

112TH CONGRESS
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H. R. 3446

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

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 16, 2011

Mr. MARKEY (for himself, Mr. HOLT, Mr. KILDEE, Mr. GRIJALVA, Ms. BORDALLO, Mrs. NAPOLITANO, Mr. PIERLUISI, and Mrs. CHRISTENSEN) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

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

1 SEC. 2. TABLE OF CONTENTS.

2 The table of contents for this Act is the following:

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

TITLE I—USE IT ACT

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

TITLE II—DEFICIT REDUCTION THROUGH FAIR OIL ROYALTIES

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

TITLE III—OCS FACILITY INSPECTIONS

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

TITLE IV—GULF COAST OIL AND GAS ROYALTY GIVEAWAY
REPEAL

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

TITLE V—HARDROCK MINING REFORM

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

Subtitle A—Mineral Exploration and Development

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

Subtitle B—Protection of Special Places

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

Subtitle C—Environmental Considerations of Mineral Exploration and
Development

- Sec. 531. General standard for hardrock mining on Federal land.
- Sec. 532. Permits.
- Sec. 533. Exploration permit.
- Sec. 534. Operations permit.
- Sec. 535. Persons ineligible for permits.

- Sec. 536. Financial assurance.
- Sec. 537. Operation and reclamation.
- Sec. 538. State law and regulation.
- Sec. 539. Limitation on the issuance of permits.

Subtitle D—Administrative and Miscellaneous Provisions

- Sec. 541. Policy functions.
- Sec. 542. User fees.
- Sec. 543. Inspection and monitoring.
- Sec. 544. Citizens suits.
- Sec. 545. Administrative and judicial review.
- Sec. 546. Enforcement.
- Sec. 547. Regulations.
- Sec. 548. Effective date.
- Sec. 549. Oil shale claims.
- Sec. 550. Savings clause.
- Sec. 551. Availability of public records.
- Sec. 552. Miscellaneous powers.
- Sec. 553. Multiple mineral development and surface resources.
- Sec. 554. Mineral materials.

TITLE VI—ABANDONED MINE RECLAMATION

- Sec. 601. Short title.
- Sec. 602. Definitions and references.

Subtitle A—Hardrock Mining Reclamation

- Sec. 611. Displaced material reclamation fee.

Subtitle B—Abandoned Mine Cleanup Fund

- Sec. 621. Establishment of fund.
- Sec. 622. Use and objectives of the fund.
- Sec. 623. Eligible lands and waters.

Subtitle C—Priority Abandoned Coal Mine Reclamation

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

Subtitle D—Administrative Provisions

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

TITLE VII—ADMINISTRATIVE COST RECOVERY

- Sec. 701. Short title.
- Sec. 702. Making permanent net receipts sharing for energy minerals.

TITLE I—USE IT ACT

SEC. 101. SHORT TITLE.

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

SEC. 102. PRODUCTION INCENTIVE FEE.

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

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

(1) in the case of onshore land—

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

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

1 (C) for the fifth year of the lease and each
2 year thereafter for which the lease is otherwise
3 in effect, \$8 per acre in 2011 dollars; and

4 (2) in the case of offshore land—

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

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

9 (C) for the seventh year of the lease and
10 each year thereafter for which the lease is oth-
11 erwise in effect, \$8 per acre in 2011 dollars.

12 (c) ASSESSMENT AND COLLECTION.—The Secretary
13 shall assess and collect the fee established under this sec-
14 tion.

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

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

21 **TITLE II—DEFICIT REDUCTION** 22 **THROUGH FAIR OIL ROYALTIES**

23 **SEC. 201. SHORT TITLE.**

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

1 **SEC. 202. ELIGIBILITY FOR NEW LEASES AND THE TRANS-**
2 **FER OF LEASES.**

3 (a) ISSUANCE OF NEW LEASES.—

4 (1) IN GENERAL.—The Secretary shall not
5 issue any new lease that authorizes the production
6 of oil or natural gas under the Outer Continental
7 Shelf Lands Act (43 U.S.C. 1331 et seq.) to a per-
8 son described in paragraph (2) unless the person has
9 renegotiated each covered lease with respect to which
10 the person is a lessee, to modify the payment re-
11 sponsibilities of the person to require the payment of
12 royalties if the price of oil and natural gas is greater
13 than or equal to the price thresholds described in
14 clauses (v) through (vii) of section 8(a)(3)(C) of the
15 Outer Continental Shelf Lands Act (43 U.S.C.
16 1337(a)(3)(C)).

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

19 (A) is a lessee that—

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

23 (ii) was issued a covered lease before
24 the date of enactment of this Act, but
25 transferred the covered lease to another
26 person or entity (including a subsidiary or

1 affiliate of the lessee) after the date of en-
2 actment of this Act; or

3 (B) any other person that has any direct
4 or indirect interest in, or that derives any ben-
5 efit from, a covered lease.

6 (3) MULTIPLE LESSEES.—

7 (A) IN GENERAL.—For purposes of para-
8 graph (1), if there are multiple lessees that own
9 a share of a covered lease, the Secretary may
10 implement separate agreements with any lessee
11 with a share of the covered lease that modifies
12 the payment responsibilities with respect to the
13 share of the lessee to include price thresholds
14 that are equal to or less than the price thresh-
15 olds described in clauses (v) through (vii) of
16 section 8(a)(3)(C) of the Outer Continental
17 Shelf Lands Act (43 U.S.C. 1337(a)(3)(C)).

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

24 (b) TRANSFERS.—A lessee or any other person who
25 has any direct or indirect interest in, or who derives a

1 benefit from, a lease shall not be eligible to obtain by sale
2 or other transfer (including through a swap, spinoff, serv-
3 icing, or other agreement) any covered lease, the economic
4 benefit of any covered lease, or any other lease for the
5 production of oil or natural gas in the Gulf of Mexico
6 under the Outer Continental Shelf Lands Act (43 U.S.C.
7 1331 et seq.), unless the lessee or other person has—

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

16 (2) entered into an agreement with the Sec-
17 retary to modify the terms of all covered leases of
18 the lessee or other person to include limitations on
19 royalty relief based on market prices that are equal
20 to or less than the price thresholds described in
21 clauses (v) through (vii) of section 8(a)(3)(C) of the
22 Outer Continental Shelf Lands Act (43 U.S.C.
23 1337(a)(3)(C)).

24 (c) USE OF AMOUNTS FOR DEFICIT REDUCTION.—
25 Notwithstanding any other provision of law, any amounts

1 received by the United States as rentals or royalties under
2 covered leases shall be deposited in the Treasury and used
3 for Federal budget deficit reduction or, if there is no Fed-
4 eral budget deficit, for reducing the Federal debt in such
5 manner as the Secretary of the Treasury considers appro-
6 priate.

7 (d) DEFINITIONS.—In this section—

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

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

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

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

23 (2) LESSEE.—The term “lessee” includes any
24 person or other entity that controls, is controlled by,
25 or is in or under common control with, a lessee.

1 (3) SECRETARY.—The term “Secretary” means
2 the Secretary of the Interior.

3 **SEC. 203. PRICE THRESHOLDS FOR ROYALTY SUSPENSION**
4 **PROVISIONS.**

5 The Secretary of the Interior shall agree to a request
6 by any lessee to amend any lease issued for any Central
7 and Western Gulf of Mexico tract in the period of January
8 1, 1996, through November 28, 2000, to incorporate price
9 thresholds applicable to royalty suspension provisions, that
10 are equal to or less than the price thresholds described
11 in clauses (v) through (vii) of section 8(a)(3)(C) of the
12 Outer Continental Shelf Lands Act (43 U.S.C.
13 1337(a)(3)(C)). Any amended lease shall impose the new
14 or revised price thresholds effective October 1, 2012. Ex-
15 isting lease provisions shall prevail through September 30,
16 2012.

17 **SEC. 204. REPEAL OF ROYALTY RELIEF PROVISIONS.**

18 (a) REPEAL OF PROVISIONS OF ENERGY POLICY ACT
19 OF 2005.—The following provisions of the Energy Policy
20 Act of 2005 (Public Law 109–58) are repealed:

21 (1) Section 344 (42 U.S.C. 15904; relating to
22 incentives for natural gas production from deep wells
23 in shallow waters of the Gulf of Mexico).

1 (2) Section 345 (42 U.S.C. 15905; relating to
2 royalty relief for deep water production in the Gulf
3 of Mexico).

4 (b) REPEAL OF PROVISIONS RELATING TO PLAN-
5 NING AREAS OFFSHORE ALASKA.—Section 8(a)(3)(B) of
6 the Outer Continental Shelf Lands Act (43 U.S.C.
7 1337(a)(3)(B)) is amended by striking “and in the Plan-
8 ning Areas offshore Alaska”.

9 **TITLE III—OCS FACILITY**
10 **INSPECTIONS**

11 **SEC. 301. SHORT TITLE.**

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

14 **SEC. 302. OCS FACILITY INSPECTION FEES.**

15 Section 22 of the Outer Continental Shelf Lands Act
16 (43 U.S.C. 1348) is amended by adding at the end of the
17 section the following:

18 “(g) INSPECTION FEES.—

19 “(1) ESTABLISHMENT.—The Secretary of the
20 Interior shall establish, by rule, and collect from the
21 operators of facilities subject to inspection under
22 subsection (c) nonrefundable fees for such inspec-
23 tions—

24 “(A) at an aggregate level equal to the
25 amount necessary to offset the annual expenses

1 of inspections of outer Continental Shelf facili-
2 ties (including mobile offshore drilling units) by
3 the Department of the Interior; and

4 “(B) using a schedule that reflects the dif-
5 ferences in complexity among the classes of fa-
6 cilities to be inspected.

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

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

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

20 “(B) shall be available for expenditure only
21 for purposes of carrying out inspections of
22 outer Continental Shelf facilities (including mo-
23 bile offshore drilling units) and the administra-
24 tion of the inspection program under this sec-
25 tion;

1 “(C) shall be available only to the extent
2 provided for in advance in an appropriations
3 Act; and

4 “(D) shall remain available until expended.

5 “(4) ANNUAL REPORTS.—

6 “(A) IN GENERAL.—Not later than 60
7 days after the end of each fiscal year beginning
8 with fiscal year 2011, the Secretary shall sub-
9 mit to the Committee on Energy and Natural
10 Resources of the Senate and the Committee on
11 Natural Resources of the House of Representa-
12 tives a report on the operation of the Fund dur-
13 ing the fiscal year.

14 “(B) CONTENTS.—Each report shall in-
15 clude, for the fiscal year covered by the report,
16 the following:

17 “(i) A statement of the amounts de-
18 posited into the Fund.

19 “(ii) A description of the expenditures
20 made from the Fund for the fiscal year, in-
21 cluding the purpose of the expenditures.

22 “(iii) Recommendations for additional
23 authorities to fulfill the purpose of the
24 Fund.

1 “(iv) A statement of the balance re-
 2 maining in the Fund at the end of the fis-
 3 cal year.”.

4 **TITLE IV—GULF COAST OIL AND**
 5 **GAS ROYALTY GIVEAWAY RE-**
 6 **PEAL**

7 **SEC. 401. SHORT TITLE.**

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

10 **SEC. 402. DISPOSITION OF QUALIFIED OUTER CONTI-**
 11 **NENTAL SHELF REVENUES FROM 181 AREA,**
 12 **181 SOUTH AREA, AND 2002–2007 PLANNING**
 13 **AREAS OF GULF OF MEXICO.**

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

17 **“SEC. 105. DISPOSITION OF QUALIFIED OUTER CONTI-**
 18 **NENTAL SHELF REVENUES FROM 181 AREA,**
 19 **181 SOUTH AREA, AND 2002–2007 PLANNING**
 20 **AREAS OF GULF OF MEXICO.**

21 “(a) IN GENERAL.—Notwithstanding section 9 of the
 22 Outer Continental Shelf Lands Act (43 U.S.C. 1338) and
 23 subject to the other provisions of this section, for each ap-
 24 plicable fiscal year, the Secretary of the Treasury shall
 25 deposit—

1 **SEC. 502. DEFINITIONS AND REFERENCES.**

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

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

5 (A) Any person who controls, is controlled
6 by, or is under common control with such per-
7 son.

8 (B) Any partner of such person.

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

11 (2) The term “applicant” means any person ap-
12 plying for a permit under this title or a modification
13 to or a renewal of a permit under this title.

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

19 (4) The term “casual use”—

20 (A) subject to subparagraphs (B) and (C),
21 means mineral activities that do not ordinarily
22 result in any disturbance of public lands and re-
23 sources;

24 (B) includes collection of geochemical,
25 rock, soil, or mineral specimens using

1 handtools, hand panning, or nonmotorized sluic-
2 ing; and

3 (C) does not include—

4 (i) the use of mechanized earth-mov-
5 ing equipment, suction dredging, or explo-
6 sives;

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

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

11 (iv) the use of toxic or hazardous ma-
12 terials.

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

19 (6) The term “control” means having the abil-
20 ity, directly or indirectly, to determine (without re-
21 gard to whether exercised through one or more cor-
22 porate structures) the manner in which an entity
23 conducts mineral activities, through any means, in-
24 cluding without limitation, ownership interest, au-
25 thority to commit the entity’s real or financial as-

1 sets, position as a director, officer, or partner of the
2 entity, or contractual arrangement.

3 (7) The term “exploration”—

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

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

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

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

18 (9) The term “Indian lands” means lands held
19 in trust for the benefit of an Indian tribe or indi-
20 vidual or held by an Indian tribe or individual sub-
21 ject to a restriction by the United States against
22 alienation.

23 (10) The term “Indian tribe” means any Indian
24 tribe, band, nation, pueblo, or other organized group
25 or community, including any Alaska Native village

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

7 (11) The term “locatable mineral”—

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

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

14 (ii) the Geothermal Steam Act of
15 1970 (30 U.S.C. 1001 et seq.);

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

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

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

24 (i) held in trust by the United States
25 for any Indian or Indian tribe, as defined

1 in section 2 of the Indian Mineral Develop-
2 ment Act of 1982 (25 U.S.C. 2101); or

3 (ii) owned by any Indian or Indian
4 tribe, as defined in that section.

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

10 (13) The term “mining claim”—

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

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

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

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

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

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

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

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

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

23 (20) The term “undue degradation” means,
24 based on consideration of other resource values that
25 may be affected, the operation or proposed operation

1 fails to comply with the performance standards in
2 this title or can reasonably be expected to cause sig-
3 nificant environmental harm to wildlife; land, air, or
4 water resources; or scientific or cultural resources.

5 (21) The term “valid existing rights” means a
6 mining claim or millsite claim located on lands de-
7 scribed in section 521(b), that—

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

11 (B) was supported by a discovery of a val-
12 uable mineral deposit within the meaning of the
13 general mining laws on the date of enactment
14 of this Act, and, for millsite claims, does not in-
15 volve more than one mill site for every mining
16 claim located for that operation; and

17 (C) continues to be valid under this title.

18 (b) REFERENCES TO OTHER LAWS.—

19 (1) Any reference in this title to the term gen-
20 eral mining laws is a reference to those Acts that
21 generally comprise chapters 2, 12A, and 16, and sec-
22 tions 161 and 162, of title 30, United States Code.

23 (2) Any reference in this title to the Act of July
24 23, 1955, is a reference to the Act entitled “An Act
25 to amend the Act of July 31, 1947 (61 Stat. 681)

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

4 **SEC. 503. APPLICATION RULES.**

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

10 (b) PREEXISTING CLAIMS.—

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

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

24 (i) during the 5-year period beginning
25 on the date of enactment of this Act, min-

1 eral activities at such claim or site shall be
2 subject to such plan of operations;

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

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

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

21 (c) FEDERAL LANDS SUBJECT TO EXISTING PER-

22 MIT.—

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

25 (A) subject to an operations permit; and

1 (B) producing valuable locatable minerals
2 in commercial quantities prior to the date of en-
3 actment of this Act.

4 (2) Any Federal land added through a plan
5 modification to an operations permit on Federal land
6 that is submitted after the date of enactment of this
7 Act shall be subject to the terms of section
8 512(a)(3).

9 (d) APPLICATION OF TITLE TO BENEFICIATION AND
10 PROCESSING OF NON-FEDERAL MINERALS ON FEDERAL
11 LANDS.—The provisions of this title (including the envi-
12 ronmental protection requirements of subtitle C) shall
13 apply in the same manner and to the same extent to min-
14 ing claims, millsite claims, and tunnel site claims used for
15 beneficiation or processing activities or activities related
16 to, or incidental to, such mineral activities for any mineral
17 without regard to whether or not the legal and beneficial
18 title to the mineral is held by the United States. This sub-
19 section applies only to minerals that are locatable minerals
20 or minerals that would be locatable minerals if the legal
21 and beneficial title to such minerals were held by the
22 United States.

1 **Subtitle A—Mineral Exploration**
2 **and Development**

3 **SEC. 511. ROYALTY.**

4 (a) RESERVATION OF ROYALTY.—

5 (1) IN GENERAL.—Subject to paragraph (2)
6 production of all locatable minerals from any mining
7 claim located under the general mining laws and
8 maintained in compliance with this title, or mineral
9 concentrates or products derived from locatable min-
10 erals from any such mining claim, as the case may
11 be, shall be subject to a royalty of 12.5 percent of
12 the gross income from mining. The claim holder or
13 any operator to whom the claim holder has assigned
14 the obligation to make royalty payments under the
15 claim and any person who controls such claim holder
16 or operator shall be liable for payment of such royal-
17 ties.

18 (2) FEDERAL LAND ADDED TO EXISTING OPER-
19 ATIONS PERMIT.—Any Federal land added through
20 a plan modification to an operations permit that is
21 submitted after the date of enactment of this Act
22 shall be subject to the royalty that applies to Fed-
23 eral land under paragraph (1).

1 (3) DEPOSIT.—Amounts received by the United
2 States as royalties under this subsection shall be de-
3 posited into the Treasury.

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

6 (1) A person—

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

12 (B) shall notify the Secretary, in the time
13 and manner as may be specified by the Sec-
14 retary, of any assignment that such person may
15 have made of the obligation to make any roy-
16 alty or other payment under a mining claim.

17 (2) Any person paying royalties under this sec-
18 tion shall file a written instrument, together with the
19 first royalty payment, affirming that such person is
20 responsible for making proper payments for all
21 amounts due for all time periods for which such per-
22 son has a payment responsibility. Such responsibility
23 for the periods referred to in the preceding sentence
24 shall include any and all additional amounts billed
25 by the Secretary and determined to be due by final

1 agency or judicial action. Any person liable for roy-
2 alty payments under this section who assigns any
3 payment obligation shall remain jointly and severally
4 liable for all royalty payments due for the claim for
5 the period.

6 (3) A person conducting mineral activities
7 shall—

8 (A) develop and comply with the site secu-
9 rity provisions in the operations permit de-
10 signed to protect from theft the locatable min-
11 erals, concentrates or products derived there-
12 from which are produced or stored on a mining
13 claim, and such provisions shall conform with
14 such minimum standards as the Secretary may
15 prescribe by rule, taking into account the vari-
16 ety of circumstances on mining claims; and

17 (B) not later than the 5th business day
18 after production begins anywhere on a mining
19 claim, or production resumes after more than
20 90 days after production was suspended, notify
21 the Secretary, in the manner prescribed by the
22 Secretary, of the date on which such production
23 has begun or resumed.

24 (4) The Secretary may by rule require any per-
25 son engaged in transporting a locatable mineral,

1 concentrate, or product derived there from to carry
2 on his or her person, in his or her vehicle, or in his
3 or her immediate control, documentation showing, at
4 a minimum, the amount, origin, and intended des-
5 tination of the locatable mineral, concentrate, or
6 product derived there from in such circumstances as
7 the Secretary determines is appropriate.

8 (c) RECORDKEEPING AND REPORTING REQUIRE-
9 MENTS.—

10 (1) A claim holder, operator, or other person di-
11 rectly involved in developing, producing, processing,
12 transporting, purchasing, or selling locatable min-
13 erals, concentrates, or products derived therefrom,
14 subject to this title, through the point of royalty
15 computation shall establish and maintain any
16 records, make any reports, and provide any informa-
17 tion that the Secretary may reasonably require for
18 the purposes of implementing this section or deter-
19 mining compliance with rules or orders under this
20 section. Such records shall include, but not be lim-
21 ited to, periodic reports, records, documents, and
22 other data. Such reports may also include, but not
23 be limited to, pertinent technical and financial data
24 relating to the quantity, quality, composition volume,
25 weight, and assay of all minerals extracted from the

1 mining claim. Upon the request of any officer or em-
2 ployee duly designated by the Secretary conducting
3 an audit or investigation pursuant to this section,
4 the appropriate records, reports, or information that
5 may be required by this section shall be made avail-
6 able for inspection and duplication by such officer or
7 employee. Failure by a claim holder, operator, or
8 other person referred to in the first sentence to co-
9 operate with such an audit, provide data required by
10 the Secretary, or grant access to information may,
11 at the discretion of the Secretary, result in involun-
12 tary forfeiture of the claim.

13 (2) Records required by the Secretary under
14 this section shall be maintained for 7 years after re-
15 lease of financial assurance under section 536 unless
16 the Secretary notifies the operator that the Sec-
17 retary has initiated an audit or investigation involv-
18 ing such records and that such records must be
19 maintained for a longer period. In any case when an
20 audit or investigation is underway, records shall be
21 maintained until the Secretary releases the operator
22 of the obligation to maintain such records.

23 (d) AUDITS.—The Secretary is authorized to conduct
24 such audits of all claim holders, operators, transporters,
25 purchasers, processors, or other persons directly or indi-

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

9 (e) COOPERATIVE AGREEMENTS.—

10 (1) The Secretary is authorized to enter into
11 cooperative agreements with the Secretary of Agri-
12 culture to share information concerning the royalty
13 management of locatable minerals, concentrates, or
14 products derived therefrom, to carry out inspection,
15 auditing, investigation, or enforcement (not includ-
16 ing the collection of royalties, civil or criminal pen-
17 alties, or other payments) activities under this sec-
18 tion in cooperation with the Secretary, and to carry
19 out any other activity described in this section.

20 (2) Except as provided in paragraph (3)(A) of
21 this subsection (relating to trade secrets), and pur-
22 suant to a cooperative agreement, the Secretary of
23 Agriculture shall, upon request, have access to all
24 royalty accounting information in the possession of
25 the Secretary respecting the production, removal, or

1 sale of locatable minerals, concentrates, or products
2 derived therefrom from claims on lands open to loca-
3 tion under this title.

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

16 (f) INTEREST AND SUBSTANTIAL UNDERREPORTING
17 ASSESSMENTS.—

18 (1) In the case of mining claims where royalty
19 payments are not received by the Secretary on the
20 date that such payments are due, the Secretary shall
21 charge interest on such underpayments at the same
22 interest rate as the rate applicable under section
23 6621(a)(2) of the Internal Revenue Code of 1986.
24 In the case of an underpayment, interest shall be

1 computed and charged only on the amount of the de-
2 ficiency and not on the total amount.

3 (2) If there is any underreporting of royalty
4 owed on production from a claim for any production
5 month by any person liable for royalty payments
6 under this section, the Secretary shall assess a pen-
7 alty of not greater than 25 percent of the amount
8 of that underreporting.

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

16 (4) The Secretary may waive or reduce the as-
17 sessment provided in paragraph (2) of this sub-
18 section if the person liable for royalty payments
19 under this section corrects the underreporting before
20 the date such person receives notice from the Sec-
21 retary that an underreporting may have occurred, or
22 before 90 days after the date of the enactment of
23 this section, whichever is later.

24 (5) The Secretary shall waive any portion of an
25 assessment under paragraph (2) of this subsection

1 attributable to that portion of the underreporting for
2 which the person responsible for paying the royalty
3 demonstrates that—

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

8 (B) such person had substantial authority
9 for reporting royalty on the value of the produc-
10 tion on the basis on which it was reported;

11 (C) such person previously had notified the
12 Secretary, in such manner as the Secretary may
13 by rule prescribe, of relevant reasons or facts
14 affecting the royalty treatment of specific pro-
15 duction which led to the underreporting; or

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

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

22 (h) EXPANDED ROYALTY OBLIGATIONS.—Each per-
23 son liable for royalty payments under this section shall
24 be jointly and severally liable for royalty on all locatable
25 minerals, concentrates, or products derived therefrom lost

1 or wasted from a mining claim located under the general
2 mining laws and maintained in compliance with this title
3 when such loss or waste is due to negligence on the part
4 of any person or due to the failure to comply with any
5 rule, regulation, or order issued under this section.

6 (i) GROSS INCOME FROM MINING DEFINED.—For
7 the purposes of this section, for any locatable mineral, the
8 term “gross income from mining” has the same meaning
9 as the term “gross income” in section 613(c) of the Inter-
10 nal Revenue Code of 1986.

11 (j) EFFECTIVE DATE.—The royalty under this sec-
12 tion shall take effect with respect to the production of
13 locatable minerals after the enactment of this Act, but any
14 royalty payments attributable to production during the
15 first 12 calendar months after the enactment of this Act
16 shall be payable at the expiration of such 12-month period.

17 (k) FAILURE TO COMPLY WITH ROYALTY REQUIRE-
18 MENTS.—Any person who fails to comply with the require-
19 ments of this section or any regulation or order issued to
20 implement this section shall be liable for a civil penalty
21 under section 109 of the Federal Oil and Gas Royalty
22 Management Act (30 U.S.C. 1719) to the same extent as
23 if the claim located under the general mining laws and
24 maintained in compliance with this title were a lease under
25 that Act.

1 **SEC. 512. HARDROCK MINING CLAIM MAINTENANCE FEE.**

2 (a) FEE.—

3 (1) Except as provided in section 2511(e)(2) of
4 the Energy Policy Act of 1992 (relating to oil shale
5 claims), for each unpatented mining claim, mill or
6 tunnel site on federally owned lands, whether located
7 before, on, or after enactment of this Act, each
8 claimant shall pay to the Secretary, on or before Au-
9 gust 31 of each year, a claim maintenance fee of
10 \$200 per claim to hold such unpatented mining
11 claim, mill or tunnel site for the assessment year be-
12 ginning at noon on the next day, September 1. Such
13 claim maintenance fee shall be in lieu of the assess-
14 ment work requirement contained in the Mining Law
15 of 1872 (30 U.S.C. 28 et seq.) and the related filing
16 requirements contained in section 314(a) and (c) of
17 the Federal Land Policy and Management Act of
18 1976 (43 U.S.C. 1744(a) and (c)).

19 (2)(A) The Secretary shall adjust the fees re-
20 quired by this section to reflect changes in the Con-
21 sumer Price Index published by the Bureau of Labor
22 Statistics of the Department of Labor every 5 years
23 after the date of enactment of this Act, or more fre-
24 quently if the Secretary determines an adjustment to
25 be reasonable. The Secretary shall employ the Con-
26 sumer Price Index for All-Urban Consumers pub-

1 lished by the Department of Labor as the basis for
2 adjustment, and rounding according to the adjust-
3 ment process of conditions of the Federal Civil Pen-
4 alties Inflation Adjustment Act of 1990 (104 Stat.
5 890).

6 (B) The Secretary shall provide claimants no-
7 tice of any adjustment made under this paragraph
8 not later than July 1 of any year in which the ad-
9 justment is made.

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

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

20 (c) CO-OWNERSHIP.—The co-ownership provisions of
21 the Mining Law of 1872 (30 U.S.C. 28 et seq.) will remain
22 in effect except that the annual claim maintenance fee,
23 where applicable, shall replace applicable assessment re-
24 quirements and expenditures.

1 (d) FAILURE TO PAY.—Failure to pay the claim
2 maintenance fee as required by subsection (a) shall conclu-
3 sively constitute a forfeiture of the unpatented mining
4 claim, mill or tunnel site by the claimant and the claim
5 shall be deemed null and void by operation of law.

6 (e) OTHER REQUIREMENTS.—

7 (1) Nothing in this section shall change or mod-
8 ify the requirements of section 314(b) of the Federal
9 Land Policy and Management Act of 1976 (43
10 U.S.C. 1744(b)), or the requirements of section
11 314(c) of the Federal Land Policy and Management
12 Act of 1976 (43 U.S.C. 1744(c)) related to filings
13 required by section 314(b), which remain in effect.

14 (2) Section 2324 of the Revised Statutes of the
15 United States (30 U.S.C. 28) is amended by insert-
16 ing “or section 103(a) of the Hardrock Mining Re-
17 form and Deficit Reduction Act of 2011” after “Act
18 of 1993,”.

19 **SEC. 513. EFFECT OF PAYMENTS FOR USE AND OCCUPANCY**
20 **OF CLAIMS.**

21 Timely payment of the claim maintenance fee re-
22 quired by section 512 of this title or any related law relat-
23 ing to the use of Federal land, preserves the claimant’s
24 ability to use and occupy the Federal land concerned for

1 prospecting and exploration, consistent with and subject
2 to the requirements of this title and other applicable law.

3 **SEC. 514. LIMITATION ON PATENTS.**

4 (a) MINING CLAIMS.—

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

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

13 (B) all requirements established under sec-
14 tions 2325 and 2326 of the Revised Statutes
15 (30 U.S.C. 29 and 30) for vein or lode claims
16 and sections 2329, 2330, 2331, and 2333 of
17 the Revised Statutes (30 U.S.C. 35, 36, and
18 37) for placer claims were fully complied with
19 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
24 of 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 and until such
2 determinations are withdrawn or invalidated by the
3 Secretary or by a court of the United States.

4 (b) MILLSITE CLAIMS.—

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

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

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

16 (2) RIGHT TO PATENT.—If the Secretary makes
17 the determinations referred to 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
20 of 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 and until such
23 determinations are withdrawn or invalidated by the
24 Secretary or by a court of the United States.

1 **Subtitle B—Protection of Special**
2 **Places**

3 **SEC. 521. LANDS OPEN TO LOCATION.**

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

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

15 (1) Wilderness study areas.

16 (2) Areas of critical environmental concern.

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

1 (4) Any area identified in the set of inventoried
2 roadless areas maps contained in the Forest Service
3 Roadless Area Conservation Final Environmental
4 Impact Statement, Volume 2, dated November 2000.

5 (c) EXISTING AUTHORITY NOT AFFECTED.—Noth-
6 ing in this title limits the authority granted the Secretary
7 in section 204 of the Federal Land Policy and Manage-
8 ment Act of 1976 (43 U.S.C. 1714) to withdraw public
9 lands.

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

12 (a) IN GENERAL.—Subject to valid existing rights,
13 any State or political subdivision of a State or an Indian
14 tribe may submit a petition to the Secretary for the with-
15 drawal of a specific tract of Federal land from the oper-
16 ation of the general mining laws, in order to protect spe-
17 cific values identified in the petition that are important
18 to the State or political subdivision or Indian tribe. Such
19 values may include the value of a watershed to supply
20 drinking water, wildlife habitat value, cultural or historic
21 resources, or value for scenic vistas important to the local
22 economy, and other similar values. In the case of an In-
23 dian tribe, the petition may also identify religious or cul-
24 tural values that are important to the Indian tribe. The
25 petition shall contain the information required by section

1 204 of the Federal Land Policy and Management Act of
2 1976 (43 U.S.C. 1714).

3 (b) CONSIDERATION OF PETITION.—The Secretary—

4 (1) shall solicit public comment on the petition;

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

7 (3) shall grant the petition subject to valid ex-
8 isting rights, unless the Secretary makes and pub-
9 lishes in the Federal Register specific findings why
10 a decision to grant the petition would be against the
11 national interest.

12 **Subtitle C—Environmental Consid-**
13 **erations of Mineral Exploration**
14 **and Development**

15 **SEC. 531. GENERAL STANDARD FOR HARDROCK MINING ON**
16 **FEDERAL LAND.**

17 Notwithstanding section 302(b) of the Federal Land
18 Policy and Management Act of 1976 (43 U.S.C. 1732(b)),
19 the first section of the Act of June 4, 1897 (chapter 2;
20 30 Stat. 36 16 U.S.C. 478), and the National Forest Man-
21 agement Act of 1976 (16 U.S.C. 1600 et seq.), and in
22 accordance with this subtitle and applicable law, unless ex-
23 pressly stated otherwise in this title, the Secretary—

24 (1) shall ensure that mineral activities on any
25 Federal land that is subject to a mining claim, mill-

1 site claim, or tunnel site claim is carefully controlled
2 to prevent undue degradation of public lands and re-
3 sources; and

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

8 **SEC. 532. PERMITS.**

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

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

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

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

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

1 the National Environmental Policy Act of 1969 (42 U.S.C.
2 4332).

3 **SEC. 533. EXPLORATION PERMIT.**

4 (a) AUTHORIZED EXPLORATION ACTIVITY.—Any
5 claim holder may apply for an exploration permit for any
6 mining claim authorizing the claim holder to remove a rea-
7 sonable amount of the locatable minerals from the claim
8 for analysis, study and testing. Such permit shall not au-
9 thorize the claim holder to remove any mineral for sale
10 nor to conduct any activities other than those required for
11 exploration for locatable minerals and reclamation.

12 (b) PERMIT APPLICATION REQUIREMENTS.—An ap-
13 plication for an exploration permit under this section shall
14 be submitted in a manner satisfactory to the Secretary
15 or, for National Forest System lands, the Secretary of Ag-
16 riculture, and shall contain an exploration plan, a reclama-
17 tion plan for the proposed exploration, and such docu-
18 mentation as necessary to ensure compliance with applica-
19 ble Federal and State environmental laws and regulations.

20 (c) RECLAMATION PLAN REQUIREMENTS.—The rec-
21 lamation plan required to be included in a permit applica-
22 tion under subsection (b) shall include such provisions as
23 may be jointly prescribed by the Secretary and the Sec-
24 retary of Agriculture.

1 (d) PERMIT ISSUANCE OR DENIAL.—The Secretary,
2 or for National Forest System lands, the Secretary of Ag-
3 riculture, shall issue an exploration permit pursuant to an
4 application under this section unless such Secretary makes
5 any of the following determinations:

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

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

10 (3) The proposed exploration activities and con-
11 dition of the land after the completion of exploration
12 activities and final reclamation would not conform
13 with the land use plan applicable to the area subject
14 to mineral activities.

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

18 (5) The applicant has not demonstrated that
19 the exploration plan and reclamation plan will be in
20 compliance with the requirements of this title and all
21 other applicable Federal requirements, and any
22 State requirements agreed to by the Secretary of the
23 Interior (or Secretary of Agriculture, as appro-
24 priate).

1 (6) The applicant has not demonstrated that
2 the requirements of section 536 (relating to financial
3 assurance) will be met.

4 (7) The applicant is ineligible to receive a per-
5 mit as determined under section 535.

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

10 (f) PERMIT MODIFICATION.—During the term of an
11 exploration permit, the permit holder may submit an ap-
12 plication to modify the permit. To approve a proposed
13 modification to the permit, the Secretary concerned shall
14 make the same determinations as are required in the case
15 of an original permit, except that the Secretary and the
16 Secretary of Agriculture may specify by joint rule the ex-
17 tent to which requirements for initial exploration permits
18 under this section shall apply to applications to modify
19 an exploration permit based on whether such modifications
20 are deemed significant or minor.

21 (g) TRANSFER, ASSIGNMENT, OR SALE OF
22 RIGHTS.—

23 (1) No transfer, assignment, or sale of rights
24 granted by a permit issued under this section shall
25 be made without the prior written approval of the

1 Secretary or for National Forest System lands, the
2 Secretary of Agriculture.

3 (2) Such Secretary shall allow a person holding
4 a permit to transfer, assign, or sell rights under the
5 permit to a successor, if the Secretary finds, in writ-
6 ing, that the successor—

7 (A) is eligible to receive a permit in ac-
8 cordance with section 534(d);

9 (B) has submitted evidence of financial as-
10 surance satisfactory under section 536; and

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

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

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

1 priate, of reviewing and approving or disapproving
2 such transfer, assignment, or sale, as determined by
3 the Secretary of the Interior.

4 **SEC. 534. OPERATIONS PERMIT.**

5 (a) OPERATIONS PERMIT.—

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

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

15 (B) such additional Federal land as the
16 Secretary may determine is necessary to con-
17 duct the proposed mineral activities, if the oper-
18 ator obtains a right-of-way permit for use of
19 such additional lands under title V of the Fed-
20 eral Land Policy and Management Act of 1976
21 (43 U.S.C. 1761 et seq.) and agrees to pay all
22 fees required under that title for the permit
23 under that title.

1 (2) If the Secretary decides to issue such permit, the
2 permit shall include such terms and conditions as pre-
3 scribed by such Secretary to carry out this subtitle.

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

16 (c) PERMIT ISSUANCE OR DENIAL.—

17 (1) After providing for public participation pur-
18 suant to subsection (i), the Secretary, or for Na-
19 tional Forest System lands the Secretary of Agri-
20 culture, shall issue an operations permit if such Sec-
21 retary makes each of the following determinations in
22 writing, and shall deny a permit if such Secretary
23 finds that the application and applicant do not fully
24 meet the following requirements:

1 (A) The permit application, including the
2 site characterization data, operations plan, and
3 reclamation plan, are complete and accurate
4 and sufficient for developing a good under-
5 standing of the anticipated impacts of the min-
6 eral activities and the effectiveness of proposed
7 mitigation and control.

8 (B) The applicant has demonstrated that
9 the proposed reclamation in the operation and
10 reclamation plan can be and is likely to be ac-
11 complished by the applicant and will not cause
12 undue degradation.

13 (C) The condition of the land, including
14 the fish and wildlife resources and habitat con-
15 tained thereon, after the completion of mineral
16 activities and final reclamation, will conform to
17 the land use plan applicable to the area subject
18 to mineral activities and are returned to a pro-
19 ductive use.

20 (D) The area subject to the proposed plan
21 is open to location for the types of mineral ac-
22 tivities proposed.

23 (E) The proposed operation has been de-
24 signed to prevent material damage to the hy-
25 drologic balance.

1 (F) The applicant will fully comply with
2 the requirements of section 536 (relating to fi-
3 nancial assurance) prior to the initiation of op-
4 erations.

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

10 (H) The reclamation plan demonstrates
11 that 10 years following mine closure, no treat-
12 ment of surface or ground water will be re-
13 quired to meet water quality standards at the
14 point of discharge.

15 (2) With respect to any activities specified in
16 the reclamation plan referred to in subsection (b)
17 that constitutes a removal or remedial action under
18 section 101 of the Comprehensive Environmental
19 Response, Compensation, and Liability Act of 1980
20 (42 U.S.C. 9601 et seq.), the Secretary shall consult
21 with the Administrator of the Environmental Protec-
22 tion Agency prior to the issuance of an operations
23 permit. The Administrator shall ensure that the re-
24 clamation plan does not require activities that would
25 increase the costs or likelihood of removal or reme-

1 dial actions under the Comprehensive Environmental
2 Response, Compensation, and Liability Act of 1980
3 (42 U.S.C. 9601 et seq.) or corrective actions under
4 the Solid Waste Disposal Act (42 U.S.C. 6901 et
5 seq.).

6 (d) TERM OF PERMIT; RENEWAL.—

7 (1) An operations permit—

8 (A) shall be for a term that is no longer
9 than the shorter of—

10 (i) the period necessary to accomplish
11 the proposed mineral activities subject to
12 the permit; and

13 (ii) 20 years; and

14 (B) shall be renewed for an additional 20-
15 year period if the operation is in compliance
16 with the requirements of this title and other ap-
17 plicable law.

18 (2) Failure by the operator to commence min-
19 eral activities within 2 years of the date scheduled
20 in an operations permit shall require a modification
21 of the permit if the Secretary concerned determines
22 that modifications are necessary to comply with sec-
23 tion 521.

24 (e) PERMIT MODIFICATION.—

1 (1) During the term of an operations permit
2 the operator may submit an application to modify
3 the permit (including the operations plan or rec-
4 lamation plan, or both).

5 (2) The Secretary, or for National Forest Sys-
6 tem lands the Secretary of Agriculture, may, at any
7 time, require reasonable modification to any oper-
8 ations plan or reclamation plan upon a determina-
9 tion that the requirements of this title cannot be met
10 if the plan is followed as approved. Such determina-
11 tion shall be based on a written finding and subject
12 to public notice and hearing requirements estab-
13 lished by the Secretary concerned.

14 (3) A permit modification is required before
15 changes are made to the approved plan of oper-
16 ations, or if unanticipated events or conditions exist
17 on the mine site, including in the case of—

18 (A) development of acid or toxic drainage;

19 (B) loss of springs or water supplies;

20 (C) water quantity, water quality, or other
21 resulting water impacts that are significantly
22 different than those predicted in the applica-
23 tion;

24 (D) the need for long-term water treat-
25 ment;

1 (E) significant reclamation difficulties or
2 reclamation failure;

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

6 (G) the discovery of hazards to public safe-
7 ty.

8 (f) TEMPORARY CESSATION OF OPERATIONS.—

9 (1) An operator conducting mineral activities
10 under an operations permit in effect under this sub-
11 title may not temporarily cease mineral activities for
12 a period greater than 180 days unless the Secretary
13 concerned has approved such temporary cessation or
14 unless the temporary cessation is permitted under
15 the original permit. Any operator temporarily ceas-
16 ing mineral activities for a period greater than 90
17 days under an operations permit issued before the
18 date of the enactment of this Act shall submit, be-
19 fore the expiration of such 90-day period, a complete
20 application for temporary cessation of operations to
21 the Secretary concerned for approval unless the tem-
22 porary cessation is permitted under the original per-
23 mit.

24 (2) An application for approval of temporary
25 cessation of operations shall include such informa-

1 tion required under subsection (b) and any other
2 provisions prescribed by the Secretary concerned to
3 minimize impacts on the environment. After receipt
4 of a complete application for temporary cessation of
5 operations such Secretary shall conduct an inspec-
6 tion of the area for which temporary cessation of op-
7 erations has been requested.

8 (3) To approve an application for temporary
9 cessation of operations, the Secretary concerned
10 shall make each of the following 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 ensure against hazards to the
15 health and safety of the public and fish and
16 wildlife.

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

24 (C) A determination that the amount of fi-
25 nancial assurance filed with the permit applica-

1 tion is sufficient to assure completion of the
2 reclamation activities identified in the approved
3 reclamation plan in the event of forfeiture.

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

12 (g) PERMIT REVIEWS.—The Secretary, or for Na-
13 tional Forest System lands the Secretary of Agriculture,
14 shall review each permit issued under this section every
15 10 years during the term of such permit, shall provide
16 public notice of the permit review, and, based upon a writ-
17 ten finding, such Secretary shall require the operator to
18 take such actions as the Secretary deems necessary to as-
19 sure that mineral activities conform to the permit, includ-
20 ing adjustment of financial assurance requirements.

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

23 (1) No transfer, assignment, or sale of rights
24 granted by a permit under this section shall be made
25 without the prior written approval of the Secretary,

1 or for National Forest System lands the Secretary
2 of Agriculture.

3 (2) The Secretary, or for National Forest Sys-
4 tem lands, the Secretary of Agriculture, may allow
5 a person holding a permit to transfer, assign, or sell
6 rights under the permit to a successor, if such Sec-
7 retary finds, in writing, that the successor—

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

11 (B) has submitted evidence of financial as-
12 surance satisfactory under section 536; and

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

15 (3) The successor in interest shall assume rec-
16 lamation and other responsibilities established by the
17 existing permit and shall conduct the mineral activi-
18 ties in full compliance with this title, and the terms
19 and conditions of the permit as in effect at the time
20 of transfer, assignment, or sale.

21 (4) Each application for approval of a permit
22 transfer, assignment, or sale pursuant to this sub-
23 section shall be accompanied by a fee payable to the
24 Secretary of the Interior, or for National Forest
25 System lands, the Secretary of Agriculture, in such

1 amount as may be established by such Secretary, or
2 for National Forest System lands, by the Secretary
3 of Agriculture. Such amount shall be equal to the
4 actual or anticipated cost to the Secretary or, for
5 National Forest System lands, to the Secretary of
6 Agriculture, of reviewing and approving or dis-
7 approving such transfer, assignment, or sale, as de-
8 termined by such Secretary.

9 (i) PUBLIC PARTICIPATION.—The Secretary of the
10 Interior and the Secretary of Agriculture shall jointly pro-
11 mulgate regulations to ensure transparency and public
12 participation in permit decisions required under this title,
13 consistent with any requirements that apply to such deci-
14 sions under section 102 of the National Environmental
15 Policy Act of 1969 (42 U.S.C. 4332).

16 **SEC. 535. PERSONS INELIGIBLE FOR PERMITS.**

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

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

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

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

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

19 (c) CORRECTION.—

20 (1) The Secretary, or for National Forest Sys-
21 tem lands the Secretary of Agriculture, may issue or
22 reinstate a permit under this subtitle if the applicant
23 submits proof that the violation referred to in sub-
24 section (a) or (b) has been corrected or is in the
25 process of being corrected to the satisfaction of such

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

9 (2) Any permit which is issued or reinstated
10 based upon proof submitted under this subsection
11 shall be conditionally approved or conditionally rein-
12 stated, as the case may be. If the violation is not
13 successfully abated or the violation is upheld on ap-
14 peal, the permit shall be suspended or revoked.

15 (d) PATTERN OF WILLFUL VIOLATIONS.—No permit
16 under this title may be issued to any applicant if there
17 is a demonstrated pattern of willful violations of the envi-
18 ronmental protection requirements of this title by the ap-
19 plicant, any affiliate of the applicant, or the operator or
20 claim holder if different than the applicant.

21 **SEC. 536. FINANCIAL ASSURANCE.**

22 (a) FINANCIAL ASSURANCE REQUIRED.—

23 (1) Subject to public notice and comment, and
24 after a permit is issued under this subtitle and be-
25 fore any exploration or operations begin under the

1 permit, the operator shall file with the Secretary, or
2 for National Forest System lands the Secretary of
3 Agriculture, evidence of financial assurance payable
4 to the United States. The financial assurance shall
5 be provided in the form of a surety bond, a trust
6 fund, letters of credits, government securities, cer-
7 tificates of deposit, cash, or an equivalent form ap-
8 proved by such Secretary.

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

18 (b) AMOUNT.—The amount of the financial assur-
19 ance required under this section shall be sufficient to as-
20 sure the completion of reclamation and restoration satis-
21 fying the requirements of this title if the work were to
22 be performed by the Secretary concerned in the event of
23 forfeiture, including the construction and maintenance
24 costs for any treatment facilities necessary to meet Fed-
25 eral and State environmental requirements. The calcula-

1 tion of such amount shall take into account the maximum
2 level of financial exposure which shall arise during the
3 mineral activity and administrative costs associated with
4 a government agency reclaiming the site.

5 (c) DURATION.—The financial assurance required
6 under this section shall be held for the duration of the
7 mineral activities and for an additional period to cover the
8 operator's responsibility for reclamation, restoration, and
9 long-term maintenance, and effluent treatment as speci-
10 fied in subsection (g).

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

22 (e) RELEASE.—Upon request, and after notice and
23 opportunity for public comment, and after inspection by
24 the Secretary, or for National Forest System lands, the
25 Secretary of Agriculture, such Secretary may, after con-

1 sultation with the Administrator of the Environmental
2 Protection Agency, release in whole or in part the financial
3 assurance required under this section if the Secretary
4 makes both of the following determinations:

5 (1) A determination that reclamation or res-
6 toration covered by the financial assurance has been
7 accomplished as required by this title.

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

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

15 (1) After the operator has completed any re-
16 quired backfilling, regrading, and drainage control of
17 an area subject to mineral activities and covered by
18 the financial assurance, and has commenced revege-
19 tation on the regraded areas subject to mineral ac-
20 tivities in accordance with the approved plan, that
21 portion of the total financial assurance secured for
22 the area subject to mineral activities attributable to
23 the completed activities may be released except that
24 sufficient assurance must be retained to address
25 other required reclamation and restoration needs

1 and to assure the long-term success of the revegeta-
2 tion.

3 (2) After the operator has completed success-
4 fully all remaining mineral activities and reclamation
5 activities and all requirements of the operations plan
6 and the reclamation plan, and all other requirements
7 of this title have been fully met, including the re-
8 quirements of subsection (g) of this section, the re-
9 maining portion of the financial assurance may be
10 released.

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

16 (g) EFFLUENT.—Notwithstanding section 537(b)(4),
17 where any discharge or other water-related condition re-
18 sulting from the mineral activities requires treatment in
19 order to meet the applicable effluent limitations and water
20 quality standards, the financial assurance shall include the
21 estimated cost of maintaining such treatment for the pro-
22 jected period that will be needed after the cessation of
23 mineral activities. The portion of the financial assurance
24 attributable to such estimated cost of treatment shall not
25 be released until the discharge has ceased for a period of

1 5 years, as determined by ongoing monitoring and testing,
2 or, if the discharge continues, until the operator has met
3 all applicable effluent limitations and water quality stand-
4 ards for 5 full years without treatment.

5 (h) ENVIRONMENTAL HAZARDS.—If the Secretary,
6 or for National Forest System lands, the Secretary of Ag-
7 riculture, determines, after final release of financial assur-
8 ance, that an environmental hazard resulting from the
9 mineral activities exists, or the terms and conditions of
10 the explorations or operations permit of this title were not
11 fulfilled in fact at the time of release, such Secretary shall
12 issue an order under section 556 requiring the claim hold-
13 er or operator (or any person who controls the claim hold-
14 er or operator) to correct the condition such that applica-
15 ble laws and regulations and any conditions from the plan
16 of operations are met.

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

18 (a) GENERAL RULE.—

19 (1) The operator shall restore lands subject to
20 mineral activities carried out under a permit issued
21 under this subtitle to a condition capable of sup-
22 porting—

23 (A) the uses which such lands were capable
24 of supporting prior to surface disturbance by
25 the operator, or

1 (B) other beneficial uses which conform to
2 applicable land use plans as determined by the
3 Secretary, or for National Forest System lands,
4 the Secretary of Agriculture.

5 (2) Reclamation shall proceed as contempora-
6 neously as practicable with the conduct of mineral
7 activities. In the case of a cessation of mineral ac-
8 tivities beyond that provided for as a temporary ces-
9 sation under this title, reclamation activities shall
10 begin immediately.

11 (b) OPERATION AND RECLAMATION STANDARDS.—
12 The Secretary of the Interior and the Secretary of Agri-
13 culture shall jointly promulgate regulations that establish
14 operation and reclamation standards for mineral activities
15 permitted under this title. The Secretaries may determine
16 whether outcome-based performance standards or tech-
17 nology-based design standards are most appropriate. The
18 regulations shall address the following:

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

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

24 (3) Control of sediments to prevent erosion and
25 manage drainage.

1 (4) Minimization of the formation and migra-
2 tion of acidic, alkaline, metal-bearing, or other dele-
3 terious leachate.

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

7 (6) Establishment of a diverse, effective, and
8 permanent vegetative cover of the same seasonal va-
9 riety native to the area affected by mineral activities,
10 and equal in extent of cover to the natural vegeta-
11 tion of the area.

12 (7) Design and maintenance of leach oper-
13 ations, impoundments, and excess waste according to
14 standard engineering standards to achieve and main-
15 tain stability and reclamation of the site.

16 (8) Removal of structures and roads and seal-
17 ing of drill holes.

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

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

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

24 (c) SURFACE OR GROUNDWATER WITHDRAWALS.—

25 The Secretary shall work with State and local govern-

1 ments with authority over the allocation and use of surface
2 and groundwater in the area around the mine site as nec-
3 essary to ensure that any surface or groundwater with-
4 drawals made as a result of mining activities approved
5 under this section do not cause undue degradation or re-
6 sults in material alteration of the hydrologic balance.

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

13 **SEC. 538. STATE LAW AND REGULATION.**

14 (a) STATE LAW.—

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

21 (2) Any bonding standard or requirement in
22 State, county, local, or tribal law or regulation that
23 meets or exceeds the requirements of this title shall
24 not be construed to be inconsistent with such re-
25 quirements.

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

6 (b) APPLICABILITY OF OTHER STATE REQUIRE-
7 MENTS.—

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

14 (2) Nothing in this title shall be construed as
15 affecting in any way the right of any person to en-
16 force or protect, under applicable law, such person's
17 interest in water resources affected by mineral ac-
18 tivities on lands subject to this title.

19 (c) COOPERATIVE AGREEMENTS.—

20 (1) Any State may enter into a cooperative
21 agreement with the Secretary, or for National For-
22 est System lands the Secretary of Agriculture, for
23 the purposes of such Secretary applying such stand-
24 ards and requirements referred to in subsection (a)

1 and subsection (b) to mineral activities or reclama-
2 tion on lands subject to this title.

3 (2) In such instances where the proposed min-
4 eral activities would affect lands not subject to this
5 title in addition to lands subject to this title, in
6 order to approve a plan of operations the Secretary
7 concerned shall enter into a cooperative agreement
8 with the State that sets forth a common regulatory
9 framework consistent with the requirements of this
10 title for the purposes of such plan of operations. Any
11 such common regulatory framework shall not negate
12 the authority of the Federal Government to inde-
13 pendently inspect mines and operations and bring
14 enforcement actions for violations.

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

19 (d) PRIOR AGREEMENTS.—Any cooperative agree-
20 ment or such other understanding between the Secretary
21 concerned and any State, or political subdivision thereof,
22 relating to the management of mineral activities on lands
23 subject to this title that was in existence on the date of
24 enactment of this Act may only continue in force until 1
25 year after the date of enactment of this Act. During such

1 1-year period, the State and the Secretary shall review the
2 terms of the agreement and make changes that are nec-
3 essary to be consistent with this title.

4 **SEC. 539. LIMITATION ON THE ISSUANCE OF PERMITS.**

5 No permit shall be issued under this subtitle that au-
6 thorizes mineral activities that would impair the land or
7 resources of a National Park or a National Monument.
8 For purposes of this section, the term “impair” shall in-
9 clude any diminution of the affected land including wild-
10 life, scenic assets, water resources, air quality, and acous-
11 tic qualities, or other changes that would impair a citizen’s
12 experience at the National Park or National Monument.

13 **Subtitle D—Administrative and**
14 **Miscellaneous Provisions**

15 **SEC. 541. POLICY FUNCTIONS.**

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

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

24 (2) by adding at the end thereof the following:
25 “It shall also be the responsibility of the Secretary

1 of Agriculture to carry out the policy provisions of
2 paragraphs (1) and (2) of this section.”.

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

11 **SEC. 542. USER FEES.**

12 (a) IN GENERAL.—The Secretary and the Secretary
13 of Agriculture may each establish and collect from persons
14 subject to the requirements of this title such user fees as
15 may be necessary to reimburse the United States for ex-
16 penses incurred in administering such requirements. Fees
17 may be assessed and collected under this section only in
18 such manner as may reasonably be expected to result in
19 an aggregate amount of the fees collected during any fiscal
20 year which does not exceed the aggregate amount of ad-
21 ministrative expenses referred to in this section.

22 (b) ADJUSTMENT.—

23 (1) The Secretary shall adjust the fees required
24 by this section to reflect changes in the Consumer
25 Price Index published by the Bureau of Labor Sta-

1 tistics of the Department of Labor every 5 years
2 after the date of enactment of this Act, or more fre-
3 quently if the Secretary determines an adjustment to
4 be reasonable.

5 (2) The Secretary shall provide claimants notice
6 of any adjustment made under this subsection not
7 later than July 1 of any year in which the adjust-
8 ment is made.

9 (3) A fee adjustment under this subsection shall
10 begin to apply the calendar year following the cal-
11 endar year in which it is made.

12 **SEC. 543. INSPECTION AND MONITORING.**

13 (a) INSPECTIONS.—

14 (1) The Secretary, or for National Forest Sys-
15 tem lands the Secretary of Agriculture, shall make
16 inspections of mineral activities so as to ensure com-
17 pliance with the requirements of this title.

18 (2) The Secretary concerned shall establish a
19 frequency of inspections for mineral activities con-
20 ducted under a permit issued under subtitle C, but
21 in no event shall such inspection frequency be less
22 than one complete inspection per calendar quarter
23 or, two per calendar quarter in the case of a permit
24 for which the Secretary concerned approves an appli-
25 cation under section 534(f) (relating to temporary

1 cessation of operations). After revegetation has been
2 established in accordance with a reclamation plan,
3 such Secretary shall conduct annually two complete
4 inspections. Such Secretary shall have the discretion
5 to modify the inspection frequency for mineral ac-
6 tivities that are conducted on a seasonal basis. In-
7 spections shall continue under this subsection until
8 final release of financial assurance.

9 (3)(A) Any person who has reason to believe he
10 or she is or may be adversely affected by mineral ac-
11 tivities due to any violation of the requirements of
12 a permit approved under this title may request an
13 inspection. The Secretary, or for National Forest
14 System lands the Secretary of Agriculture, shall de-
15 termine within 10 working days of receipt of the re-
16 quest whether the request states a reason to believe
17 that a violation exists. If the person alleges and pro-
18 vides reason to believe that an imminent threat to
19 the environment or danger to the health or safety of
20 the public exists, the 10-day period shall be waived
21 and the inspection shall be conducted immediately.
22 The identity of the person supplying information to
23 the Secretary relating to a possible violation or im-
24 minent danger or harm shall remain confidential
25 with the Secretary if so requested by that person.

1 (B) The Secretaries shall, by joint rule, estab-
2 lish procedures for the review of (i) any decision by
3 an authorized representative not to inspect; or (ii)
4 any refusal by such representative to ensure that re-
5 medial actions are taken with respect to any alleged
6 violation. The Secretary concerned shall furnish such
7 persons requesting the review a written statement of
8 the reasons for the Secretary's final disposition of
9 the case.

10 (b) MONITORING.—

11 (1) The Secretary, or for National Forest Sys-
12 tem lands the Secretary of Agriculture, shall require
13 all operators to develop and maintain a monitoring
14 and evaluation system that shall identify compliance
15 with all requirements of a permit approved under
16 this title. The Secretary concerned may require addi-
17 tional monitoring to be conducted as necessary to
18 assure compliance with the reclamation and other
19 environmental standards of this title. Such plan
20 must be reviewed and approved by the Secretary and
21 shall become a part of the explorations or operations
22 permit.

23 (2) The operator shall file reports with the Sec-
24 retary, or for National Forest System lands the Sec-
25 retary of Agriculture, on a frequency determined by

1 the Secretary concerned, on the results of the moni-
2 toring and evaluation process, except that if the
3 monitoring and evaluation show a violation of the re-
4 quirements of a permit approved under this title, it
5 shall be reported immediately to the Secretary con-
6 cerned. The Secretary shall evaluate the reports sub-
7 mitted pursuant to this paragraph, and based on
8 those reports and any necessary inspection shall take
9 enforcement action pursuant to this section. Such
10 reports shall be maintained by the operator and by
11 the Secretary and shall be made available to the
12 public.

13 (3) The Secretary, or for National Forest Sys-
14 tem lands the Secretary of Agriculture, shall deter-
15 mine what information shall be reported by the oper-
16 ator pursuant to paragraph (2). A failure to report
17 as required by the Secretary concerned shall con-
18 stitute a violation of this title and subject the oper-
19 ator to enforcement action pursuant to section 556.

20 **SEC. 544. CITIZENS SUITS.**

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

24 (1) against any person (including the Secretary
25 or the Secretary of Agriculture) who is alleged to be

1 in violation of any of the provisions of this title or
2 any regulation promulgated pursuant to subtitle C
3 of this title or any term or condition of any permit
4 issued under subtitle C of this title; or

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

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

21 (b) EXCEPTIONS.—

22 (1) No action may be commenced under sub-
23 section (a) before the end of the 60-day period be-
24 ginning on the date the plaintiff has given notice in
25 writing of such alleged violation to the alleged viola-

1 tor and the Secretary, or for National Forest Sys-
2 tem lands the Secretary of Agriculture, except that
3 any such action may be brought immediately after
4 such notification if the violation complained of con-
5 stitutes an imminent threat to the environment or to
6 the health or safety of the public.

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

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

21 (c) VENUE.—Venue of all actions brought under this
22 section shall be determined in accordance with section
23 1391 of title 28, United States Code.

24 (d) COSTS.—The court, in issuing any final order in
25 any action brought pursuant to this section may award

1 costs of litigation (including attorney and expert witness
2 fees) to any prevailing or substantially prevailing party
3 whenever the court determines such award is appropriate.
4 The court may, if a temporary restraining order or pre-
5 liminary injunction is sought, require the filing of a bond
6 or equivalent security in accordance with the Federal
7 Rules of Civil Procedure.

8 (e) SAVINGS CLAUSE.—Nothing in this section shall
9 restrict any right which any person (or class of persons)
10 may have under chapter 7 of title 5, United States Code,
11 under this section, or under any other statute or common
12 law to bring an action to seek any relief against the Sec-
13 retary or the Secretary of Agriculture or against any other
14 person, including any action for any violation of this title
15 or of any regulation or permit issued under this title or
16 for any failure to act as required by law. Nothing in this
17 section shall affect the jurisdiction of any court under any
18 provision of title 28, United States Code, including any
19 action for any violation of this title or of any regulation
20 or permit issued under this title or for any failure to act
21 as required by law.

22 **SEC. 545. ADMINISTRATIVE AND JUDICIAL REVIEW.**

23 (a) REVIEW BY SECRETARY.—

24 (1)(A) Any person issued a notice of violation
25 or cessation order under section 556, or any person

1 having an interest which is or may be adversely af-
2 fected by such notice or order, may apply to the Sec-
3 retary, or for National Forest System lands the Sec-
4 retary of Agriculture, for review of the notice or
5 order within 30 days after receipt thereof, or as the
6 case may be, within 30 days after such notice or
7 order is modified, vacated, or terminated.

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

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

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

19 (2) The Secretary concerned shall provide an
20 opportunity for a public hearing at the request of
21 any party to the proceeding as specified in para-
22 graph (1). The filing of an application for review
23 under this subsection shall not operate as a stay of
24 any order or notice issued under section 556.

1 (3) For any review proceeding under this sub-
2 section, the Secretary concerned shall make findings
3 of fact and shall issue a written decision incor-
4 porating therein an order vacating, affirming, modi-
5 fying, or terminating the notice, order, or decision,
6 or with respect to an assessment, the amount of
7 penalty that is warranted. Where the application for
8 review concerns a cessation order issued under sec-
9 tion 556 the Secretary concerned shall issue the
10 written decision within 30 days of the receipt of the
11 application for review or within 30 days after the
12 conclusion of any hearing referred to in paragraph
13 (2), whichever is later, unless temporary relief has
14 been granted by the Secretary concerned under
15 paragraph (4).

16 (4) Pending completion of any review pro-
17 ceedings under this subsection, the applicant may
18 file with the Secretary, or for National Forest Sys-
19 tem lands the Secretary of Agriculture, a written re-
20 quest that the Secretary grant temporary relief from
21 any order issued under section 556 together with a
22 detailed statement giving reasons for such relief.
23 The Secretary concerned shall expeditiously issue an
24 order or decision granting or denying such relief.
25 The Secretary concerned may grant such relief

1 under such conditions as he or she may prescribe
2 only if such relief shall not adversely affect the
3 health or safety of the public or cause imminent en-
4 vironmental harm to land, air, or water resources.

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

9 (b) JUDICIAL REVIEW.—

10 (1) Any final action by the Secretaries of the
11 Interior and Agriculture in promulgating regulations
12 to implement this title, or any other final actions
13 constituting rulemaking to implement this title, shall
14 be subject to judicial review only in the United
15 States Court of Appeals for the District of Colum-
16 bia. Any action subject to judicial review under this
17 subsection shall be affirmed unless the court con-
18 cludes that such action is arbitrary, capricious, or
19 otherwise inconsistent with law. A petition for review
20 of any action subject to judicial review under this
21 subsection shall be filed within 60 days from the
22 date of such action, or after such date if the petition
23 is based solely on grounds arising after the 60th
24 day. Any such petition may be made by any person
25 who commented or otherwise participated in the

1 rulemaking or any person who may be adversely af-
2 fected by the action of the Secretaries.

3 (2) Final agency action under this subsection,
4 including such final action on those matters de-
5 scribed under subsection (a), shall be subject to judi-
6 cial review in accordance with paragraph (4) and
7 pursuant to section 1391 of title 28, United States
8 Code, on or before 60 days from the date of such
9 final action. Any action subject to judicial review
10 under this subsection shall be affirmed unless the
11 court concludes that such action is arbitrary, capri-
12 cious, or otherwise inconsistent with law.

13 (3) The availability of judicial review estab-
14 lished in this subsection shall not be construed to
15 limit the operations of rights under section 554 (re-
16 lating to citizens suits).

17 (4) The court shall hear any petition or com-
18 plaint filed under this subsection solely on the record
19 made before the Secretary or Secretaries concerned.
20 The court may affirm or vacate any order or deci-
21 sion or may remand the proceedings to the Secretary
22 or Secretaries for such further action as it may di-
23 rect.

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

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

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

18 **SEC. 546. ENFORCEMENT.**

19 (a) ORDERS.—

20 (1) If the Secretary, or for National Forest
21 System lands the Secretary of Agriculture, or an au-
22 thorized representative of such Secretary, determines
23 that any person is in violation of any environmental
24 protection requirement under subtitle C or any regu-
25 lation issued by the Secretaries to implement this

1 title, such Secretary or authorized representative
2 shall issue to such person a notice of violation de-
3 scribing the violation and the corrective measures to
4 be taken. The Secretary concerned, or the author-
5 ized representative of such Secretary, shall provide
6 such person with a period of time not to exceed 30
7 days to abate the violation. Such period of time may
8 be extended by the Secretary concerned upon a
9 showing of good cause by such person. If, upon the
10 expiration of time provided for such abatement, the
11 Secretary concerned, or the authorized representa-
12 tive of such Secretary, finds that the violation has
13 not been abated he or she shall immediately order a
14 cessation of all mineral activities or the portion
15 thereof relevant to the violation.

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

23 (A) an imminent danger to the health or
24 safety of the public; or

1 (B) significant, imminent environmental
2 harm to land, air, water, or fish or wildlife re-
3 sources,
4 such Secretary or authorized representative shall im-
5 mediately order a cessation of mineral activities or
6 the portion thereof relevant to the condition, prac-
7 tice, or violation.

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

21 (B) Any notice or order issued pursuant to
22 paragraphs (1) or (2) may be modified, vacated, or
23 terminated by the Secretary concerned or an author-
24 ized representative of such Secretary. Any person to

1 whom any such notice or order is issued shall be en-
2 titled to a hearing on the record.

3 (4) If, after 30 days of the date of the order
4 referred to in paragraph (3)(A) the required abate-
5 ment has not occurred, the Secretary concerned shall
6 take such alternative enforcement action against the
7 claim holder or operator (or any person who controls
8 the claim holder or operator) as will most likely
9 bring about abatement in the most expeditious man-
10 ner possible. Such alternative enforcement action
11 may include, but is not necessarily limited to, seek-
12 ing appropriate injunctive relief to bring about
13 abatement. Nothing in this paragraph shall preclude
14 the Secretary, or for National Forest System lands
15 the Secretary of Agriculture, from taking alternative
16 enforcement action prior to the expiration of 30
17 days.

18 (5) If a claim holder or operator (or any person
19 who controls the claim holder or operator) fails to
20 abate a violation or defaults on the terms of the per-
21 mit, the Secretary, or for National Forest System
22 lands the Secretary of Agriculture, shall forfeit the
23 financial assurance for the plan as necessary to en-
24 sure abatement and reclamation under this title. The
25 Secretary concerned may prescribe conditions under

1 which a surety may perform reclamation in accord-
2 ance with the approved plan in lieu of forfeiture.

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

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

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

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

23 (2) interferes with, hinders, or delays the Sec-
24 retary concerned in carrying out an inspection under
25 section 553.

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

7 (c) DELEGATION.—Notwithstanding any other provi-
8 sion of law, the Secretary may utilize personnel of the Of-
9 fice of Surface Mining Reclamation and Enforcement to
10 ensure compliance with the requirements of this title.

11 (d) PENALTIES.—

12 (1) Any person who fails to comply with any re-
13 quirement of a permit approved under this title or
14 any regulation issued by the Secretaries to imple-
15 ment this title shall be liable for a penalty of not
16 more than \$25,000 per violation. Each day of viola-
17 tion may be deemed a separate violation for pur-
18 poses of penalty assessments.

19 (2) A person who fails to correct a violation for
20 which a cessation order has been issued under sub-
21 section (a) within the period permitted for its correc-
22 tion shall be assessed a civil penalty of not less than
23 \$1,000 per violation for each day during which such
24 failure continues.

1 (3) Whenever a corporation is in violation of a
2 requirement of a permit approved under this title or
3 any regulation issued by the Secretaries to imple-
4 ment this title or fails or refuses to comply with an
5 order issued under subsection (a), any director, offi-
6 cer, or agent of such corporation who knowingly au-
7 thorized, ordered, or carried out such violation, fail-
8 ure, or refusal shall be subject to the same penalties
9 as may be imposed upon the person referred to in
10 paragraph (1).

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

15 (1) knowingly made or knowingly makes any
16 false, inaccurate, or misleading material statement
17 in any mining claim, notice of location, application,
18 record, report, plan, or other document filed or re-
19 quired to be maintained under this title;

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

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

24 (4) refuses to permit an audit pursuant to this
25 title;

1 (5) fails to maintain an adequate financial as-
2 surance under section 536;

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

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

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

12 (1) makes any false material statement, rep-
13 resentation, or certification in, or omits or conceals
14 material information from, or unlawfully alters, any
15 mining claim, notice of location, application, record,
16 report, plan, or other documents filed or required to
17 be maintained under this title; or

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

21 shall upon conviction, be punished by a fine of not more
22 than \$10,000, or by imprisonment for not more than 2
23 years, or by both. If a conviction of a person is for a viola-
24 tion committed after a first conviction of such person
25 under this subsection, punishment shall be by a fine of

1 not more than \$20,000 per day of violation, or by impris-
2 onment of not more than 4 years, or both. Each day of
3 continuing violation may be deemed a separate violation
4 for purposes of penalty assessments.

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

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

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

12 shall upon conviction be punished by a fine of not less
13 than \$5,000 nor more than \$50,000 per day of violation,
14 or by imprisonment for not more than 3 years, or both.
15 If a conviction of a person is for a violation committed
16 after the first conviction of such person under this sub-
17 section, punishment shall be a fine of not less than
18 \$10,000 per day of violation, or by imprisonment of not
19 more than 6 years, or both.

20 (h) KNOWING AND WILLFUL VIOLATIONS.—Any per-
21 son who knowingly and willfully commits an act for which
22 a civil penalty is provided in paragraph (1) of subsection
23 (g) shall, upon conviction, be punished by a fine of not
24 more than \$50,000, or by imprisonment for not more than
25 2 years, or both.

1 (i) DEFINITION.—For purposes of this section, the
2 term “person” includes any officer, agent, or employee of
3 a person.

4 **SEC. 547. REGULATIONS.**

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

12 **SEC. 548. EFFECTIVE DATE.**

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

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

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

18 (1) by striking “as prescribed by the Sec-
19 retary”; and

20 (2) by inserting before the period the following:
21 “in the same manner as required by subtitle B and
22 subtitle C of the Hardrock Mining Reform and Def-
23 icit Reduction Act of 2011”.

1 **SEC. 550. SAVINGS CLAUSE.**

2 (a) SPECIAL APPLICATION OF MINING LAWS.—Noth-
3 ing in this title shall be construed as repealing or modi-
4 fying any Federal law, regulation, order, or land use plan,
5 in effect prior to the date of enactment of this Act that
6 prohibits or restricts the application of the general mining
7 laws, including laws that provide for special management
8 criteria for operations under the general mining laws as
9 in effect prior to the date of enactment of this Act, to
10 the extent such laws provide for protection of natural and
11 cultural resources and the environment greater than re-
12 quired under this title, and any such prior law shall re-
13 main in force and effect with respect to claims located (or
14 proposed to be located) or converted under this title. Noth-
15 ing in this title shall be construed as applying to or lim-
16 iting mineral investigations, studies, or other mineral ac-
17 tivities conducted by any Federal or State agency acting
18 in its governmental capacity pursuant to other authority.
19 Nothing in this title shall affect or limit any assessment,
20 investigation, evaluation, or listing pursuant to the Com-
21 prehensive Environmental Response, Compensation, and
22 Liability Act of 1980 (42 U.S.C. 9601 et seq.), or the
23 Solid Waste Disposal Act (42 U.S.C. 3251 et seq.).

24 (b) EFFECT ON OTHER FEDERAL LAWS.—The provi-
25 sions of this title shall supersede the general mining laws,
26 except for those parts of the general mining laws respect-

1 ing location of mining claims that are not expressly modi-
2 fied by this title. Except for the general mining laws, noth-
3 ing in this title shall be construed as superseding, modi-
4 fying, amending, or repealing any provision of Federal law
5 not expressly superseded, modified, amended, or repealed
6 by this title. Nothing in this title shall be construed as
7 altering, affecting, amending, modifying, or changing, di-
8 rectly or indirectly, any law which refers to and provides
9 authorities or responsibilities for, or is administered by,
10 the Environmental Protection Agency or the Adminis-
11 trator of the Environmental Protection Agency, including
12 the Federal Water Pollution Control Act, title XIV of the
13 Public Health Service Act (the Safe Drinking Water Act),
14 the Clean Air Act, the Pollution Prevention Act of 1990,
15 the Toxic Substances Control Act, the Federal Insecticide,
16 Fungicide, and Rodenticide Act, the Federal Food, Drug,
17 and Cosmetic Act, the Motor Vehicle Information and
18 Cost Savings Act, the Federal Hazardous Substances Act,
19 the Endangered Species Act of 1973, the Atomic Energy
20 Act, the Noise Control Act of 1972, the Solid Waste Dis-
21 posal Act, the Comprehensive Environmental Response,
22 Compensation, and Liability Act of 1980, the Superfund
23 Amendments and Reauthorization Act of 1986, the Ocean
24 Dumping Act, the Environmental Research, Development,
25 and Demonstration Authorization Act, the Pollution Pros-

1 ecution Act of 1990, and the Federal Facilities Compli-
2 ance Act of 1992, or any statute containing an amend-
3 ment to any of such Acts. Nothing in this title shall be
4 construed as modifying or affecting any provision of the
5 Native American Graves Protection and Repatriation Act
6 (Public Law 101–601) or any provision of the American
7 Indian Religious Freedom Act (42 U.S.C. 1996), the Na-
8 tional Historic Preservation Act (16 U.S.C. 470 et seq.),
9 and the Religious Freedom Restoration Act of 1993 (42
10 U.S.C. 2000bb et seq.).

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

18 (d) SOVEREIGN IMMUNITY OF INDIAN TRIBES.—
19 Nothing in this section shall be construed so as to waive
20 the sovereign immunity of any Indian tribe.

21 **SEC. 551. AVAILABILITY OF PUBLIC RECORDS.**

22 Copies of records, reports, inspection materials, or in-
23 formation obtained by the Secretary or the Secretary of
24 Agriculture under this title shall be made available to the
25 public, consistent with section 552 of title 5, United States

1 Code, in central and sufficient locations in the county,
2 multicounty, and State area of mineral activity or rec-
3 lamation so that such items are conveniently available to
4 residents in the area proposed or approved for mineral ac-
5 tivities and on the Internet.

6 **SEC. 552. MISCELLANEOUS POWERS.**

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

14 (b) ANCILLARY POWERS.—In connection with any
15 hearing, inquiry, investigation, or audit under this title,
16 the Secretary, or for National Forest System lands the
17 Secretary of Agriculture, is authorized to take any of the
18 following actions:

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

25 (2) Administer oaths.

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

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

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

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

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

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

9 (2) may at reasonable times, and without delay,
10 have access to records, inspect any monitoring
11 equipment, or review any method of operation re-
12 quired under this title;

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

16 (4) may, on any mining claim located under the
17 general mining laws and maintained in compliance
18 with this title, and without advance notice, stop, and
19 inspect any motorized form of transportation that
20 such Secretary has probable cause to believe is car-
21 rying locatable minerals, concentrates, or products
22 derived therefrom from a claim site for the purpose
23 of determining whether the operator of such vehicle
24 has documentation related to such locatable min-
25 erals, concentrates, or products derived therefrom as

1 required by law, if such documentation is required
2 under this title; and

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

15 **SEC. 553. MULTIPLE MINERAL DEVELOPMENT AND SUR-**
16 **FACE RESOURCES.**

17 The provisions of sections 4 and 6 of the Act of Au-
18 gust 13, 1954 (30 U.S.C. 524 and 526), commonly known
19 as the Multiple Minerals Development Act, and the provi-
20 sions of section 4 of the Act of July 23, 1955 (30 U.S.C.
21 612), shall apply to all mining claims located under the
22 general mining laws and maintained in compliance with
23 such laws and this title.

1 **SEC. 554. MINERAL MATERIALS.**

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

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

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

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

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

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

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

24 “(A) had and still has some property giving it
25 the distinct and special value referred to in sub-

1 section (a), or as the case may be, met the definition
2 of block pumice referred to in such subsection;

3 “(B) was properly located and maintained
4 under the general mining laws prior to the date of
5 enactment of the Hardrock Mining Reform and Def-
6 icit Reduction Act of 2011;

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

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

14 (b) MINERAL MATERIALS DISPOSAL CLARIFICA-
15 TION.—Section 4 of the Act of July 23, 1955 (30 U.S.C.
16 612), is amended—

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

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

21 (c) CONFORMING AMENDMENT.—Section 1 of the
22 Act of July 31, 1947, entitled “An Act to provide for the
23 disposal of materials on the public lands of the United
24 States” (30 U.S.C. 601 et seq.) is amended by striking
25 “common varieties of” in the first sentence.

1 (d) SHORT TITLES.—

2 (1) SURFACE RESOURCES.—The Act of July
3 23, 1955, is amended by inserting after section 7
4 the following new section:

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

7 (2) MINERAL MATERIALS.—The Act of July 31,
8 1947, entitled “An Act to provide for the disposal of
9 materials on the public lands of the United States”
10 (30 U.S.C. 601 et seq.) is amended by inserting
11 after section 4 the following new section:

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

14 (e) REPEALS.—

15 (1) Subject to valid existing rights, the Act of
16 August 4, 1892 (27 Stat. 348, 30 U.S.C. 161), com-
17 monly known as the Building Stone Act, is hereby
18 repealed.

19 (2) Subject to valid existing rights, the Act of
20 January 31, 1901 (30 U.S.C. 162), commonly
21 known as the Saline Placer Act, is hereby repealed.

1 **TITLE VI—ABANDONED MINE**
2 **RECLAMATION**

3 **SEC. 601. SHORT TITLE.**

4 This title may be cited as the “Abandoned Mine Rec-
5 lamation and Deficit Reduction Act of 2011”.

6 **SEC. 602. DEFINITIONS AND REFERENCES.**

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

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

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

19 (3) The term “control” means having the abil-
20 ity, directly or indirectly, to determine (without re-
21 gard to whether exercised through one or more cor-
22 porate structures) the manner in which an entity
23 conducts mineral activities, through any means, in-
24 cluding without limitation, ownership interest, au-
25 thority to commit the entity’s real or financial as-

1 sets, position as a director, officer, or partner of the
2 entity, or contractual arrangement.

3 (4) The term “crude ore” means ore in its un-
4 processed form, containing profitable amounts of the
5 target mineral.

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

10 (6) The term “exploration” means surface dis-
11 turbance to evaluate the type, extent, quantity, or
12 quality of minerals present including sampling, drill-
13 ing, and analyzing hardrock mineral values.

14 (7) The term “Federal land” means any land,
15 including mineral interests, owned by the United
16 States without regard to how the United States ac-
17 quired ownership of the land and without regard to
18 the agency having responsibility for management
19 thereof, except Indian lands.

20 (8) The term “hardrock” means any mineral
21 mined under the 1872 Mining Law (30 U.S.C. 22–
22 54), and with respect to State, Indian, and private
23 lands, any minerals on those lands that would be
24 considered hardrock minerals if such minerals had
25 been mined under the 1872 Mining Law: *Provided,*

1 *however*, That if subsequent to the date of enact-
2 ment of this Act, any minerals mined under the
3 1872 Mining Law are transferred from the require-
4 ments of the 1872 Mining Law to different statutory
5 requirements, those minerals so transferred will con-
6 tinue to be subject to the provisions of this title.

7 (9) The term “hardrock mining operation”
8 means any activities or operations conducted to mine
9 minerals under the 1872 Mining Law (30 U.S.C.
10 22–54), and, with respect to State, Indian, and pri-
11 vate lands, any activities or operations conducted on
12 such lands to mine minerals that would be consid-
13 ered hardrock minerals if such minerals had been
14 mined under the 1872 Mining Law: *Provided, how-*
15 *ever*, That if subsequent to the date of enactment of
16 this Act, any minerals mined under the 1872 Mining
17 Law are transferred from the requirements of the
18 1872 Mining Law to different statutory require-
19 ments, those activities or operations conducted on
20 lands to mine those minerals so transferred will con-
21 tinue to be subject to the provisions of this title.

22 (10) The term “Indian lands” means lands held
23 in trust for the benefit of an Indian tribe or indi-
24 vidual or held by an Indian tribe or individual sub-

1 ject to a restriction by the United States against
2 alienation.

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

12 (12) The term “mineral activities” means any
13 activity on a mining claim, millsite claim, or tunnel
14 site claim for, related to, or incidental to, mineral
15 exploration, mining, beneficiation, processing, or rec-
16 lamation activities for any hardrock mineral.

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

20 (14) The term “person” means an individual,
21 Indian tribe, partnership, association, society, joint
22 venture, joint stock company, firm, company, cor-
23 poration, cooperative, or other organization and any
24 instrumentality of State or local government includ-

1 ing any publicly owned utility or publicly owned cor-
2 poration of State or local government.

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

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

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

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

15 (b) REFERENCES TO OTHER LAWS.—(1) Any ref-
16 erence in this title to the term “general mining laws” is
17 a reference to those Acts that generally comprise chapters
18 2, 12A, and 16, and sections 161 and 162, of title 30,
19 United States Code.

20 (2) Any reference in this title to the Act of July 23,
21 1955, is a reference to the Act entitled “An Act to amend
22 the Act of July 31, 1947 (61 Stat. 681) and the mining
23 laws to provide for multiple use of the surface of the same
24 tracts of the public lands, and for other purposes” (30
25 U.S.C. 601 et seq.).

1 **Subtitle A—Hardrock Mining**
2 **Reclamation**

3 **SEC. 611. DISPLACED MATERIAL RECLAMATION FEE.**

4 (a) **IMPOSITION OF FEE.**—Except as provided in
5 paragraph (2), each operator of a hardrock mining oper-
6 ation shall pay to the Secretary, for deposit in the Aban-
7 doned Mine Cleanup Fund established by section 621(a),
8 a displaced material reclamation fee of 7 cents per ton
9 of displaced material.

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

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

20 (d) **PENALTY.**—Any person, corporate officer, agent
21 or director, on behalf of a hardrock mining operation, who
22 knowingly makes any false statement, representation or
23 certification, or knowingly fails to make any statement,
24 representation or certification required in this section
25 shall, upon conviction, be punished by a fine of not more

1 than \$10,000, or by imprisonment for not more than one
2 year, or both.

3 (e) CIVIL ACTION TO RECOVER FEE.—Any portion
4 of the reclamation fee not properly or promptly paid pur-
5 suant to this section shall be recoverable, with statutory
6 interest, from the hardrock mining operations operator, in
7 any court of competent jurisdiction in any action at law
8 to compel payment of debts.

9 (f) DEPOSIT OF REVENUES.—Amounts received by
10 the Secretary under subsection (a)(1) shall be deposited
11 in the Abandoned Mine Cleanup Fund established by sec-
12 tion 621(a).

13 (g) EFFECT.—Nothing in this section requires a re-
14 duction in, or otherwise affects, any similar fee required
15 under any law (including regulations) of any State.

16 **Subtitle B—Abandoned Mine** 17 **Cleanup Fund**

18 **SEC. 621. ESTABLISHMENT OF FUND.**

19 (a) ESTABLISHMENT.—There is established on the
20 books of the Treasury of the United States a separate ac-
21 count to be known as the Abandoned Mine Cleanup Fund
22 (hereinafter in this subtitle referred to as the “Fund”)
23 consisting of the following:

1 (1) All donations by persons, corporations, as-
2 sociations, and foundations for the purposes of this
3 subtitle.

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

6 (3) All income on investments under section
7 612(b).

8 (b) INVESTMENT.—The Secretary shall notify the
9 Secretary of the Treasury as to what portion of the Fund
10 is not, in the Secretary's judgment, required to meet cur-
11 rent withdrawals. The Secretary of the Treasury shall in-
12 vest such portion of the Fund in public debt securities
13 with maturities suitable for the needs of such Fund and
14 bearing interest at rates determined by the Secretary of
15 the Treasury, taking into consideration current market
16 yields on outstanding marketplace obligations of the
17 United States of comparable maturities.

18 (c) ADMINISTRATION.—

19 (1) The Fund shall be administered by the Sec-
20 retary, acting through the Director of the Office of
21 Surface Mining Reclamation and Enforcement.

22 (2) Amounts credited to the Fund shall be
23 available, without further appropriation, for obliga-
24 tion and expenditure; and shall remain available
25 until expended.

1 (3) The Secretary may retain such funds as
2 necessary for the administrative expenses of the
3 United States, Indian tribes, and the States to ac-
4 complish the purposes of this subtitle.

5 (d) EXPENDITURES.—Subject to section 622,
6 amounts in the Fund may, without fiscal year limitation
7 and without further appropriation—

8 (1) be expended by the Secretary for the pur-
9 poses described in section 622;

10 (2) be transferred by the Secretary to the Di-
11 rector of the Bureau of Land Management, the
12 Chief of the Forest Service, the Director of the Na-
13 tional Park Service, the Director of the United
14 States Fish and Wildlife Service, or the head of any
15 other Federal agency, that develops, implements,
16 and has the ability to carry out all or a significant
17 portion of a reclamation program under this subtitle;
18 or

19 (3) be transferred by the Secretary to an Indian
20 tribe or a State with an approved reclamation pro-
21 gram, as provided in subsection (e).

22 (e) STATE AND TRIBAL RECLAMATION PROGRAMS.—

23 (1) IN GENERAL.—Each State having within
24 the borders of the State, or tribe having within the
25 borders of the reservation of the tribe, mined land

1 that is eligible for reclamation under this title may
2 submit to the Secretary a reclamation program for
3 the land.

4 (2) APPROVAL.—If the Secretary determines
5 that a State or tribe has developed and submitted a
6 program for reclamation of abandoned mines con-
7 sistent with the priorities established under section
8 622(c) and has the ability and necessary State or
9 tribal legislation to implement this subtitle, the Sec-
10 retary shall—

11 (A) approve the program; and

12 (B) grant to the State or tribe the exclu-
13 sive responsibility and authority to implement
14 the approved program.

15 (3) WITHDRAWAL OF APPROVAL.—The Sec-
16 retary shall withdraw the approval and authorization
17 if the Secretary determines that the State or tribal
18 program is not in compliance with procedures,
19 guidelines, and requirements established by the Sec-
20 retary.

21 (4) APPROVAL OF EXISTING PROGRAMS.—Sub-
22 ject to paragraph (3), any State program in an
23 abandoned hardrock mine State or tribal program
24 for reclamation of abandoned mines approved under
25 title IV of the Surface Mining Control and Reclama-

1 tion Act of 1977 (30 U.S.C. 1231 et seq.) before the
2 date of enactment of this Act and in good standing
3 with the Secretary as of that date shall be consid-
4 ered approved under this subtitle.

5 **SEC. 622. USE AND OBJECTIVES OF THE FUND.**

6 (a) USE.—

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

16 (A) to protect public health and safety;

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

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

23 (D) to reclaim and restore abandoned mill-
24 ing and processing areas;

1 (E) to backfill, seal, or otherwise control
2 abandoned underground mine entries;

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

5 (i) to prevent erosion and sedimenta-
6 tion; and

7 (ii) for any other reclamation purpose;

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

10 (H) to enhance fish and wildlife habitat.

11 (2) DETERMINATION.—Before expending
12 amounts in the Fund for the purposes described in
13 paragraph (1), the Secretary shall make a deter-
14 mination that no claim holder, operator, or other
15 person who is legally responsible under Federal or
16 State law for the reclamation of the mine site can
17 be located before reclamation under this title of the
18 abandoned hardrock mine site begins.

19 (b) ALLOCATION.—Of the amounts deposited in the
20 Fund each fiscal year—

21 (1) 30 percent shall be allocated by the Sec-
22 retary for expenditure by the Secretary or, if a State
23 or Indian tribe has an approved program pursuant
24 to section 621(e), by the State or Indian tribe, in
25 the States in which, or on Indian land on which,

1 hardrock minerals are produced, based on a formula
2 reflecting existing production in the State or on the
3 land of the Indian tribe;

4 (2) 30 percent shall be allocated by the Sec-
5 retary for expenditure by the Secretary or, if a State
6 or Indian tribe has an approved program pursuant
7 to section 621(e), by the State or Indian tribe, in
8 the States and on Indian land using a formula based
9 on the quantity of hardrock minerals historically
10 produced in the State or from the Indian land before
11 the date of enactment of this Act;

12 (3) 30 percent shall be allocated by the Sec-
13 retary for expenditures on high priority abandoned
14 mine sites on Federal and non-Federal land based
15 on the priorities established in subsection (c); and

16 (4) 10 percent shall be available to the Sec-
17 retary for grants under subsection (d).

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

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

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

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

7 (4) For the years 2012 through 2017, the Sec-
8 retary shall give first priority to and fully fund
9 projects to cleanup and reclaim abandoned hardrock
10 mines—

11 (A) in States and Tribal lands that have
12 previously been certified for completing their
13 reclamation obligations under the Surface Min-
14 ing Control and Reclamation Act of 1977; and

15 (B) that are currently utilizing funds avail-
16 able under section 411 of the Surface Mining
17 Control and Reclamation Act of 1977 to fund
18 the cleanup of abandoned hardrock mines. The
19 Secretary shall fund, to the extent that funds
20 are available in the Abandoned Mine Cleanup
21 Fund, such cleanups to the same level as estab-
22 lished by the formula established in the Surface
23 Mining Control and Reclamation Act of 1977
24 notwithstanding the changes made under sub-
25 title C of this title.

1 (d) GRANTS TO PUBLIC ENTITIES AND NONPROFIT
2 ORGANIZATIONS.—The Secretary shall use amounts made
3 available under subsection (b)(4) to make grants to public
4 entities (including State fish and game agencies and local
5 governments) and nonprofit organizations (based on cri-
6 teria established by the Secretary by regulation) to carry
7 out activities that support collaborative restoration
8 projects to improve fish and wildlife habitat affected by
9 past hardrock minerals and mining activities, including ac-
10 tivities that—

11 (1) improve water quality and quantity;

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

14 (3) restore instream habitat conditions nec-
15 essary to support aquatic species;

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

19 (5) control and remove noxious weeds and
20 invasive species associated with historic mining dis-
21 turbances that affect fish and wildlife;

22 (6) restore fish and wildlife habitat in cases in
23 which previous hardrock minerals and mining activ-
24 ity limits fish and wildlife productivity;

1 (7) protect and restore fish and wildlife habitat
2 in areas affected by historic minerals and mining ac-
3 tivity; and

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

6 (e) HABITAT.—Reclamation and restoration activities
7 under this subtitle shall include appropriate mitigation
8 measures to provide for the continuation of any estab-
9 lished habitat for wildlife in existence prior to the com-
10 mencement of such activities.

11 (f) RESPONSE OR REMOVAL ACTIONS.—Reclamation
12 and restoration activities under this subtitle which con-
13 stitute a removal or remedial action under section 101 of
14 the Comprehensive Environmental Response, Compensa-
15 tion, and Liability Act of 1980 (42 U.S.C. 9601), shall
16 be conducted with the concurrence of the Administrator
17 of the Environmental Protection Agency. The Secretary
18 and the Administrator shall enter into a Memorandum of
19 Understanding to establish procedures for consultation,
20 concurrence, training, exchange of technical expertise and
21 joint activities under the appropriate circumstances, that
22 provide assurances that reclamation or restoration activi-
23 ties under this subtitle shall not be conducted in a manner
24 that increases the costs or likelihood of removal or reme-
25 dial actions under the Comprehensive Environmental Re-

1 sponse, Compensation, and Liability Act of 1980 (42
2 U.S.C. 9601 et seq.), and that avoid oversight by multiple
3 agencies to the maximum extent practicable.

4 **SEC. 623. ELIGIBLE LANDS AND WATERS.**

5 (a) **ELIGIBILITY.**—Reclamation expenditures under
6 this subtitle may be made with respect to Federal, State,
7 local, tribal, and private land or water resources that tra-
8 verse or are contiguous to Federal, State, local, tribal, or
9 private land where such lands or water resources have
10 been affected by past mineral activities, including any of
11 the following:

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

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

22 (b) **SPECIFIC SITES AND AREAS NOT ELIGIBLE.**—
23 Sites and areas designated for remedial action pursuant
24 to the Uranium Mill Tailings Radiation Control Act of
25 1978 (42 U.S.C. 7901 and following) or which have been

1 listed for remedial action pursuant to the Comprehensive
 2 Environmental Response Compensation and Liability Act
 3 of 1980 (42 U.S.C. 9601 and following) shall not be eligi-
 4 ble for expenditures from the Fund under this section.

5 (c) INVENTORY.—

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

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

17 **Subtitle C—Priority Abandoned**
 18 **Coal Mine Reclamation**

19 **SEC. 631. AMENDMENTS TO THE SURFACE MINING CON-**
 20 **TROL AND RECLAMATION ACT.**

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

24 (1) in the section title by inserting “**COAL**” be-
 25 fore “**ABANDONED**”;

1 (2) in subsection (a) by—

2 (A) inserting “AND TRIBAL” after
3 “STATE” in the heading;

4 (B) inserting “Coal” before “Abandoned”
5 in the first sentence; and

6 (C) striking the last sentence;

7 (3) in subsection (c) by—

8 (A) striking in paragraph (1) “: *Provided*,
9 That” and all that follows;

10 (B) striking paragraphs (2) and (8);

11 (C) inserting “and tribes” after “States”
12 in paragraph (6);

13 (D) inserting “or tribe” after “State” in
14 paragraph (7); and

15 (E) renumbering the remaining paragraphs
16 accordingly;

17 (4) in subsection (f)(1) by—

18 (A) inserting “and any other available
19 funds” after “subsection (b)”; and

20 (B) striking “2007” and inserting “2011”;

21 (5) in subsection (f)(2) by—

22 (A) striking “2008” and inserting “2012”
23 both places it appears;

24 (B) amending subparagraph (A)(i) to read
25 as follows:

1 “(i) eighty percent of the amounts de-
2 posited into the fund in the previous fiscal
3 year less any allocations as described in
4 paragraphs (2), (3), and (4) of section
5 402(g); plus”; and

6 (C) amending clause (ii) of subparagraph
7 (A) to read as follows:

8 “(ii) the funds referred to in section
9 402(i)(2).”;

10 (6) striking subsections (f)(3) and (5), and re-
11 numbering remaining paragraph accordingly; and

12 (7) by inserting after section 401(b) the fol-
13 lowing and redesignating remaining subsection:

14 “(c) STATE AND TRIBAL FUNDS.—Pursuant to an
15 approved State or tribal abandoned mine reclamation pro-
16 gram required under section 405, States or Tribes receiv-
17 ing grants under this Act shall establish and administer
18 abandoned mine reclamation funds.”.

19 (b) Section 402 of SMCRA (30 U.S.C. 1232) is
20 amended—

21 (1) by striking subsection (g) and inserting:

22 “(g) ALLOCATION OF FUNDS.—Except as provided in
23 subsection (h), amounts deposited into the fund during the
24 previous fiscal year shall be allocated by the Secretary to
25 accomplish the purposes of this Act as follows:

1 “(1) RECLAMATION GRANTS.—

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

7 “(B) Any State or tribe receiving funds
8 under this paragraph shall have in place an ap-
9 proved abandoned mine reclamation program
10 pursuant to the provisions of section 405.

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

17 “(D) Funds allocated by the Secretary
18 under this paragraph shall only be used for rec-
19 lamation projects, including design, construc-
20 tion, and administration consistent with this
21 Act.

22 “(E) States or Indian tribes receiving
23 funds under this paragraph may, in addition to
24 the funds allocated pursuant to this paragraph,
25 use funding from any other source not other-

1 wise precluded by law in order to ensure the
2 reclamation or abatement of the hazards of a
3 particular abandoned mine site is achieved.

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

14 “(3) ADMINISTRATIVE GRANTS.—

15 “(A) Before funds are allocated pursuant
16 to paragraph (1) of this subsection, the Sec-
17 retary may, at his discretion, provide adminis-
18 trative grants of not more than \$10,000,000
19 annually to each State or Indian tribe with eli-
20 gible land and water and that is operating
21 under an approved abandoned mine reclamation
22 program.

23 “(B) Administrative grants provided under
24 this paragraph are intended to ensure the main-

1 tenance of approved reclamation programs, in-
2 cluding through—

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

5 “(ii) project planning and program
6 administration, including the preparation
7 of project applications pursuant to section
8 412.

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

15 “(4) EMERGENCY ABANDONED MINE LAND.—

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

22 “(B) In each fiscal year thereafter, before
23 funds are allocated pursuant to paragraph (1)
24 of this subsection, the Secretary shall allocate
25 the amount needed to ensure that \$20 million

1 is available from the fund for grants to States
2 and Indian tribes for carrying out the provi-
3 sions of section 410 relating to emergencies.

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

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

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

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

23 (1) by striking the portion of subsection (a) be-
24 fore the enumerated paragraphs and inserting:

1 “(a) Expenditure of moneys from the fund on lands
2 and water eligible pursuant to section 404 for the pur-
3 poses of this title shall reflect the following priorities in
4 the order stated:”; and

5 (2) by striking subsection (a)(1)(B)(ii) and in-
6 serting:

7 “(ii) are necessary to achieve the ob-
8 jectives of subparagraph (A);”;

9 (3) by striking subsection (a)(2)(B)(ii) and in-
10 serting:

11 “(ii) are necessary to achieve the ob-
12 jectives of subparagraph (A);”;

13 (4) by striking subsection (b); and

14 (5) by redesignating subsection (c) as sub-
15 section (b) and amending it to read as follows:

16 “(b) INVENTORY.—The Secretary shall maintain an
17 inventory of eligible lands and waters pursuant to section
18 404 which meet the priorities stated in paragraphs (1) and
19 (2) of subsection (a). Under standardized procedures es-
20 tablished by the Secretary, States and Indian tribes with
21 approved abandoned mine reclamation programs pursuant
22 to section 405 may offer amendments, subject to the ap-
23 proval of the Secretary, to update the inventory as it ap-
24 plies to eligible lands and waters under the jurisdiction
25 of such States or tribes. The Secretary shall provide such

1 States and tribes with the financial and technical assist-
2 ance necessary for the purpose of making inventory
3 amendments. The Secretary shall compile and maintain
4 an inventory for States and Indian lands in the case when
5 a State or Indian tribe does not have an approved aban-
6 doned mine reclamation program pursuant to section 405.
7 On a regular basis, but not less than annually, the projects
8 completed under this title shall be so noted on the inven-
9 tory under standardized procedures established by the
10 Secretary.”.

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

13 (1) in the first sentence by—

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

16 (B) striking “August 3, 1977” and insert-
17 ing “enactment of the Surface Mining Control,
18 Reclamation and Enforcement Act of 1977”;
19 and

20 (2) in the second sentence by striking “, section
21 403(b)(1), and section 409”.

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

24 (1) by striking subsection (b) and inserting:

1 “(b) SUBMISSION OF STATE OR TRIBAL RECLAMA-
2 TION PLAN.—If a State has within its borders, or an In-
3 dian tribe on its lands, any coal mined lands eligible for
4 reclamation under this title, it may submit to the Sec-
5 retary a State Reclamation Plan.”;

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

7 (3) in subsection (h), by striking “subsection
8 402(g)” and inserting “paragraph (2) of 402(g)”;
9 and

10 (4) by redesignating the subsections accord-
11 ingly.

12 (f) Sections 406 and 409 of SMCRA (30 U.S.C.
13 1236, 1239) are repealed.

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

19 (h) Section 411 of SMCRA (30 U.S.C. 1240a) is re-
20 pealed.

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

23 **“SEC. 412. APPLICATION FOR RECLAMATION FUNDS.**

24 “(a) TIMING OF APPLICATION.—At regular intervals,
25 but no less than annually, each State or Indian tribe with

1 an approved reclamation program under Section 405 may
2 submit to the Secretary an application for the administra-
3 tive support of the approved reclamation program, the im-
4 plementation of specific reclamation projects, or both.

5 “(b) CONTENTS OF APPLICATION FOR AN ADMINIS-
6 TRATIVE GRANT.—The application shall include—

7 “(1) a description of the program administra-
8 tive activities to be accomplished during the grant
9 period;

10 “(2) estimated costs of proposed activities; and

11 “(3) information and assessments dem-
12 onstrating that the amounts requested are necessary
13 to support specific reclamation objectives that will be
14 submitted to the Secretary or projects funded by
15 grants awarded prior to the date of enactment of
16 this Act.

17 “(c) CONTENTS OF APPLICATION FOR A RECLAMA-
18 TION GRANT.—The application shall include—

19 “(1) a general description of each proposed
20 project, including the type of reclamation to be per-
21 formed, the general location, and the name of the
22 landowner;

23 “(2) an explanation as to why the State or
24 Tribe selected each proposed project from among all
25 of the eligible lands and water in its jurisdiction, in-

1 including the extent of public involvement in the selec-
2 tion process, if any;

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

9 “(4) an estimated cost of each proposed project,
10 including the construction costs, operation and
11 maintenance costs of permanent facilities, planning
12 and engineering costs, construction inspection costs,
13 cost savings to the project as a result of partner-
14 ships, and any other necessary administrative ex-
15 penses;

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

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

22 “(d) TRANSITION.—

23 “(1) For fiscal year 2012, the Secretary shall
24 award reclamation project grants competitively
25 based on the proposals submitted in subsection (c).

1 “(2) In awarding the reclamation project grants
2 pursuant to paragraph (1), the Secretary shall con-
3 sider any financial, legal, and other commitments
4 made by the State or Indian tribe prior to the enact-
5 ment of this Act.”.

6 **Subtitle D—Administrative**
7 **Provisions**

8 **SEC. 641. EFFECTIVE DATE.**

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

11 **SEC. 642. FEES ADJUSTMENTS.**

12 (a) The Secretary shall adjust the fees required by
13 section 611 to reflect changes in the Consumer Price
14 Index published by the Bureau of Labor Statistics of the
15 Department of Labor every 5 years after the date of enact-
16 ment of this Act, or more frequently if the Secretary deter-
17 mines an adjustment to be reasonable.

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

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

1 **SEC. 643. INSPECTION AND MONITORING.**

2 (a) INSPECTIONS.—The Secretary shall make inspec-
3 tions of mineral activities so as to ensure compliance with
4 the requirements of this title.

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

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

15 (2) Administer oaths.

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

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

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

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

15 (d) ENTRY AND ACCESS.—Without advance notice
16 and upon presentation of appropriate credentials, the Sec-
17 retary or any authorized representative thereof—

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

22 (2) may at reasonable times, and without delay,
23 have access to records, inspect any monitoring
24 equipment, or review any method of operation re-
25 quired under this title;

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

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

16 **SEC. 644. REGULATIONS.**

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

1 **SEC. 645. AVAILABILITY OF PUBLIC RECORDS.**

2 Copies of records, reports, inspection materials, or in-
3 formation obtained by the Secretary or the Secretary of
4 Agriculture under this title shall be made immediately
5 available to the public, consistent with section 552 of title
6 5, United States Code, in central and sufficient locations
7 in the county, multicounty, and State area of mineral ac-
8 tivity or reclamation so that such items are conveniently
9 available to residents in the area proposed or approved for
10 mineral activities and on the Internet.

11 **TITLE VII—ADMINISTRATIVE**
12 **COST RECOVERY**

13 **SEC. 701. SHORT TITLE.**

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

17 **SEC. 702. MAKING PERMANENT NET RECEIPTS SHARING**
18 **FOR ENERGY MINERALS.**

19 Section 35(b) of the Mineral Leasing Act (30 U.S.C.
20 191(b)) is amended to read as follows:

21 “(b) DEDUCTION FOR ADMINISTRATIVE COSTS.—In
22 determining the amount of payments to the States under
23 this section, beginning in fiscal year 2013 and for each
24 year thereafter, the amount of such payments shall be re-
25 duced by 2 percent for any administrative or other costs
26 incurred by the United States in carrying out the program

- 1 authorized by this Act and that amount shall be deposited
- 2 to miscellaneous receipts in the Treasury.”.

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