 (c) *LIMITATION.—Nothing in this Act shall exempt an*
5 *agency from additional consultation required under any*
6 *other law or from taking any other consultative actions as*
7 *required by any other law or agency prerogative in addition*
8 *to those required by this Act. Nor does it preclude an agency*
9 *from additional consultation that complies with agency reg-*
10 *ulations for consultation, advances agency consultation*
11 *practices, or supports agency efforts to build or strengthen*
12 *government-to-government relationships with an Indian*
13 *Tribe.*

14 (d) *TEMPORARY WAIVER.—*

15 (1) *IN GENERAL.—The agency may temporarily*
16 *wave the requirements of this title in all or any por-*
17 *tion of any emergency area during all or any portion*
18 *of an emergency period.*

19 (2) *DURATION OF WAIVER.—A temporary waiver*
20 *under this subsection shall end upon the termination*
21 *of the applicable emergency period.*

22 (3) *DEFINITIONS.—For the purposes of this sub-*
23 *section—*

24 (A) *the term “emergency area” means a*
25 *geographical area in which there exists an emer-*

1 *gency or disaster declared by the President pur-*
2 *suant to the National Emergencies Act (50*
3 *U.S.C. 1601 et seq.) or the Robert T. Stafford*
4 *Disaster Relief and Emergency Assistance Act*
5 *(42 U.S.C. 5121 et seq.); and*

6 *(B) the term “emergency period” means the*
7 *period during which there exists an emergency or*
8 *disaster declared by the President pursuant to*
9 *the National Emergencies Act (50 U.S.C. 1601 et*
10 *seq.) or the Robert T. Stafford Disaster Relief*
11 *and Emergency Assistance Act (42 U.S.C. 5121*
12 *et seq.).*

13 **SEC. 202. TIMING.**

14 *Consultation under sections 203 and 204 shall be com-*
15 *pleted before any Federal funds are expended for the min-*
16 *eral activity and before the issuance of any license.*

17 **SEC. 203. SCOPING STAGE CONSULTATION.**

18 *(a) PLANNING DOCUMENT.—As early as possible in the*
19 *planning stage of a mineral activity, the agency shall com-*
20 *pile a draft of the scope of the project. The agency shall*
21 *make a reasonable and good faith effort, consistent with sec-*
22 *tion 800.4(b)(1) of title 36, Code of Federal Regulations,*
23 *as such regulation was in effect on July 6, 2004, to identify*
24 *areas that contain sites important to Indian Tribes whether*
25 *or not such sites are explicitly known to the agency. The*

1 *agency shall make a reasonable and good faith effort to*
2 *identify any geographic areas important to Indian Tribes*
3 *that might be affected and any other anticipated impacts*
4 *to Tribal interests.*

5 (b) *INITIAL CONSULTATION CONTACT.*—*The agency—*

6 (1) *shall send, via United States mail and, if*
7 *possible, email, a copy of the planning document and*
8 *a letter requesting consultation meetings to the rel-*
9 *evant Tribal Government officials, including the Trib-*
10 *al leader and all members of any elected Tribal gov-*
11 *erning body, relevant Tribal governmental agencies*
12 *(including the Tribal Historic Preservation Officer or*
13 *cultural resource manager), owners of individual al-*
14 *lotments, other stakeholders identified by the Tribe,*
15 *and relevant non-Tribal stakeholders (including the*
16 *State Historic Preservation Officer and local govern-*
17 *ments that have jurisdiction on any affected land via*
18 *agreement with the agency); and*

19 (2) *shall follow up with phone calls to confirm*
20 *receipt of the documents by all intended recipients.*

21 (c) *CONSULTATION MEETING ARRANGEMENTS.*—*The*
22 *agency shall negotiate with the affected Indian Tribes to*
23 *determine the time, place, agenda, travel funds, facilitator,*
24 *format, and goals of a consultation meeting. The agency*
25 *shall keep thorough documentation of all steps taken to con-*

1 *tact and engage the affected Indian Tribes in consultation.*
2 *If, after a good faith effort, the agency fails to engage the*
3 *affected Indian Tribes, it may terminate its scoping stage*
4 *consultation efforts by providing all consultation partners*
5 *with a written notification and explanation for its decision*
6 *to end scoping stage consultation efforts, signed by the head*
7 *of the agency, and proceed to the decision stage procedures*
8 *described in section 204. A good faith effort to consult must*
9 *involve consistent and sustained efforts to contact and en-*
10 *gage with the appropriate-level officials via the available*
11 *channels of communication (United States mail, e-mail,*
12 *and telephone).*

13 *(d) SCOPING STAGE CONSULTATION MEETING.—A*
14 *scoping stage consultation meeting shall begin with con-*
15 *firmation of the format, facilitator, and agenda, with ade-*
16 *quate time scheduled for introductions and for interaction*
17 *throughout the meeting among participants. Whenever pos-*
18 *sible, Tribal stakeholders (such as allottees or interested*
19 *Tribal members) shall be brought into the on-going plan-*
20 *ning process directly by forming ad hoc workgroups (in-*
21 *cluding Tribal leaders or their designees) and, if appro-*
22 *priate, initiating a process for consensual development of*
23 *regulations, such as negotiated rulemaking. A scoping stage*
24 *consultation meeting shall conclude with planning for the*
25 *next meeting, if necessary.*

1 (e) *TERMINATION OF SCOPING STAGE CONSULTATION*
2 *WITH A MEMORANDUM OF AGREEMENT.*—

3 (1) *TERMINATION.*—*Except as provided by sub-*
4 *section (c), scoping stage consultation shall terminate*
5 *upon the execution of a memorandum of agreement*
6 *signed by the head of the agency and the affected In-*
7 *dian Tribes.*

8 (2) *SIGNATORIES.*—*The affected Indian Tribes*
9 *and the agency may jointly invite additional parties*
10 *to be signatories of the memorandum of agreement.*
11 *The signatories have sole authority to execute, amend,*
12 *or terminate the memorandum of agreement. If any*
13 *signatory determines that the terms of the memo-*
14 *randum of agreement cannot be carried out, the sig-*
15 *natories shall consult to seek amendment of the memo-*
16 *randum of agreement. If the memorandum of agree-*
17 *ment is not amended, any signatory may terminate*
18 *the agreement, and the process will return to scoping*
19 *stage consultation. The agency shall provide all non-*
20 *signatory consulting partners with the opportunity to*
21 *submit a written statement, explanation, or comment*
22 *on the consultation proceedings that shall become part*
23 *of the agency's official consultation record.*

24 (3) *MEMORANDUM OF AGREEMENT.*—*The memo-*
25 *randum of agreement—*

- 1 (A) may address multiple activities if—
- 2 (i) the activities are similar and repet-
- 3 itive or are multistate or regional in scope,
- 4 or where routine management activities are
- 5 undertaken at Federal installations, facili-
- 6 ties, or other land management units; and
- 7 (ii) the scope of the activities is clearly
- 8 delineated;
- 9 (B) may establish standard processes for
- 10 certain categories of activities determined
- 11 through consultation and defined in the memo-
- 12 randum of agreement;
- 13 (C) shall include a provision for monitoring
- 14 and reporting on its implementation;
- 15 (D) shall include provisions for termination
- 16 or reconsideration if the activity has not been
- 17 completed within a specified time;
- 18 (E) shall include provisions to address new
- 19 discoveries, which may include halting the activ-
- 20 ity and returning to scoping stage consultation;
- 21 (F) shall include provisions to address
- 22 changes or modifications to the scope or nature
- 23 of the activity, impacts or conditions of the
- 24 project or site;

1 (G) may incorporate relevant Tribal laws,
2 standards, regulations, or policies;

3 (H) may include provisions for the protec-
4 tion of culturally sensitive information; and

5 (I) shall include provisions to address and
6 resolve disputes.

7 (f) *TERMINATION OF SCOPING STAGE CONSULTATION*
8 *WITHOUT A MEMORANDUM OF AGREEMENT.*—The agency
9 shall make a good faith effort through sustained interaction
10 and collaboration to reach a consensus resulting in a memo-
11 randum of agreement. If, after a good faith effort and a
12 reasonable amount of time given the nature and complex-
13 ities of the proposed activity and potential impacts, the
14 agency determines that further consultation will not be pro-
15 ductive, it may terminate consultation by providing all
16 consultation partners with a written notification and ex-
17 planation for its decision, signed by the head of the agency,
18 and proceed to the decision stage procedures described in
19 section 204. Any decision by an agency to terminate con-
20 sultation must be supported by an adequate documentation
21 and evidence of its good faith efforts and the basis for its
22 decision. The affected Indian Tribes may at any point de-
23 cide to terminate consultation. In case of termination by
24 either party, the agency shall provide the affected Indian
25 Tribes or other affected parties with the opportunity to sub-

1 *mit a written statement, explanation, or comment on the*
2 *consultation proceedings that will become part of the agen-*
3 *cy's official consultation record.*

4 **SEC. 204. DECISION STAGE PROCEDURES.**

5 *(a) PROPOSAL DOCUMENT.—The agency shall compile*
6 *a document consisting of the plan for the activity, its an-*
7 *ticipated impacts to Tribal interests, any memorandum of*
8 *agreement, and any written statements made by consulting*
9 *partners during the scoping stage as described in section*
10 *203. The agency shall include sufficient supporting docu-*
11 *mentation to the extent permitted by law and within avail-*
12 *able funds to enable any reviewing parties to understand*
13 *its basis. The agency may use documentation prepared to*
14 *comply with other laws to fulfill the requirements of this*
15 *provision to the extent that such documentation is suffi-*
16 *ciently pertinent to and focused on the relevant issues as*
17 *to allow reasonable ease of review. The agency shall mail*
18 *and, if possible, email a copy of the Proposal Document*
19 *to all affected Indian Tribes and stakeholders, including*
20 *those that withdrew from the process. At a minimum, the*
21 *document shall go to the Tribal leader, all members of any*
22 *elected Tribal governing body, and stakeholders. The agency*
23 *shall follow up to confirm receipt of the document. After*
24 *these steps have been completed, the Proposal Document*

1 *shall be published in the Federal Register, subject to the pro-*
2 *visions of section 207.*

3 (b) *PUBLIC COMMENT PERIOD.*—*The agency shall pro-*
4 *vide a period of not less than 90 days after publication in*
5 *the Federal Register for comments on the Proposal Docu-*
6 *ment. A reasonable extension shall be granted upon request*
7 *of not less than 30 days by any member of any of the af-*
8 *ected Indian Tribal governing bodies or a stakeholder.*

9 (c) *PRELIMINARY DECISION.*—*After expiration of the*
10 *comment period, the agency shall prepare a preliminary*
11 *decision letter, signed by the head of the agency. The letter*
12 *shall state the decision to proceed or not proceed with the*
13 *mineral activity, the decision’s rationale, any changes in*
14 *the proposal made in response to comments, and any points*
15 *where the decision conflicts with the expressed requests of*
16 *any of the affected Indian Tribes or stakeholders. It shall*
17 *particularly address why the decision was made to dis-*
18 *regard any such requests. The agency shall mail and, if pos-*
19 *sible, email a copy of the letter to all affected Indian Tribes*
20 *and stakeholders, including those that withdrew from the*
21 *process. At a minimum, the letter shall go to the Tribal*
22 *leader, all members of the Tribal governing body, and stake-*
23 *holders. The agency shall follow up to confirm receipt of*
24 *the letter.*

1 (d) *FINAL DECISION.*—The agency shall provide a 60-
2 day period following the issuance of the preliminary deci-
3 sion letter for response by the affected Indian Tribes and
4 stakeholders. Thereafter, the agency shall notify in writing,
5 signed by the head of the agency, the affected Indian Tribes
6 and stakeholders, including those that withdrew from the
7 process, of the agency’s final decision.

8 **SEC. 205. DOCUMENTATION AND REPORTING.**

9 (a) *OFFICIAL CONSULTATION RECORD.*—The agency
10 shall keep an official consultation record that allows accu-
11 rate tracking of the process so that agencies and consulting
12 parties can correct any errors or omissions, and provides
13 an official record of the process that can be referred to in
14 any litigation that may arise. The agency shall document
15 all efforts to initiate consultation as well as documenting
16 the process once it has begun. Such documentation, includ-
17 ing correspondence, telephone logs, and emails, shall be in-
18 cluded in the agency’s official consultation record. The
19 agency shall also keep notes so that the consultation record
20 documents the content of consultation meetings, site visits,
21 and phone calls in addition to information about dates and
22 who participated.

23 (b) *PAYMENT FOR TRIBAL DOCUMENTATION WORK.*—
24 If the agency asks an Indian Tribe for specific information
25 or documentation regarding the location, nature, and con-

1 dition of individual sites, to conduct a survey, or in any
2 way fulfill the duties of the agency in a role similar to that
3 of a consultant or contractor, then the agency must pay
4 for such services, if so requested by the Indian Tribe, as
5 it would for any private consultant or contractor. An In-
6 dian Tribe may select a contractor to perform such work
7 on its behalf, to be paid for by the agency.

8 (c) *REPORT TO CONGRESS.*—Each agency shall on a
9 biennial basis submit to Congress a report on its consulta-
10 tion activities.

11 **SEC. 206. IMPLEMENTATION.**

12 Not later than 30 days after the date of the enactment
13 of this Act, the head of each agency shall designate an offi-
14 cial with principal responsibility for the agency's review
15 of existing consultation and coordination policies and pro-
16 cedures, and implementation of this Act. Not later than 60
17 days after the effective date of this order, the designated offi-
18 cial shall submit to the Office of Management and Budget
19 a description of the agency's revised consultation process
20 in conformity with this Act.

21 **SEC. 207. SENSITIVE TRIBAL INFORMATION.**

22 (a) *CLOSED MEETINGS.*—Notwithstanding any provi-
23 sion of the Administrative Procedures Act, consultation
24 meetings shall be closed to the public at the request of the
25 Indian Tribal Government.

1 (b) *SENSITIVE INFORMATION.*—*Notwithstanding any*
2 *provision of section 552 of title 5, United States Code (com-*
3 *monly known as the Freedom of Information Act), the Ad-*
4 *ministrative Procedures Act, or any other applicable laws*
5 *or regulations, all information designated by the Indian*
6 *Tribes as sensitive, such as the location of sacred sites or*
7 *other details of cultural or religious practices, shall be de-*
8 *leted from any public publication made as part of the con-*
9 *sultation process or in the process of carrying out the activ-*
10 *ity.*

11 (c) *LIMITED INFORMATION ACCESS.*—*The agency, in*
12 *consultation with the Indian Tribe or such Tribe's designee,*
13 *shall determine who may have access to the information for*
14 *the purposes of carrying out the mineral activity.*

15 (d) *INDIVIDUAL ALLOTMENTS.*—*Instances where sa-*
16 *cred sites are located on individual allotments or public do-*
17 *main allotments shall be addressed on a case-by-case basis*
18 *and shall involve the allottees.*

19 (e) *SACRED SITES.*—*The location and uses of a sacred*
20 *site shall be protected in accordance with this provision and*
21 *section 111.*

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

5 **SEC. 301. GENERAL STANDARD FOR HARDROCK MINING ON**
6 **FEDERAL LAND.**

7 *Notwithstanding section 302(b) of the Federal Land*
8 *Policy and Management Act of 1976 (43 U.S.C. 1732(b)),*
9 *the first section of the Act of June 4, 1897 (chapter 2; 30*
10 *Stat. 36; 16 U.S.C. 478), and the National Forest Manage-*
11 *ment Act of 1976 (16 U.S.C. 1600 et seq.), and in accord-*
12 *ance with this title and applicable law, unless expressly*
13 *stated otherwise in this Act, the Secretary shall ensure that*
14 *mineral activities on any Federal land that is subject to*
15 *a mining claim, millsite claim, tunnel site claim, or any*
16 *authorization issued under title I of this Act are carefully*
17 *controlled to prevent undue degradation of public lands and*
18 *resources.*

19 **SEC. 302. PERMITS.**

20 *(a) PERMITS REQUIRED.—No person may engage in*
21 *mineral activities on Federal land that may cause a dis-*
22 *turbance of surface resources, including land, air, ground*
23 *water and surface water, and fish and wildlife, unless a*
24 *permit was issued to such person under this title author-*
25 *izing such activities.*

1 (b) *NEGLIGIBLE DISTURBANCE.*—Notwithstanding
2 subsection (a), a permit under this title shall not be re-
3 quired for mineral activities that are a casual use of the
4 Federal land.

5 (c) *COORDINATION WITH NATIONAL ENVIRONMENTAL*
6 *POLICY ACT PROCESS.*—The Secretary and the Secretary
7 of Agriculture shall conduct the permit processes under this
8 Act in accordance with the timing and other requirements
9 under section 102 of the National Environmental Policy
10 Act of 1969 (42 U.S.C. 4332). To the extent practicable,
11 the Secretary and Secretary of Agriculture shall coordinate
12 the permit process.

13 **SEC. 303. EXPLORATION PERMIT.**

14 (a) *AUTHORIZED EXPLORATION ACTIVITY.*—Any ap-
15 plicant may apply for an exploration permit for any min-
16 ing claim, license, or lease authorizing the applicant to re-
17 move a reasonable amount of the hardrock minerals, as de-
18 fined in the license or lease or established in such regula-
19 tions as the Secretary shall promulgate, from the area that
20 is subject to the claim, license, or lease, respectively, for
21 analysis, study, and testing. Such permit shall not author-
22 ize the applicant to remove any mineral for sale nor to con-
23 duct any activities other than those required for exploration
24 for hardrock minerals and reclamation.

1 (b) *PERMIT APPLICATION REQUIREMENTS.*—An appli-
2 cation for an exploration permit under this section shall
3 be submitted in a manner satisfactory to the Secretary con-
4 cerned, and shall contain an exploration plan, a reclama-
5 tion plan for the proposed exploration, and such docu-
6 mentation as necessary to ensure compliance with applica-
7 ble Federal and State environmental laws and regulations.

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

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

16 (2) *The proposed exploration activities and con-*
17 *dition of the land after the completion of exploration*
18 *activities and final reclamation will conform with the*
19 *land use plan applicable to the area subject to min-*
20 *eral activities.*

21 (3) *The area subject to the proposed permit is*
22 *not included within an area listed in section 111.*

23 (4) *The applicant has demonstrated that the ex-*
24 *ploration plan and reclamation plan will be in com-*
25 *pliance with the requirements of this Act and all*

1 *other applicable Federal requirements, and any State*
2 *requirements agreed to by the Secretary concerned.*

3 *(5) The applicant has demonstrated that the re-*
4 *quirements of section 306 will be met.*

5 *(6) The applicant is eligible to receive a permit*
6 *under section 305.*

7 *(d) TERM OF PERMIT.—An exploration permit shall*
8 *be for a stated term. The term shall be no greater than that*
9 *necessary to accomplish the proposed exploration, and in*
10 *no case for more than 10 years.*

11 *(e) PERMIT MODIFICATION.—During the term of an*
12 *exploration permit the permit holder may submit an appli-*
13 *cation to modify the permit. To approve a proposed modi-*
14 *fication to the permit, the Secretary concerned shall make*
15 *the same determinations as are required in the case of an*
16 *original permit, except that the Secretary and the Secretary*
17 *of Agriculture may specify by joint rule the extent to which*
18 *requirements for initial exploration permits under this sec-*
19 *tion shall apply to applications to modify an exploration*
20 *permit based on whether such modifications are deemed sig-*
21 *nificant or minor.*

22 *(f) TRANSFER, ASSIGNMENT, OR SALE OF RIGHTS.—*

23 *(1) PRIOR WRITTEN APPROVAL.—No transfer, as-*
24 *signment, or sale of rights granted by a permit issued*

1 *under this section shall be made without the prior*
2 *written approval of the Secretary concerned.*

3 (2) *APPROVAL.*—*Such Secretary shall allow a*
4 *person holding a permit to transfer, assign, or sell*
5 *rights under the permit to a successor, if the Sec-*
6 *retary finds in writing that the successor—*

7 (A) *is eligible to receive a permit under sec-*
8 *tion 304;*

9 (B) *has submitted evidence of financial as-*
10 *surance satisfactory under section 306; and*

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

13 (3) *ASSUMED LIABILITY.*—*The successor in in-*
14 *terest shall assume the liability and reclamation re-*
15 *sponsibilities established by the existing permit and*
16 *shall conduct the mineral activities in full compliance*
17 *with this Act, and the terms and conditions of the*
18 *permit as in effect at the time of transfer, assignment,*
19 *or sale.*

20 (4) *FEE.*—*Each application for approval of a*
21 *permit transfer, assignment, or sale pursuant to this*
22 *subsection shall be accompanied by a fee payable to*
23 *the Secretary of the Interior in such amount as may*
24 *be established by such Secretary. Such amount shall*
25 *be equal to the actual or anticipated cost to the Sec-*

1 *retary or the Secretary of Agriculture, as appropriate,*
2 *of reviewing and approving or disapproving such*
3 *transfer, assignment, or sale, as determined by the*
4 *Secretary of the Interior.*

5 **SEC. 304. OPERATIONS PERMIT.**

6 *(a) OPERATIONS PERMIT.—(1) Any applicant that is*
7 *in compliance with all provisions of this Act may apply*
8 *to the Secretary concerned for an operations permit author-*
9 *izing the applicant to carry out mineral activities, other*
10 *than casual use, on—*

11 *(A) any valid mining claim, valid millsite*
12 *claim, valid tunnel site claim, or lease issued under*
13 *this Act; and*

14 *(B) such additional Federal land as the Sec-*
15 *retary may determine is necessary to conduct the pro-*
16 *posed mineral activities, if the operator obtains a*
17 *right-of-way permit for use of such additional lands*
18 *under title V of the Federal Land Policy and Manage-*
19 *ment Act of 1976 (43 U.S.C. 1761 et seq.) and agrees*
20 *to pay all fees required under that title for the permit*
21 *under that title.*

22 *(2) If the Secretary decides to issue such permit, the*
23 *permit shall include such terms and conditions as pre-*
24 *scribed by such Secretary to carry out this title.*

1 **(b) PERMIT APPLICATION REQUIREMENTS.**—*An appli-*
2 *cation for an operations permit under this section shall be*
3 *submitted in a manner satisfactory to the Secretary con-*
4 *cerned and shall contain site characterization data, an op-*
5 *erations plan, a reclamation plan, monitoring plans, long-*
6 *term maintenance plans, to the extent necessary, and such*
7 *documentation as necessary to ensure compliance with ap-*
8 *plicable Federal and State environmental laws and regula-*
9 *tions. If the proposed mineral activities will be carried out*
10 *in conjunction with mineral activities on adjacent non-Fed-*
11 *eral lands, information on the location and nature of such*
12 *operations may be required by the Secretary.*

13 **(c) PERMIT ISSUANCE OR DENIAL.**—*(1) After pro-*
14 *viding for public participation pursuant to subsection (i),*
15 *the Secretary concerned shall issue an operations permit*
16 *if such Secretary makes each of the following determina-*
17 *tions in writing, and shall deny a permit if such Secretary*
18 *finds that the application and applicant do not fully meet*
19 *the following requirements:*

20 **(A)** *The permit application, including the site*
21 *characterization data, operations plan, and reclama-*
22 *tion plan, are complete and accurate and sufficient*
23 *for developing a good understanding of the antici-*
24 *ipated impacts of the mineral activities and the effec-*
25 *tiveness of proposed mitigation and control.*

1 (B) *The applicant has demonstrated that the*
2 *proposed reclamation in the operation and reclama-*
3 *tion plan can be and is likely to be accomplished by*
4 *the applicant and will not cause undue degradation.*

5 (C) *The condition of the land, including the fish*
6 *and wildlife resources and habitat contained thereon,*
7 *will be restored after the completion of mineral activi-*
8 *ties.*

9 (D) *The area subject to the proposed plan is not*
10 *listed in section 111 or otherwise ineligible for min-*
11 *eral activities.*

12 (E) *The proposed operation has been designed to*
13 *prevent material damage to the hydrologic balance*
14 *outside the permit area.*

15 (F) *The applicant will fully comply with the re-*
16 *quirements of section 306 prior to the initiation of*
17 *operations.*

18 (G) *Neither the applicant nor operator, nor any*
19 *subsidiary, affiliate, or person controlled by or under*
20 *common control with the applicant or operator, is in-*
21 *eligible to receive a permit under section 305.*

22 (H) *The reclamation plan demonstrates that 10*
23 *years following mine closure, no treatment of surface*
24 *or ground water for carcinogens or toxins will be re-*

1 *quired to meet water quality standards at the point*
2 *of discharge.*

3 *(2) With respect to any activities specified in the rec-*
4 *lamation plan referred to in subsection (b) that constitute*
5 *a removal or remedial action under section 101 of the Com-*
6 *prehensive Environmental Response, Compensation, and*
7 *Liability Act of 1980 (42 U.S.C. 9601), the Secretary shall*
8 *consult with the Administrator of the Environmental Pro-*
9 *tection Agency prior to the issuance of an operations per-*
10 *mit. The Administrator of the Environmental Protection*
11 *Agency shall ensure that the reclamation plan does not re-*
12 *quire activities that would increase the costs or likelihood*
13 *of removal or remedial actions under the Comprehensive*
14 *Environmental Response, Compensation, and Liability Act*
15 *of 1980 (42 U.S.C. 9601 et seq.) or corrective actions under*
16 *the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).*

17 *(d) TERM OF PERMIT; RENEWAL.—*

18 *(1) IN GENERAL.—An operations permit—*

19 *(A) shall be for an initial term not longer*
20 *than the shorter of—*

21 *(i) the period necessary to accomplish*
22 *the proposed mineral activities subject to*
23 *the permit; and*

24 *(ii) the length of time remaining on*
25 *the applicant's hardrock mining lease;*

1 (B) shall be renewed for an additional 10-
2 year period if the operation is in compliance
3 with the requirements of this Act and other ap-
4 plicable law; and

5 (C) shall expire 5 years following the com-
6 mencement of a temporary cessation unless,
7 prior to the expiration of the 5 years, the mine
8 operator has filed with the Secretary a request
9 for approval to resume operations.

10 (2) *FAILURE TO COMMENCE MINERAL ACTIVI-*
11 *TIES.—Failure by the operator to commence mineral*
12 *activities within 2 years of the date scheduled in an*
13 *operations permit shall require a modification of the*
14 *permit if the Secretary concerned determines that*
15 *modifications are necessary to comply with section*
16 *111.*

17 (e) *PERMIT MODIFICATION.—*

18 (1) *APPLICATION.—During the term of an oper-*
19 *ations permit the operator may submit an applica-*
20 *tion to modify the permit (including the operations*
21 *plan or reclamation plan).*

22 (2) *MODIFICATION BY THE SECRETARY CON-*
23 *CERNED.—The Secretary concerned may, at any time,*
24 *require reasonable modification to any operations*
25 *plan or reclamation plan upon a determination that*

1 *the requirements of this Act cannot be met if the plan*
2 *is followed as approved. Such determination shall be*
3 *based on a written finding and subject to public no-*
4 *tice and hearing requirements established by the Sec-*
5 *retary concerned.*

6 (3) *UNANTICIPATED EVENTS OR CONDITIONS.—A*
7 *permit modification is required before changes are*
8 *made to the approved plan of operations, or if unan-*
9 *ticipated events or conditions exist on the mine site,*
10 *including in the case of—*

11 (A) *development of acid or toxic drainage;*

12 (B) *loss of springs or water supplies;*

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

16 (D) *the need for long-term water treatment;*

17 (E) *significant reclamation difficulties or*
18 *reclamation failure;*

19 (F) *the discovery of significant scientific or*
20 *biological resources that were not addressed in*
21 *the original plan;*

22 (G) *the discovery of a properties eligible for*
23 *listing on the National Register of Historic*
24 *Places; or*

1 (H) the discovery of hazards to public safe-
2 ty.

3 (f) *TEMPORARY CESSATION OF OPERATIONS.*—

4 (1) *SECRETARIAL APPROVAL REQUIRED.*—An op-
5 erator conducting mineral activities under an oper-
6 ations permit in effect under this title may not tem-
7 porarily cease mineral activities for a period greater
8 than 180 days unless the Secretary concerned has ap-
9 proved such temporary cessation or unless the tem-
10 porary cessation is permitted under the original per-
11 mit.

12 (2) *PREVIOUSLY ISSUED OPERATIONS PER-*
13 *MITS.*—Any operator temporarily ceasing mineral ac-
14 tivities for a period greater than 90 days under an
15 operations permit issued before the date of the enact-
16 ment of this Act shall submit, before the expiration of
17 such 90-day period, a complete application for tem-
18 porary cessation of operations to the Secretary con-
19 cerned for approval unless the temporary cessation is
20 permitted under the original permit.

21 (3) *REQUIRED INFORMATION.*—An application
22 for approval of temporary cessation of operations
23 shall include such information required under sub-
24 section (b) and any other provisions prescribed by the
25 Secretary concerned to minimize impacts on human

1 *health, the environment, or properties eligible for list-*
2 *ing on the National Register of Historic Places. After*
3 *receipt of a complete application for temporary ces-*
4 *sation of operations such Secretary shall conduct an*
5 *inspection of the area for which temporary cessation*
6 *of operations has been requested.*

7 (4) *CONDITIONS FOR APPROVAL.—To approve an*
8 *application for temporary cessation of operations, the*
9 *Secretary concerned shall make each of the following*
10 *determinations:*

11 (A) *A determination that the methods for*
12 *securing surface facilities and restricting access*
13 *to the permit area, or relevant portions thereof,*
14 *will effectively protect against hazards to the*
15 *health and safety of the public and fish and*
16 *wildlife or damage to properties eligible for list-*
17 *ing on the National Register of Historic Places.*

18 (B) *A determination that reclamation is in*
19 *compliance with the approved reclamation plan,*
20 *except in those areas specifically designated in*
21 *the application for temporary cessation of oper-*
22 *ations for which a delay in meeting such stand-*
23 *ards is necessary to facilitate the resumption of*
24 *operations.*

1 (C) *A determination that the amount of fi-*
2 *nancial assurance filed with the permit applica-*
3 *tion is sufficient to assure completion of the rec-*
4 *lamation activities identified in the approved*
5 *reclamation plan in the event of forfeiture.*

6 (D) *A determination that any outstanding*
7 *notices of violation and cessation orders incurred*
8 *in connection with the plan for which temporary*
9 *cessation is being requested are either stayed*
10 *pursuant to an administrative or judicial appeal*
11 *proceeding or are in the process of being abated*
12 *to the satisfaction of the Secretary concerned.*

13 (g) *PERMIT REVIEWS.—The Secretary concerned shall*
14 *review each permit issued under this section every 10 years*
15 *during the term of such permit, and before approving the*
16 *resumption of operations under subsection (f), such Sec-*
17 *retary shall require the operator to take such actions as the*
18 *Secretary deems necessary to assure that mineral activities*
19 *conform to the permit, including adjustment of financial*
20 *assurance requirements.*

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

22 (1) *WRITTEN APPROVAL.—No transfer, assign-*
23 *ment, or sale of rights granted by a permit under this*
24 *section shall be made without the prior written ap-*
25 *proval of the Secretary concerned.*

1 (2) *CONDITIONS OF APPROVAL.*—*The Secretary*
2 *concerned may allow a person holding a permit to*
3 *transfer, assign, or sell rights under the permit to a*
4 *successor, if such Secretary finds, in writing, that the*
5 *successor—*

6 *(A) has submitted all required information*
7 *and is eligible to receive a permit in accordance*
8 *with section 305;*

9 *(B) has submitted evidence of financial as-*
10 *surance satisfactory under section 306; and*

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

13 (3) *ASSUMED LIABILITY.*—*The successor in in-*
14 *terest shall assume the liability and reclamation re-*
15 *sponsibilities established by the existing permit and*
16 *shall conduct the mineral activities in full compliance*
17 *with this Act, and the terms and conditions of the*
18 *permit as in effect at the time of transfer, assignment,*
19 *or sale.*

20 (4) *FEE.*—*Each application for approval of a*
21 *permit transfer, assignment, or sale pursuant to this*
22 *subsection shall be accompanied by a fee payable to*
23 *the Secretary concerned in such amount as may be es-*
24 *tablished by such Secretary. Such amount shall be*
25 *equal to the actual or anticipated cost of reviewing*

1 *and approving or disapproving such transfer, assign-*
2 *ment, or sale, as determined by such Secretary.*

3 *(i) PUBLIC PARTICIPATION.—The Secretary of the In-*
4 *terior and the Secretary of Agriculture shall jointly promul-*
5 *gate regulations to ensure transparency and public partici-*
6 *pation in permit decisions required under this Act, con-*
7 *sistent with any requirements that apply to such decisions*
8 *under section 102 of the National Environmental Policy*
9 *Act of 1969 (42 U.S.C. 4332).*

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

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

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

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

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

3 (3) *The Surface Mining Control and Reclama-*
4 *tion Act of 1977 (30 U.S.C. 1201 et seq.) or any regu-*
5 *lation implementing that Act at any site where sur-*
6 *face coal mining operations have occurred or are oc-*
7 *curing.*

8 (b) *SUSPENSION.—The Secretary concerned shall sus-*
9 *pend an operations permit, in whole or in part, if such*
10 *Secretary determines that any of the entities described in*
11 *subsection (a) were in violation of any requirement listed*
12 *in subsection (a) at the time the permit was issued.*

13 (c) *CORRECTION.—*

14 (1) *REINSTATEMENT.—The Secretary concerned*
15 *may issue or reinstate a permit under this title if the*
16 *applicant submits proof that the violation referred to*
17 *in subsection (a) or (b) has been corrected or is in the*
18 *process of being corrected to the satisfaction of such*
19 *Secretary and the regulatory authority involved or if*
20 *the applicant submits proof that the violator has filed*
21 *and is presently pursuing, a direct administrative or*
22 *judicial appeal to contest the existence of the viola-*
23 *tion. For purposes of this section, an appeal of any*
24 *applicant's relationship to an affiliate shall not con-*

1 *stitute a direct administrative or judicial appeal to*
2 *contest the existence of the violation.*

3 (2) *CONDITIONAL APPROVAL.—Any permit which*
4 *is issued or reinstated based upon proof submitted*
5 *under this subsection shall be conditionally approved*
6 *or conditionally reinstated, as the case may be. If the*
7 *violation is not successfully abated or the violation is*
8 *upheld on appeal, the permit shall be suspended or re-*
9 *voked.*

10 (d) *PATTERN OF WILLFUL VIOLATIONS.—No permit*
11 *may be issued under this Act to any applicant if there is*
12 *a demonstrated pattern of willful violations of the environ-*
13 *mental protection requirements of this Act by the applicant,*
14 *any affiliate of the applicant, or the operator or claim, li-*
15 *cence, or lease holder if different than the applicant.*

16 **SEC. 306. FINANCIAL ASSURANCE.**

17 (a) *FINANCIAL ASSURANCE REQUIRED.—*

18 (1) *FORM OF ASSURANCE.—After a permit is*
19 *issued under this title and before any exploration or*
20 *operations begin under the permit, the operator shall*
21 *file with the Secretary concerned evidence of financial*
22 *assurance payable to the United States. The financial*
23 *assurance shall be provided in the form of a surety*
24 *bond, letters of credit, certificates of deposit, or cash.*

1 (2) *COVERED ACTIVITIES.*—*The financial assur-*
2 *ance shall cover all lands within the initial permit*
3 *area and all affected waters that may require restora-*
4 *tion, treatment, or other management as a result of*
5 *mineral activities, and shall be extended to cover all*
6 *lands and waters added pursuant to any permit*
7 *modification made under section 303(e) or section*
8 *304(e), or affected by mineral activities.*

9 (b) *AMOUNT.*—*The amount of the financial assurance*
10 *required under this section shall be sufficient to assure the*
11 *completion of reclamation and restoration satisfying the re-*
12 *quirements of this Act if the work were to be performed by*
13 *the Secretary concerned in the event of forfeiture, including*
14 *the construction and maintenance costs for any treatment*
15 *facilities necessary to meet Federal and State environ-*
16 *mental requirements. The calculation of such amount shall*
17 *take into account the maximum level of financial exposure*
18 *which shall arise during the mineral activity and adminis-*
19 *trative costs associated with a government agency reclaim-*
20 *ing the site.*

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

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

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

13 (e) *RELEASE.*—*Upon request, and after notice and op-*
14 *portunity for public comment, and after inspection by the*
15 *Secretary concerned, such Secretary may, after consultation*
16 *with the Administrator of the Environmental Protection*
17 *Agency, release in whole or in part the financial assurance*
18 *required under this section if the Secretary makes both of*
19 *the following determinations:*

20 (1) *A determination that reclamation or restora-*
21 *tion covered by the financial assurance has been ac-*
22 *complished as required by this Act.*

23 (2) *A determination that the terms and condi-*
24 *tions of any other applicable Federal requirements,*
25 *and State requirements applicable pursuant to coop-*

1 *erative agreements under section 308, have been ful-*
2 *filled.*

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

5 *(1) After the operator has completed any re-*
6 *quired backfilling, regrading, and drainage control of*
7 *an area subject to mineral activities and covered by*
8 *the financial assurance, and has commenced revegeta-*
9 *tion on the regraded areas subject to mineral activi-*
10 *ties in accordance with the approved plan, that por-*
11 *tion of the total financial assurance secured for the*
12 *area subject to mineral activities attributable to the*
13 *completed activities may be released except that suffi-*
14 *cient assurance must be retained to address other re-*
15 *quired reclamation and restoration needs and to as-*
16 *sure the long-term success of the revegetation.*

17 *(2) After the operator has completed successfully*
18 *all remaining mineral activities and reclamation ac-*
19 *tivities and all requirements of the operations plan*
20 *and the reclamation plan, and all other requirements*
21 *of this Act have been fully met, the remaining portion*
22 *of the financial assurance may be released.*

23 *During the period following release of the financial assur-*
24 *ance as specified in paragraph (1), until the remaining*
25 *portion of the financial assurance is released as provided*

1 *in paragraph (2), the operator shall be required to comply*
2 *with the permit issued under this title.*

3 (g) *EFFLUENT.*—*Notwithstanding section 307(b)(4),*
4 *where any discharge or other water-related condition result-*
5 *ing from the mineral activities requires treatment in order*
6 *to meet the applicable effluent limitations and water qual-*
7 *ity standards, the financial assurance shall include the esti-*
8 *mated cost of maintaining such treatment for the projected*
9 *period that will be needed after the cessation of mineral ac-*
10 *tivities. The portion of the financial assurance attributable*
11 *to such estimated cost of treatment shall not be released*
12 *until the discharge has ceased for a period of 5 years, as*
13 *determined by ongoing monitoring and testing, or, if the*
14 *discharge continues, until the operator has met all applica-*
15 *ble effluent limitations and water quality standards for 5*
16 *full years without treatment.*

17 (h) *ENVIRONMENTAL HAZARDS.*—*If the Secretary con-*
18 *cerned determines, after final release of financial assurance,*
19 *that an environmental hazard resulting from the mineral*
20 *activities exists, or the terms and conditions of the explo-*
21 *rations or operations permit of this Act were not fulfilled*
22 *in fact at the time of release, such Secretary shall issue an*
23 *order under section 507 requiring the claim holder or oper-*
24 *ator (or any person who controls the claim holder or oper-*
25 *ator) to correct the condition such that applicable laws and*

1 *regulations and any conditions from the plan of operations*
2 *are met.*

3 **SEC. 307. OPERATION AND RECLAMATION.**

4 *(a) GENERAL RULE.—(1) The operator shall restore*
5 *lands subject to mineral activities carried out under a per-*
6 *mit issued under this title to a condition capable of sup-*
7 *porting—*

8 *(A) the uses which such lands were capable of*
9 *supporting prior to surface disturbance by the oper-*
10 *ator; or*

11 *(B) other beneficial uses which conform to appli-*
12 *cable land use plans as determined by the Secretary*
13 *concerned.*

14 *(2) Reclamation shall proceed as contemporaneously*
15 *as practicable with the conduct of mineral activities. In the*
16 *case of a cessation of mineral activities beyond that pro-*
17 *vided for as a temporary cessation under this Act, reclama-*
18 *tion activities shall begin immediately.*

19 *(b) OPERATION AND RECLAMATION STANDARDS.—The*
20 *Secretary of the Interior and the Secretary of Agriculture*
21 *shall jointly promulgate regulations that establish operation*
22 *and reclamation standards for mineral activities permitted*
23 *under this Act. The Secretaries may determine whether out-*
24 *come-based performance standards or technology-based de-*

1 *sign standards are most appropriate. The regulations shall*
2 *address the following:*

3 (1) *Segregation, protection, and replacement of*
4 *topsoil or other suitable growth medium, and the pre-*
5 *vention, where possible, of soil contamination.*

6 (2) *Maintenance of the stability of all surface*
7 *areas.*

8 (3) *Control of sediments to prevent erosion and*
9 *manage drainage.*

10 (4) *Minimization of the formation and migra-*
11 *tion of acidic, alkaline, metal-bearing, or other deleter-*
12 *ious leachate.*

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

16 (6) *Establishment of a diverse, effective, and per-*
17 *manent vegetative cover of the same seasonal variety*
18 *native to the area affected by mineral activities, and*
19 *equal in extent of cover to the natural vegetation of*
20 *the area.*

21 (7) *Design and maintenance of leach operations,*
22 *impoundments, and excess waste according to stand-*
23 *ard engineering standards to achieve and maintain*
24 *stability and reclamation of the site.*

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

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

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

7 (11) *Prevention and suppression of fire within*
8 *the leased area.*

9 (c) *SURFACE OR GROUND WATER WITHDRAWALS.—*
10 *The Secretary concerned shall work with State and local*
11 *governments with authority over the allocation and use of*
12 *surface and ground water in the area around the mine site*
13 *as necessary to ensure that any surface or ground water*
14 *withdrawals made as a result of mining activities approved*
15 *under this section do not cause undue degradation.*

16 (d) *SPECIAL RULE.—Reclamation activities for a*
17 *mining claim, license, or lease that has been forfeited, relin-*
18 *quished, or lapsed, or a plan that has expired or been re-*
19 *voked or suspended, shall continue subject to review and ap-*
20 *proval by the Secretary concerned.*

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

22 (a) *STATE LAW.—*

23 (1) *RECLAMATION, LAND USE, ENVIRONMENTAL,*
24 *AND PUBLIC HEALTH STANDARDS.—Any reclamation,*
25 *land use, environmental, or public health protection*

1 *standard or requirement in State law or regulation*
2 *that meets or exceeds the requirements of this Act*
3 *shall not be construed to be inconsistent with any*
4 *such standard.*

5 (2) *BONDING REQUIREMENTS.*—*Any bonding*
6 *standard or requirement in State law or regulation*
7 *that meets or exceeds the requirements of this Act*
8 *shall not be construed to be inconsistent with such re-*
9 *quirements.*

10 (3) *INSPECTION STANDARDS.*—*Any inspection*
11 *standard or requirement in State law or regulation*
12 *that meets or exceeds the requirements of this Act*
13 *shall not be construed to be inconsistent with such re-*
14 *quirements.*

15 (b) *APPLICABILITY OF OTHER STATE REQUIRE-*
16 *MENTS.*—

17 (1) *ENVIRONMENTAL STANDARDS.*—*Nothing in*
18 *this Act shall be construed as affecting any toxic sub-*
19 *stance, solid waste, or air or water quality, standard*
20 *or requirement of any State, county, local, or Tribal*
21 *law or regulation, which may be applicable to min-*
22 *eral activities on lands subject to this Act.*

23 (2) *WATER RESOURCES.*—*Nothing in this Act*
24 *shall be construed as affecting in any way the right*
25 *of any person to enforce or protect, under applicable*

1 *law, such person's interest in water resources affected*
2 *by mineral activities on lands subject to this Act.*

3 *(c) COOPERATIVE AGREEMENTS.—*

4 *(1) IN GENERAL.—Any State may enter into a*
5 *cooperative agreement with the Secretary concerned*
6 *for the purposes of such Secretary applying such*
7 *standards and requirements referred to in subsection*
8 *(a) and subsection (b) to mineral activities or rec-*
9 *lamation on lands subject to this Act.*

10 *(2) COMMON REGULATORY FRAMEWORK.—In*
11 *such instances where the proposed mineral activities*
12 *would affect lands not subject to this Act in addition*
13 *to lands subject to this Act, in order to approve a*
14 *plan of operations the Secretary concerned shall enter*
15 *into a cooperative agreement with the State that sets*
16 *forth a common regulatory framework consistent with*
17 *the requirements of this Act for the purposes of such*
18 *plan of operations. Any such common regulatory*
19 *framework shall not negate the authority of the Fed-*
20 *eral Government to independently inspect mines and*
21 *operations and bring enforcement actions for viola-*
22 *tions.*

23 *(3) NOTICE AND PUBLIC COMMENT.—The Sec-*
24 *retary concerned shall not enter into a cooperative*
25 *agreement with any State under this section until*

1 *after notice in the Federal Register and opportunity*
2 *for public comment and hearing.*

3 (d) *PRIOR AGREEMENTS.*—*Any cooperative agreement*
4 *or such other understanding between the Secretary con-*
5 *cerned and any State, or political subdivision thereof, relat-*
6 *ing to the management of mineral activities on lands sub-*
7 *ject to this Act that was in existence on the date of enact-*
8 *ment of this Act may only continue in force until 1 year*
9 *after the date of enactment of this Act. During such 1-year*
10 *period, the State and the Secretary shall review the terms*
11 *of the agreement and make changes that are necessary to*
12 *be consistent with this Act.*

13 **TITLE IV—ABANDONED**
14 **HARDROCK MINE RECLAMATION**

15 **SEC. 401. ESTABLISHMENT OF FUND.**

16 (a) *ESTABLISHMENT.*—*There is established in the De-*
17 *partment of the Treasury a separate account to be known*
18 *as the Hardrock Minerals Reclamation Fund.*

19 (b) *INVESTMENT.*—*The Secretary shall notify the Sec-*
20 *retary of the Treasury as to what portion of the Fund is*
21 *not, in the Secretary's judgment, required to meet current*
22 *withdrawals. The Secretary of the Treasury shall invest*
23 *such portion of the Fund in public debt securities with ma-*
24 *turities suitable for the needs of such Fund and bearing in-*
25 *terest at rates determined by the Secretary of the Treasury,*

1 *taking into consideration current market yields on out-*
2 *standing marketplace obligations of the United States of*
3 *comparable maturities.*

4 (c) *ADMINISTRATION.*—*In addition to other uses au-*
5 *thorized by this title, the Secretary may use amounts in*
6 *the Fund as necessary for the administrative expenses of*
7 *the United States, Indian Tribes, and the States to imple-*
8 *ment this title.*

9 **SEC. 402. CONTENTS OF FUND.**

10 (a) *IN GENERAL.*—*The following amounts shall be*
11 *credited to the Fund:*

12 (1) *All moneys collected pursuant to section 502*
13 *and section 506.*

14 (2) *All fees received under section 304(a)(1)(B).*

15 (3) *All donations by persons, corporations, asso-*
16 *ciations, and foundations for the purposes of this*
17 *title.*

18 (4) *All amounts deposited in the Fund under*
19 *title I.*

20 (5) *All income on investments under section*
21 *401(b).*

22 (6) *All amounts deposited in the Fund under*
23 *section 403.*

24 (b) *DONATIONS.*—*The Secretary may accept for the*
25 *Government a gift of money to be deposited into the Fund.*

1 *The Secretary may reject a gift to the Fund if such rejection*
2 *is in the interest of the Government.*

3 **SEC. 403. DISPLACED MATERIAL RECLAMATION FEE.**

4 (a) *IMPOSITION OF FEE.*—*Except as provided in sub-*
5 *section (g), each operator conducting hardrock mineral ac-*
6 *tivities shall pay to the Secretary, for deposit in the*
7 *Hardrock Minerals Fund established by section 401, a dis-*
8 *placed material reclamation fee of 7 cents per ton of dis-*
9 *placed material.*

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

14 (c) *SUBMISSION OF STATEMENT.*—*Together with such*
15 *reclamation fee, all operators conducting hardrock mineral*
16 *activities shall submit to the Secretary a statement of the*
17 *amount of displaced material produced during mineral ac-*
18 *tivities during the previous calendar year, the accuracy of*
19 *which shall be sworn to by the operator and notarized.*

20 (d) *PENALTY.*—*Any corporate officer, agent, or direc-*
21 *tor of a person conducting hardrock mineral activities, and*
22 *any other person acting on behalf of such a person, who*
23 *knowingly makes any false statement, representation, or*
24 *certification, or knowingly fails to make any statement,*
25 *representation, or certification, required under this section*

1 *with respect to such operation shall, upon conviction, be*
2 *punished by a fine of not more than \$10,000.*

3 (e) *CIVIL ACTION TO RECOVER FEE.*—*Any portion of*
4 *such reclamation fee not properly or promptly paid pursu-*
5 *ant to this section shall be recoverable, with statutory inter-*
6 *est, from the hardrock mineral activities operator, in any*
7 *court of competent jurisdiction in any action at law to com-*
8 *pel payment of debts.*

9 (f) *EFFECT.*—*Nothing in this section requires a reduc-*
10 *tion in, or otherwise affects, any similar fee required under*
11 *any law (including regulations) of any State.*

12 (g) *EXEMPTION.*—*The fee under this section shall not*
13 *apply for small miners.*

14 **SEC. 404. USE AND OBJECTIVES OF THE FUND.**

15 (a) *AUTHORIZED USES.*—

16 (1) *IN GENERAL.*—*The Secretary may, subject to*
17 *appropriations, use moneys in the Fund for the rec-*
18 *lamation and restoration of land and water resources*
19 *adversely affected by past hardrock mineral activities*
20 *and related activities on lands described in section*
21 *405, including any of the following:*

22 (A) *Protecting public health and safety.*

23 (B) *Preventing, abating, treating, and con-*
24 *trolling water pollution created by abandoned*

1 *mine drainage, including in river watershed*
2 *areas.*

3 *(C) Reclaiming and restoring abandoned*
4 *surface and underground mined areas.*

5 *(D) Reclaiming and restoring abandoned*
6 *milling and processing areas.*

7 *(E) Backfilling, sealing, or otherwise con-*
8 *trolling abandoned underground mine entries.*

9 *(F) Revegetating land adversely affected by*
10 *past mineral activities in order to prevent ero-*
11 *sion and sedimentation, to enhance wildlife habi-*
12 *tat, and for any other reclamation purpose.*

13 *(G) Controlling surface subsidence due to*
14 *abandoned underground mines.*

15 *(H) Enhancing fish and wildlife habitat.*

16 (2) *MANNER OF USE.—Amounts in the Fund*
17 *may—*

18 *(A) be expended by the Secretary for the*
19 *purposes described in paragraph (1);*

20 *(B) be transferred by the Secretary to the*
21 *Director of the Bureau of Land Management, the*
22 *Chief of the Forest Service, the Director of the*
23 *National Park Service, the Director of the*
24 *United States Fish and Wildlife Service, the*
25 *head of any other Federal agency, or any public*

1 *entity that volunteers to develop and implement,*
2 *and that has the ability to carry out, all or a*
3 *significant portion of a reclamation program*
4 *under this title; or*

5 *(C) be transferred by the Secretary to an*
6 *Indian Tribe or a State to carry out a reclama-*
7 *tion program under this title that meets the pur-*
8 *poses described in paragraph (1).*

9 *(b) ALLOCATION.—Of the amounts deposited into the*
10 *Fund—*

11 *(1) 25 percent shall be allocated for expenditure*
12 *by the Secretary in States or on Tribal lands within*
13 *the boundaries of which occurs production of hardrock*
14 *minerals or mineral concentrates or products derived*
15 *from hardrock minerals, based on a formula reflecting*
16 *existing production in each such State or on the land*
17 *of the Indian Tribe;*

18 *(2) 25 percent shall be allocated for expenditure*
19 *by the Secretary in States or on Tribal lands based*
20 *on a formula reflecting the quantity of hardrock min-*
21 *erals, or mineral concentrates or products derived*
22 *from hardrock minerals, historically produced in each*
23 *such State or from the land of the Indian Tribe before*
24 *the date of enactment of this Act; and*

1 (3) 50 percent shall be allocated for expenditure
2 by the Secretary to address high-priority needs ac-
3 cording to the priorities in subsection (c).

4 (c) *PRIORITIES.*—Expenditures of moneys from the
5 Fund shall reflect the following priorities in the order stat-
6 ed:

7 (1) The protection of public health and safety
8 from extreme danger from the adverse effects of past
9 mineral activities, especially as relates to surface
10 water and ground water contaminants.

11 (2) The protection of public health and safety
12 from the adverse effects of past mineral activities.

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

17 (d) *HABITAT.*—Reclamation and restoration activities
18 under this title shall include appropriate mitigation meas-
19 ures to provide for the continuation of any established habi-
20 tat for wildlife in existence before the commencement of such
21 activities.

22 (e) *RESPONSE OR REMOVAL ACTIONS.*—Reclamation
23 and restoration activities under this title that constitute a
24 removal or remedial action under section 101 of the Com-
25 prehensive Environmental Response, Compensation, and

1 *Liability Act of 1980 (42 U.S.C. 9601) shall be conducted*
2 *with the concurrence of the Administrator of the Environ-*
3 *mental Protection Agency. The Secretary and the Adminis-*
4 *trator shall enter into a memorandum of understanding to*
5 *establish procedures for consultation, concurrence, training,*
6 *exchange of technical expertise, and joint activities under*
7 *the appropriate circumstances, that provide assurances that*
8 *reclamation or restoration activities under this title shall*
9 *not be conducted in a manner that increases the costs or*
10 *likelihood of removal or remedial actions under the Com-*
11 *prehensive Environmental Response, Compensation, and*
12 *Liability Act of 1980 (42 U.S.C. 9601 et seq.), and that*
13 *avoid oversight by multiple agencies to the maximum extent*
14 *practicable.*

15 **SEC. 405. ELIGIBLE LANDS AND WATERS.**

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

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

1 (2) *Lands for which the Secretary makes a deter-*
2 *mination that there is no continuing reclamation re-*
3 *responsibility of a claim holder, operator, or other per-*
4 *son who abandoned the site prior to completion of re-*
5 *quired reclamation under State or other Federal laws.*

6 (b) *INVENTORY.*—*The Secretary shall prepare and*
7 *maintain a publicly available inventory of abandoned*
8 *hardrock minerals mines on public lands and any aban-*
9 *doned mine on Indian lands that may be eligible for ex-*
10 *penditures under this title, and shall submit an annual re-*
11 *port to the Congress on the progress in cleanup of such sites.*

12 **SEC. 406. AUTHORIZATION OF APPROPRIATIONS.**

13 *Amounts credited to the Fund are authorized to be ap-*
14 *propriated for the purpose of this title without fiscal year*
15 *limitation.*

16 **TITLE V—ADDITIONAL**
17 **PROVISIONS**

18 **SEC. 501. POLICY FUNCTIONS.**

19 (a) *MINERALS POLICY.*—*Section 101 of the Mining*
20 *and Minerals Policy Act of 1970 (30 U.S.C. 21a) is amend-*
21 *ed—*

22 (1) *by inserting “and to ensure that mineral ex-*
23 *traction and processing not cause undue degradation*
24 *of the natural and cultural resources of the public*
25 *lands” after “activities”; and*

1 (2) *by adding at the end the following: “It shall*
2 *also be the responsibility of the Secretary of Agri-*
3 *culture to carry out the policy provisions of clauses*
4 *(1) and (2) of the first paragraph of this section.”.*

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

13 **SEC. 502. USER FEES AND INFLATION ADJUSTMENT.**

14 (a) *IN GENERAL.—*

15 (1) *The Secretary and the Secretary of Agri-*
16 *culture may each establish and collect from persons*
17 *subject to the requirements of this Act such user fees*
18 *as may be necessary to reimburse the United States*
19 *for the expenses incurred in administering such re-*
20 *quirements. Fees may be assessed and collected under*
21 *this section only in such manner as may reasonably*
22 *be expected to result in an aggregate amount of the*
23 *fees collected during any fiscal year which does not*
24 *exceed the aggregate amount of administrative ex-*
25 *penditures referred to in this section.*

1 **(b) ADJUSTMENT.**—

2 **(1) INFLATION.**—*The Secretary shall adjust the*
3 *fees required by this section, and all claim mainte-*
4 *nance fees, rental rates, penalty amounts, and other*
5 *dollar amounts established in this Act, to reflect*
6 *changes in the Consumer Price Index published by the*
7 *Bureau of Labor Statistics of the Department of*
8 *Labor every 3 years after the date of enactment of this*
9 *Act, or more frequently if the Secretary determines an*
10 *adjustment to be reasonable.*

11 **(2) NOTICE.**—*The Secretary shall provide claim-*
12 *ants, license holders, and lease holders notice of any*
13 *adjustment made under this subsection not later than*
14 *July 1 of any year in which the adjustment is made.*

15 **(3) APPLICABILITY.**—*A fee adjustment under this*
16 *subsection shall begin to apply the calendar year fol-*
17 *lowing the calendar year in which it is made.*

18 **SEC. 503. INSPECTION AND MONITORING.**

19 **(a) INSPECTIONS.**—

20 **(1) IN GENERAL.**—*The Secretary concerned shall*
21 *make inspections of mineral activities so as to ensure*
22 *compliance with the requirements of this Act.*

23 **(2) FREQUENCY.**—*The Secretary concerned shall*
24 *establish a frequency of inspections for mineral activi-*
25 *ties conducted under a permit issued under title III,*

1 *but in no event shall such inspection frequency be less*
2 *than one complete inspection per calendar quarter or,*
3 *two per calendar quarter in the case of a permit for*
4 *which the Secretary concerned approves an applica-*
5 *tion under section 304(f). After revegetation has been*
6 *established in accordance with a reclamation plan,*
7 *such Secretary shall conduct 2 complete inspections*
8 *annually. Such Secretary shall have the discretion to*
9 *modify the inspection frequency for mineral activities*
10 *that are conducted on a seasonal basis. Inspections*
11 *shall continue under this subsection until final release*
12 *of financial assurance.*

13 *(3) BY REQUEST.—*

14 *(A) IN GENERAL.—Any person who has rea-*
15 *son to believe he or she is or may be adversely*
16 *affected by mineral activities due to any viola-*
17 *tion of the requirements of a permit approved*
18 *under this Act may request an inspection.*

19 *(B) REVIEW PERIOD.—The Secretary con-*
20 *cerned shall determine within 10 working days*
21 *of receipt of the request whether the request states*
22 *a reason to believe that a violation exists.*

23 *(C) IMMINENT THREAT.—If the person al-*
24 *leges and provides reason to believe that an im-*
25 *minent threat to the environment or danger to*

1 *the health or safety of the public exists, the 10-*
2 *day period shall be waived and the inspection*
3 *shall be conducted immediately.*

4 (D) *NOTIFICATION.*—*When an inspection is*
5 *conducted under this paragraph, the Secretary*
6 *concerned shall notify the person requesting the*
7 *inspection, and such person shall be allowed to*
8 *accompany the Secretary concerned or the Sec-*
9 *retary’s authorized representative during the in-*
10 *spection.*

11 (E) *LIABILITY.*—*The Secretary shall not*
12 *incur any liability for allowing such person to*
13 *accompany an authorized representative.*

14 (F) *ANONYMITY.*—*The identity of the person*
15 *supplying information to the Secretary relating*
16 *to a possible violation or imminent danger or*
17 *harm shall remain confidential with the Sec-*
18 *retary if so requested by that person, unless that*
19 *person elects to accompany an authorized rep-*
20 *resentative on the inspection.*

21 (G) *PROCEDURES.*—*The Secretaries shall,*
22 *by joint rule, establish procedures for the review*
23 *of—*

24 (i) *any decision by an authorized rep-*
25 *resentative not to inspect; or*

1 (ii) any refusal by such representative
2 to ensure that remedial actions are taken
3 with respect to any alleged violation.

4 (H) WRITTEN STATEMENT.—The Secretary
5 concerned shall furnish a person requesting a re-
6 view a written statement of the reasons for the
7 Secretary's final disposition of the case.

8 (b) MONITORING.—

9 (1) MONITORING SYSTEM.—The Secretary con-
10 cerned shall require all operators to develop and
11 maintain a monitoring and evaluation system that
12 shall identify compliance with all requirements of a
13 permit approved under this Act. The Secretary con-
14 cerned may require additional monitoring to be con-
15 ducted as necessary to assure compliance with the rec-
16 lamation and other environmental standards of this
17 Act. Such plan must be reviewed and approved by the
18 Secretary and shall become a part of the explorations
19 or operations permit.

20 (2) REPORTING REQUIREMENTS.—The operator
21 shall file reports with the Secretary concerned, on a
22 frequency determined by the Secretary concerned, on
23 the results of the monitoring and evaluation process,
24 except that if the monitoring and evaluation show a
25 violation of the requirements of a permit approved

1 *under this Act, it shall be reported immediately to the*
2 *Secretary concerned. The Secretary shall evaluate the*
3 *reports submitted pursuant to this paragraph, and*
4 *based on those reports and any necessary inspection*
5 *shall take enforcement action pursuant to this section.*
6 *Such reports shall be maintained by the operator and*
7 *by the Secretary and shall be made available to the*
8 *public.*

9 (3) *FAILURE TO REPORT.—The Secretary con-*
10 *cerned shall determine what information shall be re-*
11 *ported by the operator pursuant to paragraph (2). A*
12 *failure to report as required by the Secretary con-*
13 *cerned shall constitute a violation of this Act and sub-*
14 *ject the operator to enforcement action pursuant to*
15 *section 506.*

16 **SEC. 504. CITIZENS SUITS.**

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

20 (1) *against any person (including the Secretary*
21 *or the Secretary of Agriculture) who is alleged to be*
22 *in violation of any of the provisions of this Act or*
23 *any regulation promulgated pursuant to this Act or*
24 *any term or condition of any lease, license, or permit*
25 *issued under this Act; or*

1 (2) *against the Secretary or the Secretary of Ag-*
2 *riculture where there is alleged a failure of such Sec-*
3 *retary to perform any act or duty under this Act, or*
4 *to promulgate any regulation under this Act, which*
5 *is not within the discretion of the Secretary con-*
6 *cerned.*

7 (b) *DISTRICT COURT JURISDICTION.—The United*
8 *States district courts shall have jurisdiction over actions*
9 *brought under this section, without regard to the amount*
10 *in controversy or the citizenship of the parties, including*
11 *actions brought to apply any civil penalty under this Act.*
12 *The district courts of the United States shall have jurisdic-*
13 *tion to compel agency action unreasonably delayed, except*
14 *that an action to compel agency action reviewable under*
15 *section 505 may only be filed in a United States district*
16 *court within the circuit in which such action would be re-*
17 *viewable under section 505.*

18 (c) *EXCEPTIONS.—*

19 (1) *NOTICE.—No action may be commenced*
20 *under subsection (a) before the end of the 60-day pe-*
21 *riod beginning on the date the plaintiff has given no-*
22 *tice in writing of such alleged violation to the alleged*
23 *violator and the Secretary concerned, except that any*
24 *such action may be brought immediately after such*
25 *notification if the violation complained of constitutes*

1 *an imminent threat to the environment or to the*
2 *health or safety of the public or to properties eligible*
3 *for listing on the National Register of Historic Places.*

4 (2) *ON-GOING LITIGATION.*—*No action may be*
5 *brought against any person other than the Secretary*
6 *or the Secretary of Agriculture under subsection*
7 *(a)(1) if such Secretary has commenced and is dili-*
8 *gently prosecuting a civil or criminal action in a*
9 *court of the United States to require compliance.*

10 (3) *EXCEPTION.*—*No action may be commenced*
11 *under subsection (a)(2) against either Secretary to re-*
12 *view any rule promulgated by, or to any permit*
13 *issued or denied by such Secretary if such rule or per-*
14 *mit issuance or denial is judicially reviewable under*
15 *section 505 or under any other provision of law at*
16 *any time after such promulgation, issuance, or denial*
17 *is final.*

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

21 (e) *COSTS.*—*The court, in issuing any final order in*
22 *any action brought pursuant to this section may award*
23 *costs of litigation (including attorney and expert witness*
24 *fees) to any party whenever the court determines such*
25 *award is appropriate. The court may, if a temporary re-*

1 *straining order or preliminary injunction is sought, require*
2 *the filing of a bond or equivalent security in accordance*
3 *with the Federal Rules of Civil Procedure.*

4 (f) *SAVINGS CLAUSE.—Nothing in this section shall re-*
5 *strict any right which any person (or class of persons) may*
6 *have under chapter 7 of title 5, United States Code, under*
7 *this section, or under any other statute or common law to*
8 *bring an action to seek any relief against the Secretary or*
9 *the Secretary of Agriculture or against any other person,*
10 *including any action for any violation of this Act or of any*
11 *regulation or permit issued under this Act or for any fail-*
12 *ure to act as required by law. Nothing in this section shall*
13 *affect the jurisdiction of any court under any provision of*
14 *title 28, United States Code, including any action for any*
15 *violation of this Act or of any regulation or permit issued*
16 *under this Act or for any failure to act as required by law.*

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

18 (a) *REVIEW BY SECRETARY.—*

19 (1) *NOTICE OF VIOLATION.—Any person issued a*
20 *notice of violation or cessation order under section*
21 *507, or any person having an interest which is or*
22 *may be adversely affected by such notice or order,*
23 *may apply to the Secretary concerned for review of*
24 *the notice or order within 30 days after receipt there-*

1 of, or as the case may be, within 30 days after such
2 notice or order is modified, vacated, or terminated.

3 (2) *REVIEW OF PENALTY.*—Any person who is
4 subject to a penalty assessed under section 507 may
5 apply to the Secretary concerned for review of the as-
6 sessment within 45 days of notification of such pen-
7 alty.

8 (3) *THIRD PARTY REQUESTS.*—Any person may
9 apply to the Secretary concerned for review of a deci-
10 sion under this subsection within 30 days after such
11 decision is issued.

12 (4) *STAYS PENDING REVIEW.*—Pending a review
13 by the Secretary or resolution of an administrative
14 appeal, final decisions (except enforcement actions
15 under section 507) shall be stayed.

16 (5) *PUBLIC HEARING.*—The Secretary concerned
17 shall provide an opportunity for a public hearing at
18 the request of any party to the proceeding as specified
19 in paragraph (1). The filing of an application for re-
20 view under this subsection shall not operate as a stay
21 of any order or notice issued under section 506.

22 (6) *WRITTEN DECISION.*—For any review pro-
23 ceeding under this subsection, the Secretary concerned
24 shall make findings of fact and shall issue a written
25 decision incorporating therein an order vacating, af-

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

12 *(7) TEMPORARY RELIEF.—Pending completion of*
13 *any review proceedings under this subsection, the ap-*
14 *plicant may file with the Secretary concerned a writ-*
15 *ten request that the Secretary grant temporary relief*
16 *from any order issued under section 506 together with*
17 *a detailed statement giving reasons for such relief.*
18 *The Secretary concerned shall expeditiously issue an*
19 *order or decision granting or denying such relief. The*
20 *Secretary concerned may grant such relief under such*
21 *conditions as he or she may prescribe only if such re-*
22 *lief shall not adversely affect the health or safety of*
23 *the public or cause imminent environmental harm to*
24 *land, air, or water resources.*

1 (8) *SAVINGS CLAUSE.*—*The availability of review*
2 *under this subsection shall not be construed to limit*
3 *the operation of rights under section 504.*

4 **(b) JUDICIAL REVIEW.**—

5 (1) *COURT OF APPEALS FOR THE DISTRICT OF*
6 *COLUMBIA.*—*Any final action by the Secretaries of*
7 *the Interior and Agriculture in promulgating regula-*
8 *tions to implement this Act, or any other final ac-*
9 *tions constituting rulemaking to implement this Act,*
10 *shall be subject to judicial review only in a United*
11 *States Court of Appeals for a circuit in which an af-*
12 *fecting State is located or within the District of Co-*
13 *lumbia. Any action subject to judicial review under*
14 *this subsection shall be affirmed unless the court con-*
15 *cludes that such action is arbitrary, capricious, or*
16 *otherwise inconsistent with law. A petition for review*
17 *of any action subject to judicial review under this*
18 *subsection shall be filed within 60 days from the date*
19 *of such action, or after such date if the petition is*
20 *based solely on grounds arising after the 60th day.*
21 *Any such petition may be made by any person who*
22 *commented or otherwise participated in the rule-*
23 *making or any person who may be adversely affected*
24 *by the action of the Secretaries.*

1 (2) *STANDARD OF REVIEW.*—*Final agency action*
2 *under this subsection, including such final action on*
3 *those matters described under subsection (a), shall be*
4 *subject to judicial review in accordance with para-*
5 *graph (4) and pursuant to section 1391 of title 28,*
6 *United States Code, on or before 60 days from the*
7 *date of such final action. Any action subject to judi-*
8 *cial review under this subsection shall be affirmed un-*
9 *less the court concludes that such action is arbitrary,*
10 *capricious, or otherwise inconsistent with law.*

11 (3) *SAVINGS CLAUSE.*—*The availability of judi-*
12 *cial review established in this subsection shall not be*
13 *construed to limit the operations of rights under sec-*
14 *tion 504.*

15 (4) *RECORD.*—*The court shall hear any petition*
16 *or complaint filed under this subsection solely on the*
17 *record made before the Secretary or Secretaries con-*
18 *cerned. The court may affirm or vacate any order or*
19 *decision or may remand the proceedings to the Sec-*
20 *retary or Secretaries for such further action as it may*
21 *direct.*

22 (5) *COMMENCE OF A PROCEEDING NOT A STAY.*—
23 *The commencement of a proceeding under this section*
24 *shall not, unless specifically ordered by the court, op-*

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

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

17 **SEC. 506. REPORTING REQUIREMENTS.**

18 (a) *REPORT TO SECRETARY.*—An operator engaging
19 *in any mineral activities located on Federal land or on In-*
20 *dian land shall submit to the Secretary an annual report,*
21 *in a time and manner prescribed by the Secretary, describ-*
22 *ing the total amount (in metric tons) and value of hardrock*
23 *minerals produced through such mineral activities, includ-*
24 *ing the total amount and value of any minerals produced*
25 *from a mine partially located on either Federal land or In-*

1 *dian land, disaggregated by mineral and by percentage ex-*
2 *tracted from Federal land and percentage extracted from*
3 *Indian land.*

4 (b) *FAILURE TO REPORT.*—*Any person who fails to*
5 *comply with the requirements of subsection (a) shall be sub-*
6 *ject to a civil penalty not to exceed \$25,000 per day during*
7 *which such failure continues, which may be assessed by the*
8 *Secretary.*

9 (c) *REPORT TO CONGRESS.*—*The Secretary shall sub-*
10 *mit an annual report to Congress providing the following*
11 *information for each hardrock mine located on Federal land*
12 *or on Indian land:*

13 (1) *The data submitted for such mine under sub-*
14 *section (a).*

15 (2) *The name of the mine operator.*

16 (3) *The State in which such mine is located.*

17 (4) *The Bureau of Land Management Field Of-*
18 *fice with jurisdiction over such mine.*

19 (5) *Whether such mine is located on Federal*
20 *land.*

21 (6) *Whether such mine is located on Indian land.*

22 (d) *REGULATIONS.*—*The Secretary shall promulgate*
23 *such regulations as are necessary to carry out this section*
24 *not later than 180 days after the date of the enactment of*
25 *this Act.*

1 **SEC. 507. ENFORCEMENT.**

2 (a) *ORDERS.*—

3 (1) *NOTICE OF VIOLATION.*—*If the Secretary con-*
4 *cerned, or an authorized representative of such Sec-*
5 *retary, determines that any person is in violation of*
6 *any environmental protection requirement or any*
7 *regulation issued by the Secretaries to implement this*
8 *Act, such Secretary or authorized representative shall*
9 *issue to such person a notice of violation describing*
10 *the violation and the corrective measures to be taken.*
11 *The Secretary concerned, or the authorized represent-*
12 *ative of such Secretary, shall provide such person*
13 *with a period of time not to exceed 30 days to abate*
14 *the violation. Such period of time may be extended by*
15 *the Secretary concerned upon a showing of good cause*
16 *by such person. If, upon the expiration of time pro-*
17 *vided for such abatement, the Secretary concerned, or*
18 *the authorized representative of such Secretary, finds*
19 *that the violation has not been abated he or she shall*
20 *immediately order a cessation of all mineral activities*
21 *or the portion thereof relevant to the violation.*

22 (2) *ORDER FOR IMMEDIATE CESSATION.*—*If the*
23 *Secretary concerned, or the authorized representative*
24 *of the Secretary concerned, determines that any con-*
25 *dition or practice exists, or that any person is in vio-*
26 *lation of any requirement under a permit approved*

1 *under this Act, and such condition, practice or viola-*
2 *tion is causing, or can reasonably be expected to cause*
3 *either of the following, such Secretary or authorized*
4 *representative shall immediately order a cessation of*
5 *mineral activities or the portion thereof relevant to*
6 *the condition, practice, or violation:*

7 (A) *An imminent danger to the health or*
8 *safety of the public.*

9 (B) *Significant, imminent environmental*
10 *harm to land, air, water, or fish or wildlife re-*
11 *sources.*

12 (3) *DURATION.—*

13 (A) *TERMINATION.—A cessation order pur-*
14 *suant to paragraph (1) or (2) shall remain in ef-*
15 *fect until such Secretary, or authorized rep-*
16 *resentative, determines that the condition, prac-*
17 *tice, or violation has been abated, or until modi-*
18 *fied, vacated or terminated by the Secretary or*
19 *authorized representative. In any such order, the*
20 *Secretary or authorized representative shall de-*
21 *termine the steps necessary to abate the violation*
22 *in the most expeditious manner possible and*
23 *shall include the necessary measures in the order.*

24 (B) *FINANCIAL ASSURANCES.—The Sec-*
25 *retary concerned shall require appropriate finan-*

1 *cial assurances to ensure that the abatement obli-*
2 *gations are met when issuing an order under*
3 *this section.*

4 (C) *AUTHORITY OF THE SECRETARY.*—*Any*
5 *notice or order issued pursuant to paragraph (1)*
6 *or (2) may be modified, vacated, or terminated*
7 *by the Secretary concerned or an authorized rep-*
8 *resentative of such Secretary. Any person to*
9 *whom any such notice or order is issued shall be*
10 *entitled to a hearing on the record.*

11 (4) *ALTERNATIVE ENFORCEMENT ACTION.*—*If,*
12 *after 30 days of the date of the order referred to in*
13 *subsection (a) the required abatement has not oc-*
14 *curring, the Secretary concerned shall take such alter-*
15 *native enforcement action against the claim holder, li-*
16 *cence holder, lease holder, or operator (or any person*
17 *who controls the claim holder, license holder, lease*
18 *holder, or operator) as will most likely bring about*
19 *abatement in the most expeditious manner possible.*
20 *Such alternative enforcement action may include*
21 *seeking appropriate injunctive relief to bring about*
22 *abatement. Nothing in this paragraph shall preclude*
23 *the Secretary concerned from taking alternative en-*
24 *forcement action prior to the expiration of 30 days.*

1 (5) *FAILURE OR DEFAULT.*—*If a claim holder,*
2 *license holder, lease holder, or operator (or any person*
3 *who controls the claim holder, license holder, lease*
4 *holder, or operator) fails to abate a violation or de-*
5 *faults on the terms of the permit, the Secretary con-*
6 *cerned shall forfeit the financial assurance for the*
7 *plan as necessary to ensure abatement and reclama-*
8 *tion under this Act. The Secretary concerned may*
9 *prescribe conditions under which a surety may per-*
10 *form reclamation in accordance with the approved*
11 *plan in lieu of forfeiture.*

12 (6) *PENDING REVIEW.*—*The Secretary concerned*
13 *shall not cause forfeiture of the financial assurance*
14 *while administrative or judicial review is pending.*

15 (7) *LIABILITY IN THE EVENT OF FORFEITURE.*—
16 *In the event of forfeiture, the claim holder, license*
17 *holder, lease holder, operator, or any affiliate thereof,*
18 *as appropriate as determined by the Secretary by*
19 *rule, shall be jointly and severally liable for any re-*
20 *maining reclamation obligations under this Act.*

21 (b) *COMPLIANCE.*—*The Secretary concerned may re-*
22 *quest the Attorney General to institute a civil action for*
23 *relief, including a permanent or temporary injunction or*
24 *restraining order, or any other appropriate enforcement*
25 *order, including the imposition of civil penalties, in the dis-*

1 *strict court of the United States for the district in which*
2 *the mineral activities are located whenever a person—*

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

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

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

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

19 *(d) PENALTIES.—*

20 *(1) FAILURE TO COMPLY WITH REQUIREMENTS*
21 *OF A PERMIT.—Any person who fails to comply with*
22 *any requirement of a permit approved under this Act*
23 *or any regulation issued by the Secretaries to imple-*
24 *ment this Act shall be liable for a penalty of not more*
25 *than \$25,000 per violation. Each day of violation*

1 *may be deemed a separate violation for purposes of*
2 *penalty assessments.*

3 (2) *FAILURE TO COMPLY WITH A CESSATION*
4 *ORDER.—A person who fails to correct a violation for*
5 *which a cessation order has been issued under sub-*
6 *section (a) within the period permitted for its correc-*
7 *tion shall be assessed a civil penalty of not less than*
8 *\$1,000 per violation for each day during which such*
9 *failure continues.*

10 (3) *PENALTIES FOR DIRECTORS, OFFICERS, AND*
11 *AGENTS.—Whenever a corporation is in violation of*
12 *a requirement of a permit approved under this Act or*
13 *any regulation issued by the Secretaries to implement*
14 *this Act or fails or refuses to comply with an order*
15 *issued under subsection (a), any director, officer, or*
16 *agent of such corporation who knowingly authorized,*
17 *ordered, or carried out such violation, failure, or re-*
18 *fusals shall be subject to the same penalties as may be*
19 *imposed upon the person referred to in paragraph*
20 *(1).*

21 (e) *SUSPENSIONS OR REVOCATIONS.—The Secretary*
22 *concerned shall suspend or revoke a permit issued under*
23 *title II, in whole or in part, if the operator—*

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

1 *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 306;*

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

14 *(7) with regard to plans conditionally approved*
15 *under section 305(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, or*
4 *fails to install any monitoring device or method re-*
5 *quired 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 under*
10 *this subsection, punishment shall be by a fine of not more*
11 *than \$20,000 per day of violation, or by imprisonment of*
12 *not more than 4 years, or both. Each day of continuing*
13 *violation may be deemed a separate violation for purposes*
14 *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 requirement of a permit*
20 *issued under this Act, or any condition or limitation*
21 *thereof,*

22 *shall upon conviction be punished by a fine of not less than*
23 *\$5,000 nor more than \$50,000 per day of violation, or by*
24 *imprisonment for not more than 3 years, or both. If a con-*
25 *viction of a person is for a violation committed after the*

1 *first conviction of such person under this subsection, pun-*
2 *ishment shall be a fine of not less than \$10,000 per day*
3 *of violation, or by imprisonment of not more than 6 years,*
4 *or both.*

5 *(h) KNOWING AND WILLFUL VIOLATIONS.—Any person*
6 *who knowingly and willfully commits an act for which a*
7 *civil penalty is provided in paragraph (1) of subsection (g)*
8 *shall, upon conviction, be punished by a fine of not more*
9 *than \$50,000, or by imprisonment for not more than 2*
10 *years, or both.*

11 *(i) DEFINITION.—For purposes of this section, the*
12 *term “person” includes any officer, agent, or employee of*
13 *a person.*

14 **SEC. 508. REGULATIONS.**

15 *The Secretary and the Secretary of Agriculture shall*
16 *issue such regulations as are necessary to implement this*
17 *Act. The regulations implementing titles II and III and this*
18 *title that affect the Forest Service shall be joint regulations*
19 *issued by both Secretaries, and shall be issued not later than*
20 *180 days after the date of enactment of this Act.*

21 **SEC. 509. OIL SHALE CLAIMS.**

22 *Section 2511(f) of the Energy Policy Act of 1992 (30*
23 *U.S.C. 242(f); Public Law 102–486) is amended—*

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

1 (2) *by inserting before the period the following:*
2 *“in the same manner as required by title II of the*
3 *Hardrock Leasing and Reclamation Act of 2019”.*

4 **SEC. 510. SAVINGS CLAUSE.**

5 (a) *SPECIAL APPLICATION OF MINING LAWS.—Nothing*
6 *in this Act shall be construed as repealing or modifying*
7 *any Federal law, regulation, order, or land use plan, in*
8 *effect prior to the date of enactment of this Act that pro-*
9 *hibits or restricts the application of the general mining*
10 *laws, including laws that provide for special management*
11 *criteria for operations under the general mining laws as*
12 *in effect prior to the date of enactment of this Act, to the*
13 *extent such laws provide for protection of natural and cul-*
14 *tural resources and the environment greater than required*
15 *under this Act, and any such prior law shall remain in*
16 *force and effect with respect to claims converted to leases*
17 *under this Act. Nothing in this Act shall be construed as*
18 *applying to or limiting mineral investigations, studies, or*
19 *other mineral activities conducted by any Federal or State*
20 *agency acting in its governmental capacity pursuant to*
21 *other authority. Nothing in this Act shall affect or limit*
22 *any assessment, investigation, evaluation, or listing pursu-*
23 *ant to the Comprehensive Environmental Response, Com-*
24 *ensation, and Liability Act of 1980 (42 U.S.C. 9601 et*

1 *seq.*), or the *Solid Waste Disposal Act* (42 U.S.C. 3251 et
2 *seq.*).

3 (b) *EFFECT ON OTHER FEDERAL LAWS.*—

4 (1) *GENERAL MINING LAWS.*—*The provisions of*
5 *this Act shall supersede the general mining laws.*

6 (2) *OTHER LAWS.*—*Except for the general min-*
7 *ing laws, nothing in this Act shall be construed as su-*
8 *perseding, modifying, amending, or repealing any*
9 *provision of Federal law not expressly superseded,*
10 *modified, amended, or repealed by this Act.*

11 (3) *ENVIRONMENTAL LAWS.*—*Nothing in this Act*
12 *shall be construed as altering, affecting, amending,*
13 *modifying, or changing, directly or indirectly, any*
14 *law which refers to and provides authorities or re-*
15 *sponsibilities for, or is administered by, the Environ-*
16 *mental Protection Agency or the Administrator of the*
17 *Environmental Protection Agency, including—*

18 (A) *the Federal Water Pollution Control Act*
19 *(33 U.S.C. 1251 et seq.);*

20 (B) *The National Environmental Policy Act*
21 *(42 U.S.C. 4321 et seq.);*

22 (C) *title XIV of the Public Health Service*
23 *Act (the Safe Drinking Water Act) (42 U.S.C.*
24 *300f et seq.);*

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

3 (E) *the Pollution Prevention Act of 1990*
4 *(42 U.S.C. 13101 et seq.)*;

5 (F) *the Toxic Substances Control Act (15*
6 *U.S.C. 2601 et seq.)*;

7 (G) *the Federal Insecticide, Fungicide, and*
8 *Rodenticide Act (7 U.S.C. 136 et seq.)*;

9 (H) *the Federal Food, Drug, and Cosmetic*
10 *Act (21 U.S.C. 301 et seq.)*;

11 (I) *the Motor Vehicle Information and Cost*
12 *Savings Act (15 U.S.C. 1901 et seq.)*;

13 (J) *the Federal Hazardous Substances Act*
14 *(15 U.S.C. 1261 et seq.)*;

15 (K) *the Endangered Species Act of 1973 (16*
16 *U.S.C. 1540)*;

17 (L) *the Atomic Energy Act of 1954 (42*
18 *U.S.C. 2011 et seq.)*;

19 (M) *the Noise Control Act of 1972 (42*
20 *U.S.C. 4901 et seq.)*;

21 (N) *the Solid Waste Disposal Act (42*
22 *U.S.C. 6901 et seq.)*;

23 (O) *the Comprehensive Environmental Re-*
24 *sponse, Compensation, and Liability Act of 1980*
25 *(42 U.S.C. 9601 et seq.)*;

1 (P) the Superfund Amendments and Reau-
2 thorization Act of 1986 (Public Law 99–499; 100
3 Stat. 1613);

4 (Q) the Ocean Dumping Act (33 U.S.C.
5 1401 et seq.);

6 (R) the Environmental Research, Develop-
7 ment, and Demonstration Authorization Act of
8 1978 (42 U.S.C. 4365);

9 (S) the Pollution Prosecution Act of 1990
10 (42 U.S.C. 4321 note; Public Law 101–593);

11 (T) the Federal Facilities Compliance Act of
12 1992 (Public Law 102–386; 106 Stat. 1505); and

13 (U) any statute containing an amendment
14 to any of such Acts.

15 (4) FEDERAL INDIAN LAW.—Nothing in this Act
16 shall be construed as modifying or affecting any pro-
17 vision of—

18 (A) the Native American Graves Protection
19 and Repatriation Act (25 U.S.C. 3001 et seq.);

20 (B) American Indian Religious Freedom
21 Act (42 U.S.C. 1996);

22 (C) the National Historic Preservation Act
23 (16 U.S.C. 470 et seq.);

24 (D) the Religious Freedom Restoration Act
25 of 1993 (42 U.S.C. 2000bb et seq.); or

1 (E) *the Archaeological Resources Protection*
2 *Act of 1979 (16 U.S.C. 470aa et seq.).*

3 (c) *SOVEREIGN IMMUNITY OF INDIAN TRIBES.—Noth-*
4 *ing in this section shall be construed so as to waive the*
5 *sovereign immunity of any Indian Tribe.*

6 **SEC. 511. AVAILABILITY OF PUBLIC RECORDS.**

7 *Copies of records, reports, inspection materials, or in-*
8 *formation obtained by the Secretary or the Secretary of Ag-*
9 *riculture under this Act shall be made immediately avail-*
10 *able to the public, consistent with section 552 of title 5,*
11 *United States Code, in central and sufficient locations in*
12 *the county, multicounty, and State area of mineral activi-*
13 *ties or reclamation so that such items are conveniently*
14 *available to residents in the area proposed or approved for*
15 *mineral activities and on the internet.*

16 **SEC. 512. MISCELLANEOUS POWERS.**

17 (a) *IN GENERAL.—In carrying out his or her duties*
18 *under this Act, the Secretary concerned may conduct any*
19 *investigation, inspection, or other inquiry necessary and*
20 *appropriate and may conduct, after notice, any hearing or*
21 *audit, necessary and appropriate to carrying out his or her*
22 *duties.*

23 (b) *ANCILLARY POWERS.—In connection with any*
24 *hearing, inquiry, investigation, or audit under this Act, the*
25 *Secretary, or for National Forest System lands the Sec-*

1 *retary of Agriculture, is authorized to take any of the fol-*
2 *lowing actions:*

3 (1) *Require, by special or general order, any per-*
4 *son to submit in writing such affidavits and answers*
5 *to questions as the Secretary concerned may reason-*
6 *ably prescribe, which submission shall be made within*
7 *such reasonable period and under oath or otherwise,*
8 *as may be necessary.*

9 (2) *Administer oaths.*

10 (3) *Require by subpoena the attendance and tes-*
11 *timony of witnesses and the production of all books,*
12 *papers, records, documents, matter, and materials, as*
13 *such Secretary may request.*

14 (4) *Order testimony to be taken by deposition be-*
15 *fore any person who is designated by such Secretary*
16 *and who has the power to administer oaths, and to*
17 *compel testimony and the production of evidence in*
18 *the same manner as authorized under paragraph (3)*
19 *of this subsection.*

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

23 (c) *ENFORCEMENT.*—*In cases of refusal to obey a sub-*
24 *poena served upon any person under this section, the dis-*
25 *trict court of the United States for any district in which*

1 *such person is found, resides, or transacts business, upon*
2 *application by the Attorney General at the request of the*
3 *Secretary concerned and after notice to such person, shall*
4 *have jurisdiction to issue an order requiring such person*
5 *to appear and produce documents before the Secretary con-*
6 *cerned. Any failure to obey such order of the court may*
7 *be punished by such court as contempt thereof and subject*
8 *to a penalty of up to \$10,000 a day.*

9 *(d) ENTRY AND ACCESS.—Without advance notice and*
10 *upon presentation of appropriate credentials, the Secretary*
11 *concerned or any authorized representative thereof—*

12 *(1) shall have the right of entry to, upon, or*
13 *through the site of any claim, license, lease, mineral*
14 *activities, or any premises in which any records re-*
15 *quired to be maintained under this Act are located;*

16 *(2) may at reasonable times, and without delay,*
17 *have access to records, inspect any monitoring equip-*
18 *ment, or review any method of operation required*
19 *under this Act;*

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

23 *(4) may, on any mining claim, license, or lease*
24 *maintained in compliance with this Act, and without*
25 *advance notice, stop and inspect any motorized form*

1 of transportation that such Secretary has probable
2 cause to believe is carrying hardrock minerals, con-
3 centrates, or products derived therefrom from a claim
4 site for the purpose of determining whether the oper-
5 ator of such vehicle has documentation related to such
6 hardrock minerals, concentrates, or products derived
7 therefrom as required by law, if such documentation
8 is required under this Act; and

9 (5) may, if accompanied by any appropriate law
10 enforcement officer, or an appropriate law enforce-
11 ment officer alone, stop and inspect any motorized
12 form of transportation which is not on a claim site
13 if he or she has probable cause to believe such vehicle
14 is carrying hardrock minerals, concentrates, or prod-
15 ucts derived therefrom from a claim site, license, or
16 lease on Federal lands or allocated to such claim site,
17 license, or lease. Such inspection shall be for the pur-
18 pose of determining whether the operator of such vehi-
19 cle has the documentation required by law, if such
20 documentation is required under this Act.

21 **SEC. 513. MINERAL MATERIALS.**

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

24 (1) in the heading, by striking “**OR CINDERS**”
25 and inserting “**CINDERS, AND CLAY**”;

1 (2) *by striking “No” and inserting “(a) No”;*

2 (3) *by inserting “mineral materials, including”*
3 *after “varieties of”;*

4 (4) *by striking “or cinders” and inserting “cin-*
5 *ders, and clay”;* and

6 (5) *by adding at the end the following:*

7 “(b)(1) *Subject to valid existing rights, after the date*
8 *of enactment of the Hardrock Leasing and Reclamation Act*
9 *of 2019, notwithstanding the reference to common varieties*
10 *in subsection (a) and to the exception to such term relating*
11 *to a deposit of materials with some property giving it dis-*
12 *tinct and special value, all deposits of mineral materials*
13 *referred to in such subsection, including the block pumice*
14 *referred to in such subsection, shall be subject to disposal*
15 *only under the terms and conditions of the Materials Act*
16 *of 1947 (30 U.S.C. 601–603).*

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

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

24 “(B) *was properly located and maintained*
25 *under the general mining laws prior to the date of en-*

1 *actment of the Hardrock Leasing and Reclamation*
2 *Act of 2019; and*

3 *“(C) was supported by a discovery of a valuable*
4 *mineral deposit within the meaning of the general*
5 *mining laws as in effect immediately prior to the*
6 *date of enactment of the Hardrock Leasing and Rec-*
7 *lamation Act of 2019.”.*

8 *(b) MINERAL MATERIALS DISPOSAL CLARIFICA-*
9 *TION.—Section 4 of the Act of July 23, 1955 (30 U.S.C.*
10 *612), is amended—*

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

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

15 *(c) CONFORMING AMENDMENT.—Section 1 of the Act*
16 *of July 31, 1947, entitled “An Act to provide for the dis-*
17 *posal of materials on the public lands of the United States”*
18 *(30 U.S.C. 601 et seq.) is amended by striking “common*
19 *varieties of” in the first sentence.*

20 *(d) SHORT TITLES.—*

21 *(1) SURFACE RESOURCES.—The Act of July 23,*
22 *1955, is amended by inserting after section 7 the fol-*
23 *lowing new section:*

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

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

6 “*SEC. 5. This Act may be cited as the ‘Materials Act*
7 *of 1947’.*”.

8 (e) *REPEALS.*—(1) *Subject to valid existing rights, the*
9 *Act of August 4, 1892 (chapter 375; 27 Stat. 348; 30 U.S.C.*
10 *161), commonly known as the Building Stone Act, is hereby*
11 *repealed.*

12 (2) *Subject to valid existing rights, the Act of January*
13 *31, 1901 (chapter 186; 31 Stat. 745; 30 U.S.C. 162), com-*
14 *monly known as the Saline Placer Act, is hereby repealed.*

15 **SEC. 514. EFFECTIVE DATE.**

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

Union Calendar No. 374

116TH CONGRESS
2^D SESSION

H. R. 2579

[Report No. 116-467]

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.

August 4, 2020

Reported with an amendment; committed to the Committee of the Whole House on the State of the Union and ordered to be printed