

Union Calendar No. 185

103D CONGRESS
1ST SESSION

H. R. 322

[Report No. 103-338]

A BILL

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

NOVEMBER 9, 1993

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

Union Calendar No. 185

103^D CONGRESS
1ST SESSION

H. R. 322

[Report No. 103-338]

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

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

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

SEPTEMBER 9, 1993

Additional sponsors: Mr. MURPHY, Mr. DEFazio, Mr. GORDON, Mr. PORTER, Mr. BARLOW, Mr. MCCLOSKEY, Mr. RAVENEL, Mr. PRICE of North Carolina, Mr. REYNOLDS, Mr. EVANS, Mr. OLVER, Mr. PALLONE, Mr. SHAYS, Mr. STARK, Mr. REED, Mr. GILCHREST, Mr. FRANK of Massachusetts, Mr. FILNER, Mr. KLEIN, Ms. SLAUGHTER, Mr. WYNN, Mr. KREIDLER, Mr. MEEHAN, Mr. GONZALEZ, Mr. FOGLIETTA, Mr. BERMAN, Mr. DELLUMS, Ms. WOOLSEY, Ms. ROYBAL-ALLARD, Mr. JACOBS, Mr. YATES, Mr. LEWIS of Georgia, Mr. HILLIARD, and Mr. POSHARD

NOVEMBER 9, 1993

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

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

[For text of introduced bill, see copy of bill as introduced on January 5, 1993]

A BILL

To modify the requirements applicable to locatable minerals

on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes.

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

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

4 (a) *SHORT TITLE.*—*This Act may be cited as the*
 5 *“Mineral Exploration and Development Act of 1993”.*

6 (b) *TABLE OF CONTENTS.*—

Sec. 1. Short title; table of contents.

Sec. 2. Findings and purposes.

Sec. 3. Definitions and references.

TITLE I—MINERAL EXPLORATION AND DEVELOPMENT

Sec. 101. Lands open to location.

Sec. 102. Rights under this act.

Sec. 103. Location of mining claims.

Sec. 104. Conversion of existing claims.

Sec. 105. Claim maintenance requirements.

Sec. 106. Failure to comply.

Sec. 107. Basis for contest.

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

Sec. 201. Surface management standard.

Sec. 202. Permits.

Sec. 203. Exploration permits.

Sec. 204. Operations permit.

Sec. 205. Persons ineligible for permits.

Sec. 206. Financial assurance.

Sec. 207. Reclamation.

Sec. 208. State law and regulation.

Sec. 209. Unsuitability review.

Sec. 210. Certain mineral activities covered by other law.

*TITLE III—ABANDONED LOCATABLE MINERALS MINE
RECLAMATION FUND*

Sec. 301. Abandoned locatable minerals mine reclamation.

Sec. 302. Use and objectives of the fund.

Sec. 303. Eligible lands and waters.

Sec. 304. Fund expenditures.

Sec. 305. Authorization of appropriations.

Sec. 306. Royalty.

TITLE IV—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

SUBTITLE A—ADMINISTRATIVE PROVISIONS

- Sec. 401. Policy functions.
 Sec. 402. User fees.
 Sec. 403. Public participation requirements.
 Sec. 404. Inspection and monitoring.
 Sec. 405. Citizens suits.
 Sec. 406. Administrative and judicial review.
 Sec. 407. Enforcement.
 Sec. 408. Regulations; effective dates.

SUBTITLE B—MISCELLANEOUS PROVISIONS

- Sec. 411. Transitional rules; surface management requirements.
 Sec. 412. Claims subject to special rules.
 Sec. 413. Purchasing power adjustment.
 Sec. 414. Savings clause.
 Sec. 415. Availability of public records.
 Sec. 416. Miscellaneous powers.
 Sec. 417. Limitation on patent issuance.
 Sec. 418. Multiple mineral development and surface resources.
 Sec. 419. Mineral materials.
 Sec. 420. Application of Act to beneficiation and processing of nonFederal minerals on Federal lands.
 Sec. 421. Severability.

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

2 (a) *FINDINGS.*—Congress finds and declares the follow-
 3 *ing:*

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

8 (2) *Congress recognized that the public interest*
 9 *was no longer being advanced under the Mining Law*
 10 *of 1872 when, in 1920, it removed energy minerals*
 11 *and minerals chiefly valuable for agricultural use,*
 12 *and in 1955, removed common varieties of mineral*
 13 *materials, from the scope of the general mining laws*

1 *and made such minerals available under regimes*
2 *which provide for a financial return to the public for*
3 *the disposition of such minerals and which better*
4 *safeguard the environment.*

5 *(3) The Mining Law of 1872 no longer fosters*
6 *the efficient and diligent development of those mineral*
7 *resources still under its scope, giving rise to specula-*
8 *tion and nonmining uses of lands chiefly valuable for*
9 *minerals.*

10 *(4) The Mining Law of 1872 does not provide for*
11 *a financial return to the American people for use by*
12 *claim holders of public domain lands or for the dis-*
13 *position of valuable mineral resources from such*
14 *lands.*

15 *(5) The Mining Law of 1872 continues to trans-*
16 *fer lands valuable for mineral resources from the pub-*
17 *lic domain to private ownership for less than the fair*
18 *market value of such lands and mineral resources.*

19 *(6) There are a substantial number of acres of*
20 *land throughout the Nation disturbed by mining ac-*
21 *tivities conducted under the Mining Law of 1872 on*
22 *which little or no reclamation was conducted, and the*
23 *impacts from these unreclaimed lands pose a threat to*
24 *the public health, safety, and general welfare and to*
25 *environmental quality.*

1 (7) *Activities under the Mining Law of 1872*
2 *continue to result in disturbances of surface areas and*
3 *water resources which burden and adversely affect the*
4 *public welfare by destroying or diminishing the util-*
5 *ity of public domain lands for other appropriate uses*
6 *and by creating hazards dangerous to the public*
7 *health and safety and to the environment.*

8 (8) *Existing Federal law and regulations, as well*
9 *as applicable State laws, have proven to be inad-*
10 *equiate to ensure that active mining operations under*
11 *the Mining Law of 1872 will not leave to future gen-*
12 *erations a new legacy of hazards associated with*
13 *unreclaimed mined lands.*

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

20 (10) *The public is justified in expecting the dili-*
21 *gent development of its mineral resources, a financial*
22 *return for the use of public domain lands for mineral*
23 *activities as well as for the disposition of valuable*
24 *mineral resources from such lands.*

1 (11) *It is not in the public interest for public do-*
2 *main lands to be sold for below fair market value nor*
3 *does this aspect of the Mining Law of 1872 comport*
4 *with modern Federal land policy which is grounded*
5 *on the retention of public domain lands under the*
6 *principles of multiple use.*

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

14 (13) *Mining activities on public domain lands*
15 *affect interstate commerce, contribute to the economic*
16 *well-being, security and general welfare of the Nation*
17 *and should be conducted in an environmentally sound*
18 *manner.*

19 (14) *It is necessary that any revision of the gen-*
20 *eral mining laws insure that a domestic supply of*
21 *hardrock minerals be made available to the domestic*
22 *economy of the United States.*

23 (15) *America's economy still depends heavily on*
24 *hardrock minerals and a strong environmentally*

1 *sound mining industry is critical to the domestic*
2 *minerals supply.*

3 *(16) Many of the deposits of hardrock minerals*
4 *remain to be discovered on the Federal public do-*
5 *main.*

6 *(17) Private enterprise must be given adequate*
7 *incentive to engage in a capital-intensive industry*
8 *such as hardrock mining.*

9 *(18) The United States, as owner of the public*
10 *domain, has a dual interest in insuring a fair return*
11 *for mining on the public domain and insuring that*
12 *any royalty and fees charged do not discourage essen-*
13 *tial mining activity on the public domain.*

14 *(19) The domestic mining industry provides*
15 *thousands of jobs directly and indirectly to the domes-*
16 *tic economy and those jobs must be preserved and en-*
17 *couraged by a sound Federal policy regarding mining*
18 *on Federal lands.*

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

20 *(1) to devise a more socially, fiscally and envi-*
21 *ronmentally responsible regime to govern the use of*
22 *public domain lands for the exploration and develop-*
23 *ment of those minerals not subject to mineral leasing*
24 *acts or mineral materials statutes;*

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

4 (3) to foster the diligent development of mineral
5 resources on public domain lands in a manner that
6 is compatible with other resource values and environ-
7 mental quality;

8 (4) to promote the restoration of mined areas left
9 without adequate reclamation prior to the enactment
10 of this Act and which continue, in their unreclaimed
11 condition, to substantially degrade the quality of the
12 environment, prevent the beneficial use of land or
13 water resources, and endanger the health and safety
14 of the public;

15 (5) to assure that appropriate procedures are
16 provided for public participation in the development,
17 revision and enforcement of regulations, standards
18 and programs established under this Act; and

19 (6) to, whenever necessary, exercise the full reach
20 of Federal constitutional powers to ensure the protec-
21 tion of the public interest through the effective control
22 of mineral exploration and development activities.

23 **SEC. 3. DEFINITIONS AND REFERENCES.**

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

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

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

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

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

9 (2) *The term “applicant” means any person ap-*
10 *plying for a permit under this Act or a modification*
11 *to or a renewal of a permit under this Act.*

12 (3) *The term “beneficiation” means the crushing*
13 *and grinding of locatable mineral ore and such proc-*
14 *esses as are employed to free the mineral from other*
15 *constituents, including but not necessarily limited to,*
16 *physical and chemical separation techniques.*

17 (4) *The term “claim holder” means a person*
18 *holding a mining claim located or converted under*
19 *this Act. Such term may include an agent of a claim*
20 *holder.*

21 (5) *The term “control” means having the ability,*
22 *directly or indirectly, to determine (without regard to*
23 *whether exercised through one or more corporate*
24 *structures) the manner in which an entity conducts*
25 *mineral activities, through any means, including*

1 *without limitation, ownership interest, authority to*
2 *commit the entity's real or financial assets, position*
3 *as a director, officer, or partner of the entity, or con-*
4 *tractual arrangement. The Secretary and the Sec-*
5 *retary of Agriculture shall jointly promulgate such*
6 *rules as may be necessary under this paragraph.*

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

13 *(7) The term "Indian lands" means lands held*
14 *in trust for the benefit of an Indian tribe or individ-*
15 *ual or held by an Indian tribe or individual subject*
16 *to a restriction by the United States against alien-*
17 *ation.*

18 *(8) The term "Indian tribe" means any Indian*
19 *tribe, band, nation, pueblo, or other organized group*
20 *or community, including any Alaska Native village*
21 *or regional corporation as defined in or established*
22 *pursuant to the Alaska Native Claims Settlement Act*
23 *(43 U.S.C. 1601 et seq.), which is recognized as eligi-*
24 *ble for the special programs and services provided by*

1 *the United States to Indians because of their status*
2 *as Indians.*

3 *(9) The term “land use plans” means those plans*
4 *required under section 202 of the Federal Land Policy*
5 *and Management Act of 1976 (43 U.S.C. 1712) or the*
6 *land management plans for National Forest System*
7 *units required under section 6 of the Forest and*
8 *Rangeland Renewable Resources Planning Act of*
9 *1974 (16 U.S.C. 1604), whichever is applicable.*

10 *(10) The term “legal subdivisions” means an ali-*
11 *quot quarter quarter section of land as established by*
12 *the official records of the public land survey system,*
13 *or a single lot as established by the official records of*
14 *the public land survey system if the pertinent section*
15 *is irregular and contains fractional lots, as the case*
16 *may be.*

17 *(11)(A) The term “locatable mineral” means any*
18 *mineral, the legal and beneficial title to which re-*
19 *mains in the United States and which is not subject*
20 *to disposition under any of the following:*

21 *(i) The Mineral Leasing Act (30 U.S.C. 181*
22 *and following).*

23 *(ii) The Geothermal Steam Act of 1970 (30*
24 *U.S.C. 1001 and following).*

1 (iii) *The Act of July 31, 1947, commonly*
2 *known as the Materials Act of 1947 (30 U.S.C.*
3 *601 and following).*

4 (iv) *The Mineral Leasing for Acquired*
5 *Lands Act (30 U.S.C. 351 and following).*

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

14 (12) *The term “mineral activities” means any*
15 *activity for, related to, or incidental to, mineral ex-*
16 *ploration, mining, beneficiation, processing, or rec-*
17 *lamation activities for any locatable mineral.*

18 (13) *The term “mining” means the processes em-*
19 *ployed for the extraction of a locatable mineral from*
20 *the earth.*

21 (14) *The term “mining claim” means a claim*
22 *for the purposes of mineral activities.*

23 (15) *The term “National Conservation System*
24 *unit” means any unit of the National Park System,*
25 *National Wildlife Refuge System, National Wild and*

1 *Scenic Rivers System, National Trails System, or a*
2 *National Conservation Area, National Recreation*
3 *Area, a National Forest Monument or any unit of the*
4 *National Wilderness Preservation System.*

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

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

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

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

22 (20) *The term “surface management require-*
23 *ments” means the requirements and standards of title*
24 *II, and such other standards as are established by the*

1 *Secretary governing mineral activities pursuant to*
2 *this Act.*

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

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

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

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

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

20 (1) *such lands and interests were open to the lo-*
21 *cation of mining claims under the general mining*
22 *laws on the date of enactment of this Act; or*

23 (2) *such lands and interests are opened to the lo-*
24 *cation of mining claims after the date of enactment*

1 *of this Act by reason of any administrative action or*
2 *statute.*

3 *(b) LANDS NOT OPEN TO LOCATION.—*

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

9 *(A) Lands recommended for wilderness des-*
10 *ignation by the agency managing the surface,*
11 *pending a final determination by the Congress of*
12 *the status of such recommended lands.*

13 *(B) Lands being managed by the Secretary,*
14 *acting through Bureau of Land Management, as*
15 *wilderness study areas on the date of enactment*
16 *of this Act except where the location of mining*
17 *claims is specifically allowed to continue by the*
18 *statute designating the study area, pending a*
19 *final determination by the Congress of the status*
20 *of such lands.*

21 *(C)(i) Lands under study for inclusion in*
22 *the National Wild and Scenic River System pur-*
23 *suant to section 5(a) of the Wild and Scenic Riv-*
24 *ers Act (16 U.S.C. 1276(a)), pending a final de-*
25 *termination by the Congress of the status of such*

1 lands, and (ii) lands determined by a Federal
2 agency under section 5(d) of such Act to be eligi-
3 ble for inclusion in such system, pending a final
4 determination by the Congress of the status of
5 such lands.

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

8 (2) DEFINITION.—(A) As used in this subsection,
9 the term “valid existing rights” refers to a mining
10 claim located on lands described in paragraph (1) of
11 subsection (a) that—

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

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

18 (I) was supported by a discovery of a
19 valuable mineral deposit within the mean-
20 ing of the general mining laws on the appli-
21 cable date, and

22 (II) continues to be valid under this
23 Act.

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

1 (i) In the case of lands described in para-
2 graph (1)(A), such term means the date of the
3 recommendation referred to in paragraph (1)(A)
4 if such recommendation is made on or after the
5 enactment of this Act.

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

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

16 (iv) For lands referred to in paragraph
17 (1)(C)(i), such term means the date of the enact-
18 ment of the amendment to the Wild and Scenic
19 Rivers Act listing the river segment for study
20 and for lands referred to in paragraph
21 (1)(C)(ii), such term means the date of the eligi-
22 bility determination.

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

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

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

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

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

1 *mining claim for a locatable mineral on lands open to loca-*
2 *tion—*

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

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

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

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

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

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

23 *(B) The mining claim shall be monumented on*
24 *the ground by the erection of a suitable, durable*
25 *monument at each corner of the claim.*

1 (C) *The legal description of the mining claim*
2 *shall include a reference to any existing survey monu-*
3 *ment, or where no such monument can be found with-*
4 *in a reasonable distance, to a permanent and con-*
5 *spicuous natural object.*

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

8 (A) *The mining claim shall be a regular square,*
9 *with each side laid out in cardinal directions, 40*
10 *acres in size.*

11 (B) *The claim shall be monumented on the*
12 *ground by the erection of a suitable durable monu-*
13 *ment at each corner of the claim.*

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

24 (3) *In the case of a conflict between the boundaries*
25 *of a mining claim as monumented on the ground and the*

1 *description of such claim in the notice of location referred*
2 *to in subsection (a), the notice of location shall be deter-*
3 *minative, except where determined otherwise by the Sec-*
4 *retary.*

5 *(d) FILING WITH SECRETARY.—(1) Within 30 days*
6 *after the location of a mining claim pursuant to this sec-*
7 *tion, a copy of the notice of location referred to in subsection*
8 *(a) shall be filed with the Secretary in an office designated*
9 *by the Secretary.*

10 *(2)(A) Whenever the Secretary receives a copy of a no-*
11 *tice of location of a mining claim under this Act, the Sec-*
12 *retary shall assign a serial number to the mining claim,*
13 *and immediately return a copy of the notice of location to*
14 *the locator of the claim, together with a certificate setting*
15 *forth the serial number, a description of the claim, and the*
16 *claim maintenance requirements of section 105. The Sec-*
17 *retary shall enter the claim on the public land records.*

18 *(B) Return of the copy of the notice of location and*
19 *provision of the certificate under subparagraph (A) shall*
20 *not constitute a determination by the Secretary that a*
21 *claim is valid. Failure by the Secretary to provide such*
22 *copy and certificate shall not constitute a defense against*
23 *cancellation of a claim for failure to follow applicable re-*
24 *quirements of this Act.*

1 (3) *Notwithstanding any other provision of law, for*
2 *every unpatented mining claim located after the date of en-*
3 *actment of this Act, the locator shall, at the time the loca-*
4 *tion notice is recorded with the Bureau of Land Manage-*
5 *ment, pay a location fee of \$25.00 per claim. The location*
6 *fee shall be in addition to the claim maintenance fee pay-*
7 *able under section 105.*

8 (4) *Subsections (b) and (c) of section 314 of the Federal*
9 *Land Policy and Management Act of 1976 (43 U.S.C.*
10 *1744(b)) are repealed.*

11 (e) *CONVERTED CLAIMS.—For mining claims and mill*
12 *sites deemed converted under this Act, for the purposes of*
13 *complying with the requirements of subsection (d), upon re-*
14 *ceipt of the initial claim maintenance fee required under*
15 *section 105, the Secretary shall issue a certificate referenced*
16 *in subsection (d)(2) to the holder of the mining claim or*
17 *mill site.*

18 (f) *DATE OF LOCATION.—A mining claim located*
19 *under this Act shall be effective based upon the time of loca-*
20 *tion.*

21 (g) *LANDS COVERED BY CLAIM.—A mining claim lo-*
22 *cated or converted under this Act shall include all lands*
23 *and interests in lands open to location within the bound-*
24 *aries of the claim, subject to any prior mining claim located*
25 *or converted under this Act.*

1 (h) *CONFLICTING LOCATIONS.*—Any conflicts between
2 the holders of mining claims located or converted under this
3 Act relating to relative superiority under the provisions of
4 this Act may be resolved in adjudication proceedings in a
5 court with proper jurisdiction, including, as appropriate,
6 State courts. It shall be incumbent upon the holder of a
7 mining claim asserting superior rights in such proceedings
8 to demonstrate that such person was the senior locator, or
9 if such person is the junior locator, that prior to the location
10 of the claim by such locator—

11 (1) the senior locator failed to file a copy of the
12 notice of location within the time provided under sub-
13 section (d); or

14 (2) the amount of claim maintenance fee paid by
15 the senior locator at the time of filing the location no-
16 tice referred to in subsection (d) was less than the
17 amount required to be paid by such locator.

18 (i) *EXTENT OF MINERAL DEPOSIT.*—The boundaries
19 of a mining claim located under this Act shall extend verti-
20 cally downward.

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

22 (a) *EXISTING CLAIMS.*—Notwithstanding any other
23 provision of law, on the effective date of this Act any
24 unpatented mining claim for a locatable mineral located
25 under the general mining laws prior to the date of enact-

1 *ment of this Act shall become subject to this Act's provisions*
2 *and shall be deemed a converted mining claim under this*
3 *Act. Nothing in this Act shall be construed to affect*
4 *extralateral rights in any valid lode mining claim existing*
5 *on the date of enactment of this Act. After the effective date*
6 *of this Act, there shall be no distinction made as to whether*
7 *such claim was originally located as a lode or placer claim.*

8 *(b) MILL AND TUNNEL SITES.—On the effective date*
9 *of this Act, any unpatented mill or tunnel site located under*
10 *the general mining laws before the date of enactment of this*
11 *Act shall become subject to this Act's provisions and shall*
12 *be deemed a converted mining claim under this Act.*

13 *(c) POSTCONVERSION.—Any unpatented mining claim*
14 *or mill site located under the general mining laws shall be*
15 *deemed to be a prior claim for the purposes of section 103(g)*
16 *when converted pursuant to subsection (a) or (b).*

17 *(d) DISPOSITION OF LAND.—In the event a mining*
18 *claim is located under this Act for lands encumbered by*
19 *a prior mining claim or mill site located under the general*
20 *mining laws, such lands shall become part of the claim lo-*
21 *cated under this Act if the claim or mill site located under*
22 *the general mining laws is declared null and void under*
23 *this section or is otherwise declared null and void thereafter.*

24 *(e) CONFLICTS.—(1) Any conflicts in existence before*
25 *the effective date of this Act between holders of mining*

1 *claims, mill sites and tunnel sites located under the general*
2 *mining laws shall be subject to, and shall be resolved in*
3 *accordance with, applicable laws governing such conflicts*
4 *in effect before the effective date of enactment of this Act*
5 *in a court of proper jurisdiction.*

6 (2) *Any conflicts not relating to matters provided for*
7 *under section 103(h) between the holders of a mining claim*
8 *located under this Act and a mining claim, mill, or tunnel*
9 *site located under the general mining laws arising either*
10 *before or after the conversion of any such claim or site*
11 *under this section shall be resolved in a court with proper*
12 *jurisdiction.*

13 **SEC. 105. CLAIM MAINTENANCE REQUIREMENTS.**

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

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

20 (b) *TIME OF PAYMENT.*—*The claim maintenance fee*
21 *payable pursuant to subsection (a) for any year shall be*
22 *paid on or before August 31 of each year, except that in*
23 *the case of claims referred to in subsection (a)(2), for the*
24 *initial calendar year in which the location is made, the lo-*
25 *cator shall pay the initial claim maintenance fee at the*

1 *time the location notice is recorded with the Bureau of Land*
2 *Management.*

3 *(c) OIL SHALE CLAIMS SUBJECT TO CLAIM MAINTENANCE FEES UNDER ENERGY POLICY ACT OF 1992.—This*
4 *section shall not apply to any oil shale claims for which*
5 *a fee is required to be paid under section 2511(e)(2) of the*
6 *Energy Policy Act of 1992 (Public Law 102–486; 106 Stat.*
7 *3111; 30 U.S.C. 242).*

9 *(d) CLAIM MAINTENANCE FEES PAYABLE UNDER 1993*
10 *ACT.—The claim maintenance fees payable under this sec-*
11 *tion for any period with respect to any claim shall be re-*
12 *duced by the amount of the claim maintenance fees paid*
13 *under section 10101 of the Omnibus Budget Reconciliation*
14 *Act of 1993 with respect to that claim and with respect*
15 *to the same period.*

16 *(e) WAIVER.—(1) The claim maintenance fee required*
17 *under this section may be waived for a claim holder who*
18 *certifies in writing to the Secretary that on the date the*
19 *payment was due, the claim holder and all related parties*
20 *held not more than 10 mining claims on lands open to loca-*
21 *tion. Such certification shall be made on or before the date*
22 *on which payment is due.*

23 *(2) For purposes of paragraph (1), with respect to any*
24 *claim holder, the term “related party” means each of the*
25 *following:*

1 (A) *The spouse and dependent children (as de-*
2 *fin ed in section 152 of the Internal Revenue Code of*
3 *1986), of the claim holder.*

4 (B) *Any affiliate of the claim holder.*

5 (f) *CO-OWNERSHIP.—Upon the failure of any one or*
6 *more of several co-owners to contribute such co-owner or*
7 *owners' portion of the fee under this section, any co-owner*
8 *who has paid such fee may, after the payment due date,*
9 *give the delinquent co-owner or owners notice of such failure*
10 *in writing (or by publication in the newspaper nearest the*
11 *claim for at least once a week for at least 90 days). If at*
12 *the expiration of 90 days after such notice in writing or*
13 *by publication, any delinquent co-owner fails or refuses to*
14 *contribute his portion, his interest in the claim shall become*
15 *the property of the co-owners who have paid the required*
16 *fee.*

17 (g) *FUND.—All monies received under this section*
18 *shall be deposited in the Abandoned Locatable Minerals*
19 *Mine Reclamation Fund established under title III of this*
20 *Act.*

21 (h) *CREDIT AGAINST ROYALTY.—The amount of the*
22 *annual claim maintenance fee required to be paid under*
23 *this section for any claim for any period shall be credited*
24 *against the amount of royalty required to be paid under*
25 *section 306 for the same period with respect to that claim.*

1 **SEC. 106. FAILURE TO COMPLY.**

2 (a) *FORFEITURE.*—The failure of the claim holder to
3 file the notice of location, to pay the location fee, or to pay
4 the claim maintenance fee for a mining claim as required
5 by this title shall be deemed conclusively to constitute for-
6 feiture of the mining claim by operation of law. Forfeiture
7 shall not relieve any person of any obligation created under
8 this Act, including reclamation.

9 (b) *PROHIBITION.*—No claim holder may locate a new
10 claim on the lands such claim holder included in a forfeited
11 claim for 1 year from the date such claim is deemed for-
12 feited.

13 (c) *RELINQUISHMENT.*—A claim holder deciding not
14 to pursue mineral activities on a claim may relinquish such
15 claim by notifying the Secretary. A claim holder relin-
16 quishing a claim is responsible for reclamation as required by
17 section 207 of this Act and all other applicable require-
18 ments. A claim holder who relinquishes a claim shall not
19 be subject to the prohibition of subsection (b) of this section
20 unless the Secretary determines that the claim is being re-
21 linquished and relocated for the purpose of avoiding compli-
22 ance with any provision of this Act, including payment of
23 the claim maintenance fee.

24 **SEC. 107. BASIS FOR CONTEST.**

25 (a) *DISCOVERY.*—(1) After the effective date of this
26 Act, a mining claim may not be contested or challenged

1 *on the basis of discovery under the general mining laws,*
2 *except as follows:*

3 (A) *Any claim located before the effective date of*
4 *this Act may be contested by the United States on the*
5 *basis of discovery under the general mining laws as*
6 *in effect prior to the effective date of this Act if such*
7 *claim is located within any National Conservation*
8 *System unit, or within any area referred to in section*
9 *101(b).*

10 (B) *Any mining claim located before the effective*
11 *date of this Act may be contested by the United States*
12 *on the basis of discovery under the general mining*
13 *laws as in effect prior to the effective date of this Act*
14 *if such claim was located for a mineral material that*
15 *purportedly has a property giving it distinct and spe-*
16 *cial value within the meaning of section 3(a) of the*
17 *Act of July 23, 1955 (as in effect prior to the date*
18 *of enactment of this Act), or if such claim was located*
19 *for a mineral that was not locatable under the general*
20 *mining laws before the effective date of this Act.*

21 (2) *The Secretary may initiate contest proceedings*
22 *against those mining claims referred to in paragraph (1)*
23 *at any time, except that nothing in this subsection may*
24 *be construed as requiring the Secretary to inquire into, or*
25 *contest, the validity of a mining claim for the purpose of*

1 *the conversion referred to in section 104, except as provided*
2 *in section 412.*

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

7 (4) *Any contest proceeding initiated pursuant to para-*
8 *graph (1) shall determine whether the mining claim or*
9 *claims subject to such proceeding supported a discovery of*
10 *a valuable mineral deposit within the meaning of the gen-*
11 *eral mining laws on the effective date of this Act.*

12 (b) *CONTINUED SUFFICIENCY OF MINING CLAIM.—(1)*
13 *At any time, upon request of the Secretary, the claim holder*
14 *shall demonstrate that the continued retention of a mining*
15 *claim located or converted under this Act is exclusively re-*
16 *lated to mineral activities at the site.*

17 (2) *Where the Secretary requests demonstration of the*
18 *continuing sufficiency of any mining claim under this sec-*
19 *tion, the claim holder shall have the burden of showing each*
20 *of the following:*

21 (A) *The lands or interests in lands included in*
22 *the mining claim are not used predominantly for rec-*
23 *reational, residential or other purposes rather than*
24 *for mineral activities and are being held in good faith*
25 *for the ultimate exploration for, development of, or*

1 *production of locatable minerals, as demonstrated by*
2 *the claimholder or his or her assigns through*
3 *showings satisfactory to the Secretary.*

4 *(B) The claim holder or operator does not re-*
5 *strict access to the lands or interests in lands included*
6 *in the mining claim in a manner that is not required*
7 *for mineral activities.*

8 *(C) The mineral being or to be mined on the*
9 *mining claim is a locatable mineral (unless such*
10 *lands are used for beneficiation or processing).*

11 *(D) The claim holder or operator has not con-*
12 *structed, improved, maintained or used a structure lo-*
13 *cated on a mining claim in a manner not specifically*
14 *authorized by the Secretary in accordance with this*
15 *Act.*

16 *(3) Any mining claim for which the claim holder fails*
17 *to demonstrate continued sufficiency, in the determination*
18 *of the Secretary, pursuant to subsection (b) of this section,*
19 *shall thereupon be deemed forfeited and be declared null and*
20 *void.*

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

1 (2) Upon declaring a mining claim null and void pur-
2 suant to subsection (b), the Secretary shall provide a rea-
3 sonable opportunity for the mining claim holder or operator
4 to remove any real or personal property which such person
5 had previously placed upon the claim. If the property is
6 not removed within the time provided, the Secretary may
7 retain the property or provide for its disposition or destruc-
8 tion.

9 (d) OTHER LAW.—The Secretary shall take such ac-
10 tions as may be necessary to ensure the compliance by claim
11 holders with section 4 of the Act of July 23, 1955 (30 U.S.C.
12 612), consistent with this section.

13 **TITLE II—ENVIRONMENTAL CON-**
14 **SIDERATIONS OF MINERAL**
15 **EXPLORATION AND DEVELOP-**
16 **MENT**

17 **SEC. 201. SURFACE MANAGEMENT STANDARD.**

18 Notwithstanding the last sentence of section 302(b) of
19 the Federal Land Policy and Management Act of 1976, and
20 in accordance with this title and other applicable law, the
21 Secretary, and for National Forest System lands the Sec-
22 retary of Agriculture, shall require that mineral activities
23 on Federal lands conducted by any person minimize ad-
24 verse impacts to the environment.

1 **SEC. 202. PERMITS.**

2 (a) *PERMITS REQUIRED.*—No person may engage in
3 mineral activities on Federal lands that may cause a dis-
4 turbance of surface resources, including but not limited to,
5 land, air, ground water and surface water, fish, wildlife,
6 and biota unless—

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

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

11 (b) *NEGLIGIBLE DISTURBANCE.*—Notwithstanding
12 subsection (a)(2), a permit under this title shall not be re-
13 quired for mineral activities related to exploration, or gath-
14 ering of data, required to comply with section 203 or 204
15 that cause a negligible disturbance of surface resources and
16 do not involve any of the following:

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

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

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

23 Persons engaging in such activities shall provide prior writ-
24 ten notice. The Secretary and the Secretary of Agriculture
25 may provide, by joint regulations the manner in which such
26 notice shall be provided.

1 **SEC. 203. EXPLORATION PERMITS.**

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

10 (b) *PERMIT APPLICATION REQUIREMENTS.*—An appli-
11 *cation for an exploration permit under this section shall*
12 *be submitted in a manner satisfactory to the Secretary or,*
13 *for National Forest System lands, the Secretary of Agri-*
14 *culture, and shall contain an exploration plan, a reclama-*
15 *tion plan for the proposed exploration, such documentation*
16 *as necessary to ensure compliance with applicable Federal*
17 *and State environmental laws and regulations, and each*
18 *of the following:*

19 (1) *The name, mailing address, and social secu-*
20 *urity number or tax identification number, as applica-*
21 *ble, of each of the following:*

22 (A) *The applicant for the permit and any*
23 *agent of the applicant.*

24 (B) *The operator (if different than the ap-*
25 *plicant) of the claim concerned.*

1 (C) Each claim holder (if different than the
2 applicant) of the claim concerned.

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

10 (A) Any provision of this Act or any regu-
11 lation under this Act.

12 (B) Any applicable solid waste, air or
13 water quality law or regulation at any site
14 where mining, beneficiation, or processing activi-
15 ties are occurring or have occurred.

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

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

1 (4) *The anticipated starting and termination*
2 *dates of each phase of the exploration activities pro-*
3 *posed, including any planned temporary cessation of*
4 *exploration.*

5 (5) *A map, to an appropriate scale, clearly*
6 *showing the land to be affected by the proposed explo-*
7 *ration.*

8 (6) *Information determined necessary by the Sec-*
9 *retary concerned to assess the cumulative impacts, as*
10 *may be required to comply with the National Envi-*
11 *ronmental Policy Act.*

12 (7) *Evidence of appropriate financial assurance*
13 *as specified in section 206.*

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

19 (1) *A description of the condition of the land*
20 *subject to the permit prior to the commencement of*
21 *any exploration activities.*

22 (2) *A description of reclamation measures pro-*
23 *posed pursuant to the requirements of section 207.*

24 (3) *The engineering techniques to be used in rec-*
25 *lamation and the equipment proposed to be used.*

1 (4) *The anticipated starting and termination*
2 *dates of each phase of the reclamation proposed.*

3 (5) *A description of the proposed condition of the*
4 *land following the completion of reclamation.*

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

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

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

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

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

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

9 (6) *The applicant has fully complied with the re-*
10 *quirements of section 206 (relating to financial assur-*
11 *ance).*

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

16 (f) *PERMIT MODIFICATION.—During the term of an ex-*
17 *ploration permit the permit holder may submit an applica-*
18 *tion to modify the permit. To approve a proposed modifica-*
19 *tion to the permit, the Secretary concerned shall make the*
20 *same determinations as are required in the case of an origi-*
21 *nal permit, except that the Secretary and the Secretary of*
22 *Agriculture may specify by joint rule the extent to which*
23 *requirements for initial exploration permits under this sec-*
24 *tion shall apply to applications to modify an exploration*

1 *permit based on whether such modifications are deemed sig-*
2 *nificant or minor.*

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

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

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

23 (A) *is eligible to receive a permit in accordance*
24 *with section 205;*

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

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

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

11 (4) Each application for approval of a permit transfer,
12 assignment, or sale pursuant to this subsection shall be ac-
13 companied by a fee payable to the Secretary of the Interior
14 in such amount as may be established by such Secretary.
15 Such amount shall be equal to the actual or anticipated
16 cost to the Secretary or the Secretary of Agriculture, as ap-
17 propriate, of reviewing and approving or disapproving such
18 transfer, assignment, or sale, as determined by the Sec-
19 retary of the Interior. All moneys received under this sub-
20 section shall be deposited in the Abandoned Locatable Min-
21 erals Mine Reclamation Fund established under title III of
22 this Act.

23 **SEC. 204. OPERATIONS PERMIT.**

24 (a) OPERATIONS PERMIT.—Any claim holder may
25 apply to the Secretary, or for National Forest System lands,

1 *the Secretary of Agriculture, for an operations permit au-*
2 *thorizing the claim holder to carry out mineral activities*
3 *on Federal lands. The permit shall include such terms and*
4 *conditions as prescribed by such Secretary to carry out this*
5 *title.*

6 *(b) PERMIT APPLICATION REQUIREMENTS.—An appli-*
7 *cation for an operations permit under this section shall be*
8 *submitted in a manner satisfactory to the Secretary con-*
9 *cerned and shall contain an operations plan, a reclamation*
10 *plan, such documentation as necessary to ensure compliance*
11 *with applicable Federal and State environmental laws and*
12 *regulations, and each of the following:*

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

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

18 *(B) The operator (if different than the ap-*
19 *plicant) at the claim concerned.*

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

22 *(D) Each affiliate and each officer or direc-*
23 *tor of the applicant.*

24 *(2) A statement of whether a person referred to*
25 *in subparagraphs (A) through (D) of paragraph (1)*

1 *is currently in violation of, or was, during the 3-year*
2 *period preceding the date of application, found to be*
3 *in violation of, any of the following and if so, a brief*
4 *explanation of the facts involved, including identifica-*
5 *tion of the site and the nature of the violation:*

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

8 (B) *Any applicable solid waste, air or*
9 *water quality law or and regulation at any site*
10 *where mining, beneficiation, or processing activi-*
11 *ties are occurring or have occurred.*

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

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

21 (4) *A description of the type and method of min-*
22 *eral activities proposed, the engineering techniques*
23 *proposed to be used and the equipment proposed to be*
24 *used.*

1 (5) *The anticipated starting and termination*
2 *dates of each phase of the mineral activities proposed,*
3 *including any planned temporary cessation of oper-*
4 *ations.*

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

12 (7) *A description of the biological resources in or*
13 *associated with the area subject to mineral activities,*
14 *including vegetation, fish and wildlife, riparian and*
15 *wetland habitats.*

16 (8) *A description of measures planned to exclude*
17 *fish and wildlife resources from the area subject to*
18 *mineral activities by covering, containment, or fenc-*
19 *ing of open waters, beneficiation, and processing ma-*
20 *terials; or maintenance of all facilities in a condition*
21 *that is not harmful to fish and wildlife.*

22 (9) *A description of the quantity and quality of*
23 *surface and ground water resources in or associated*
24 *with the area subject to mineral activities, based on*

1 *pre-disturbance monitoring sufficient to establish sea-*
2 *sonal variations.*

3 (10) *An analysis of the probable hydrologic con-*
4 *sequences of the mineral activities, both on and off the*
5 *area subject to mineral activities, with respect to the*
6 *hydrologic regime, quantity and quality of water in*
7 *surface and ground water systems including the dis-*
8 *solved and suspended solids under seasonal flow con-*
9 *ditions and the collection of sufficient data for the*
10 *mine site and surrounding areas so that an assess-*
11 *ment can be made by the Secretary concerned of the*
12 *probable cumulative impacts of the anticipated min-*
13 *eral activities in the area upon the hydrology of the*
14 *area and particularly upon water availability.*

15 (11) *A description of the monitoring systems to*
16 *be used to detect and determine whether compliance*
17 *has and is occurring consistent with the surface man-*
18 *agement requirements and to monitor the effects of*
19 *mineral activities on the site and surrounding envi-*
20 *ronment, including but not limited to, ground water,*
21 *surface water, air and soils.*

22 (12) *Accident contingency plans that include,*
23 *but are not limited to, immediate response strategies*
24 *and corrective measures to mitigate environmental*

1 *impacts and appropriate insurance to cover accident*
2 *contingencies.*

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

7 (14) *Information determined necessary by the*
8 *Secretary concerned to assess the cumulative impacts*
9 *of mineral activities, as may be required to comply*
10 *with the National Environmental Policy Act.*

11 (15) *Such other environmental baseline data as*
12 *the Secretaries, by joint regulation, shall require suffi-*
13 *cient to validate the determinations required for issu-*
14 *ance of a permit under this Act.*

15 (16) *Evidence of appropriate financial assurance*
16 *as specified in section 206.*

17 (17) *A description of the site security provisions*
18 *designed to protect from theft the locatable minerals,*
19 *concentrates or products derived therefrom which will*
20 *be produced or stored on a mining claim.*

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

23 (19) *A copy of the applicant's advertisement to*
24 *be published as required by section 403 (relating to*
25 *public participation).*

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

6 (1) *A description of the condition of the land*
7 *subject to the permit prior to the commencement of*
8 *any mineral activities.*

9 (2) *A description of reclamation measures pro-*
10 *posed pursuant to the requirements of section 207.*

11 (3) *The engineering techniques to be used in rec-*
12 *lamation and the equipment proposed to be used.*

13 (4) *The anticipated starting and termination*
14 *dates of each phase of the reclamation proposed.*

15 (5) *A description of the proposed condition of the*
16 *land following the completion of reclamation.*

17 (6) *A description of the maintenance measures*
18 *that will be necessary to meet the surface management*
19 *requirements of this Act, such as, but not limited to,*
20 *drainage water treatment facilities, or liner mainte-*
21 *nance and control.*

22 (7) *The consideration which has been given to*
23 *making the condition of the land after the completion*
24 *of mineral activities and final reclamation consistent*
25 *with the applicable land use plan.*

1 (d) *PERMIT ISSUANCE OR DENIAL.*—(1) *After provid-*
2 *ing notice and opportunity for public comment and hear-*
3 *ing, the Secretary, or for National Forest System lands the*
4 *Secretary of Agriculture, shall issue an operations permit*
5 *if such Secretary makes each of the following determina-*
6 *tions in writing, and such Secretary shall deny a permit*
7 *which he or she finds does not fully meet the requirements*
8 *of this paragraph:*

9 (A) *The permit application, operations plan,*
10 *and reclamation plan are complete and accurate.*

11 (B) *The applicant has demonstrated that the*
12 *proposed reclamation in the reclamation plan can be*
13 *accomplished.*

14 (C) *The proposed mineral activities and condi-*
15 *tion of the land after the completion of mineral ac-*
16 *tivities and final reclamation conform to the land use*
17 *plan applicable to the area subject to mineral activi-*
18 *ties.*

19 (D) *The area subject to the proposed plan is not*
20 *included within an area designated unsuitable or not*
21 *open to location for the types of mineral activities*
22 *proposed.*

23 (E) *The applicant has demonstrated that the*
24 *mineral activities will be in compliance with this Act*
25 *and all other applicable Federal requirements, and*

1 *any State requirements agreed to by the appropriate*
2 *Secretary pursuant to cooperative agreements under*
3 *section 208.*

4 *(F) The assessment of the probable cumulative*
5 *impact of all anticipated mining in the area on the*
6 *hydrologic balance specified in subsection (b)(10) has*
7 *been made and the proposed operation has been de-*
8 *signed to minimize disturbances to the prevailing hy-*
9 *drologic balance of the permit area.*

10 *(G) The applicant has fully complied with the*
11 *requirements of section 206 (relating to financial as-*
12 *urance).*

13 *(2) Issuance of an operations permit under this section*
14 *shall be based on information supplied by the applicant and*
15 *the applicant shall have the burden of establishing that the*
16 *application complies with paragraph (1).*

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

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

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

12 (A) *The terms and conditions of the existing per-*
13 *mit are not being met.*

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

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

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

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

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

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

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

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

24 *(2) An application for approval of temporary cessation*
25 *of operations shall include such provisions as prescribed by*

1 *the Secretary concerned, including but not limited to the*
2 *steps that shall be taken during the cessation of operations*
3 *period to minimize impacts on the environment. After re-*
4 *ceipt of a complete application for temporary cessation of*
5 *operations such Secretary shall conduct an inspection of the*
6 *area for which temporary cessation of operations has been*
7 *requested.*

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

11 (A) *A determination that the methods for secur-*
12 *ing surface facilities and restricting access to the per-*
13 *mit area, or relevant portions thereof, will effectively*
14 *ensure against hazards to the health and safety of the*
15 *public and fish and wildlife.*

16 (B) *A determination that reclamation is in com-*
17 *pliance with the approved reclamation plan, except in*
18 *those areas specifically designated in the application*
19 *for temporary cessation of operations for which a*
20 *delay in meeting such standards is necessary to facili-*
21 *tate the resumption of operations.*

22 (C) *A determination that the amount of finan-*
23 *cial assurance filed with the permit application is*
24 *sufficient to assure completion of the reclamation ac-*

1 *tivities identified in the approved reclamation plan*
2 *in the event of forfeiture.*

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

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

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

1 *ceived under this subsection shall be deposited in the Aban-*
2 *doned Locatable Minerals Mine Reclamation Fund estab-*
3 *lished under title III of this Act.*

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

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

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

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

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

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

20 *(3) The successor in interest shall assume the liability*
21 *and reclamation responsibilities established by the existing*
22 *permit and shall conduct the mineral activities in full com-*
23 *pliance with this Act, and the terms and conditions of the*
24 *permit as in effect at the time of transfer, assignment, or*
25 *sale.*

1 (4) *Each application for approval of a permit transfer,*
2 *assignment, or sale pursuant to this subsection shall be ac-*
3 *companied by a fee payable to the Secretary of the Interior*
4 *in such amount as may be established by such Secretary.*
5 *Such amount shall be equal to the actual or anticipated*
6 *cost to the Secretary or the Secretary of Agriculture of re-*
7 *viewing and approving or disapproving such transfer, as-*
8 *ignment, or sale, as determined by the Secretary of the In-*
9 *terior. All moneys received under this subsection shall be*
10 *deposited in the Abandoned Locatable Minerals Mine Rec-*
11 *lamation Fund established under title III of this Act.*

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

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

22 (1) *A provision of this Act or any regulation*
23 *under this Act.*

24 (2) *An applicable solid waste, air, or water qual-*
25 *ity law or regulation at any site where mining,*

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

3 *(3) The Surface Mining Control and Reclama-*
4 *tion Act of 1977 (30 U.S.C. 1201 and following) or*
5 *any regulation implementing that Act at any site*
6 *where surface coal mining operations have occurred*
7 *or are occurring.*

8 *(b) SUSPENSION.—The Secretary, or for National For-*
9 *est System lands the Secretary of Agriculture, shall suspend*
10 *an exploration permit or an operations permit, in whole*
11 *or in part, if such Secretary determines that any of the*
12 *entities described in subsection (a) were in violation of any*
13 *requirement listed in subsection (a) at the time the permit*
14 *was issued.*

15 *(c) CORRECTION.—(1) The Secretary, or for National*
16 *Forest System lands the Secretary of Agriculture, may issue*
17 *or reinstate a permit under this title if the applicant sub-*
18 *mits proof that the violation referred to in subsection (a)*
19 *or (b) has been corrected or is in the process of being cor-*
20 *rected to the satisfaction of such Secretary or if the appli-*
21 *cant submits proof that the violator has filed and is pres-*
22 *ently pursuing, a direct administrative or judicial appeal*
23 *to contest the existence of the violation. For purposes of this*
24 *section, an appeal of any applicant's relationship to an af-*

1 *filiate shall not constitute a direct administrative or judi-*
2 *cial appeal to contest the existence of the violation.*

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

9 (d) *PATTERN OF WILLFUL VIOLATIONS.—No permit*
10 *under this Act may be issued to any applicant if there is*
11 *a demonstrated pattern of willful violations of the surface*
12 *management requirements of this Act by the applicant, any*
13 *affiliate of the applicant, or the operator or claim holder*
14 *if different than the applicant, and such violations are of*
15 *such nature and duration, and with such resulting irrep-*
16 *arable damage to the environment, as to clearly indicate*
17 *an intent not to comply with the surface management re-*
18 *quirements.*

19 **SEC. 206. FINANCIAL ASSURANCE.**

20 (a) *FINANCIAL ASSURANCE REQUIRED.—(1) Before*
21 *any permit is issued under this title, the operator shall file*
22 *with the Secretary, or for National Forest System lands the*
23 *Secretary of Agriculture, evidence of financial assurance*
24 *payable to the United States on a form prescribed and fur-*
25 *nished by such Secretary and conditional upon faithful per-*

1 *formance of such permit and all other requirements of this*
2 *Act. The financial assurance shall be provided in the form*
3 *of a surety bond, trust fund, letters of credits, government*
4 *securities, cash or equivalent.*

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

12 *(b) AMOUNT.—The amount of the financial assurance*
13 *required under this section shall be sufficient to assure the*
14 *completion of reclamation satisfying the requirements of*
15 *this Act if the work were to be performed by the Secretary*
16 *concerned in the event of forfeiture. The calculation of such*
17 *amount shall take into account the maximum level of finan-*
18 *cial exposure which shall arise during the mineral activity.*

19 *(c) DURATION.—The financial assurance required*
20 *under this section shall be held for the duration of the min-*
21 *eral activities and for an additional period to cover the op-*
22 *erator's responsibility for revegetation as specified under*
23 *subsection 207(b)(6)(B), and effluent treatment as specified*
24 *in subsection (g).*

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

11 (e) *RELEASE.*—*Upon request, and after notice and op-*
12 *portunity for public comment, and after inspection by the*
13 *Secretary, or for National Forest System lands the Sec-*
14 *retary of Agriculture, such Secretary may release in whole*
15 *or in part the financial assurance required under this sec-*
16 *tion if the Secretary makes both of the following determina-*
17 *tions:*

18 (1) *A determination that reclamation covered by*
19 *the financial assurance has been accomplished as re-*
20 *quired by this Act.*

21 (2) *A determination that the operator has de-*
22 *clared that the terms and conditions of any other ap-*
23 *plicable Federal requirements, and State requirements*
24 *applicable pursuant to cooperative agreements under*
25 *section 208, have been fulfilled.*

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

3 (1) After the operator has completed any re-
4 quired backfilling, regrading and drainage control of
5 an area subject to mineral activities and covered by
6 the financial assurance, and has commenced
7 revegetation on the regraded areas subject to mineral
8 activities in accordance with the approved plan, that
9 portion of the total financial assurance secured for the
10 area subject to mineral activities attributable to the
11 completed activities may be released.

12 (2) After the operator has completed successfully
13 all remaining mineral activities and reclamation ac-
14 tivities and all requirements of the operations plan
15 and the reclamation plan (including the provisions of
16 section 207(b)(6)(B) relating to revegetation and ef-
17 fluent treatment required by subsection (g)), and all
18 other requirements of this Act have in fact been fully
19 met, the remaining portion of the financial assurance
20 may be released.

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

1 (g) *EFFLUENT*.—Where any discharge resulting from
2 the mineral activities requires treatment in order to meet
3 the applicable effluent limitations, the financial assurance
4 shall includes the estimated cost of maintaining such treat-
5 ment for the projected period that will be needed after the
6 cessation of mineral activities. The portion of the financial
7 assurance attributable to such estimated cost of treatment
8 shall not be released until the discharge has ceased, or, if
9 the discharge continues, until the operator has met all ap-
10 plicable effluent limitations and water quality standards
11 for 5 full years without treatment.

12 (h) *ENVIRONMENTAL HAZARDS*.—If the Secretary, or
13 for National Forest System lands the Secretary of Agri-
14 culture, determines, after final release of financial assur-
15 ance, that an environmental hazard resulting from the min-
16 eral activities exists, or the terms and conditions of the op-
17 erations permit of this Act were not fulfilled in fact at the
18 time of release, such Secretary shall issue an order under
19 section 407 requiring the claimholder or operator (or any
20 person who controls the claimholder or operator) to correct
21 the condition.

22 **SEC. 207. RECLAMATION.**

23 (a) *GENERAL RULE*.—(1) Except as provided under
24 paragraphs (5) and (7) of subsection (b), the operator shall
25 restore lands subject to mineral activities carried out under

1 *a permit issued under this title to a condition capable of*
2 *supporting—*

3 *(A) the uses to which such lands were capable of*
4 *supporting prior to surface disturbance by the opera-*
5 *tor, or*

6 *(B) other beneficial uses which conform to appli-*
7 *cable land use plans as determined by the Secretary*
8 *or for National Forest System lands, the Secretary of*
9 *Agriculture.*

10 *(2) Reclamation shall proceed as contemporaneously*
11 *as practicable with the conduct of mineral activities and*
12 *shall use, with respect to this subsection and subsection (b),*
13 *the best technology currently available.*

14 *(b) RECLAMATION STANDARDS.—Mineral activities*
15 *shall be conducted in accordance with the following stand-*
16 *ards; as well as any additional standards the Secretaries*
17 *may jointly promulgate under section 201 and subsection*
18 *(a) of this section to address specific environmental impacts*
19 *of selected methods of mining:*

20 *(1) SOILS.—(A) Soils, including top soils and*
21 *subsoils removed from lands subject to mineral activi-*
22 *ties shall be segregated from waste material and pro-*
23 *ected for later use in reclamation. If such soil is not*
24 *replaced on a backfill area within a time-frame short*
25 *enough to avoid deterioration of the topsoil, vegetative*

1 *cover or other means shall be used so that the soil is*
2 *preserved from wind and water erosion, remains free*
3 *of contamination by acid or other toxic material, and*
4 *is in a usable condition for sustaining vegetation*
5 *when restored during reclamation.*

6 *(B) In the event the topsoil from lands subject to*
7 *mineral activities is of insufficient quantity or of in-*
8 *ferior quality for sustaining vegetation, and other*
9 *suitable growth media removed from the lands subject*
10 *to the mineral activities are available that shall sup-*
11 *port vegetation, the best available growth medium*
12 *shall be removed, segregated and preserved in a like*
13 *manner as under subparagraph (A) for sustaining*
14 *vegetation when restored during reclamation.*

15 *(C) In the event the soil (other than topsoil) from*
16 *lands subject to mineral activities is of insufficient*
17 *quantity or of inferior quality for sustaining vegeta-*
18 *tion, and other suitable growth media removed from*
19 *the lands subject to the mineral activities are avail-*
20 *able that support revegetation, these substitute mate-*
21 *rials shall be removed, segregated or preserved in a*
22 *like manner as under subparagraph (A) for later use*
23 *in reclamation.*

24 *(D) Mineral activities shall be conducted to pre-*
25 *vent contamination of soils to the extent possible*

1 *using the best technology currently available. If con-*
2 *tamination occurs, the operator shall decontaminate*
3 *or dispose of any contaminated soils which have re-*
4 *sulted from the mineral activities.*

5 (2) *STABILIZATION.*—*All surface areas subject to*
6 *mineral activities, including segregated soils or other*
7 *growth medium, waste material piles, ore piles,*
8 *subgrade ore piles, and open or partially backfilled*
9 *mine pits which meet the requirements of paragraph*
10 *(5) shall be stabilized and protected during mineral*
11 *activities so as to effectively control fugitive dust and*
12 *erosion and minimize attendant air and water pollu-*
13 *tion.*

14 (3) *SEDIMENTS, EROSION, AND DRAINAGE.*—*Fa-*
15 *cilities such as but not limited to basins, ditches,*
16 *stream bank stabilization, diversions or other meas-*
17 *ures, shall be designed, constructed and maintained*
18 *where necessary to control sediments, erosion, and*
19 *drainage of the area subject to mineral activities.*

20 (4) *HYDROLOGIC BALANCE.*—*(A) Mineral activi-*
21 *ties shall be conducted to minimize disturbances to*
22 *the prevailing hydrologic balance of the permit area*
23 *and surrounding watershed existing prior to the min-*
24 *eral activities in the permit area and in the sur-*
25 *rounding watershed, as established by the baseline in-*

1 *formation provided pursuant to section 204(b)(10).*
2 *Hydrologic balance includes the quality and quantity*
3 *of ground water and surface water and their inter-*
4 *relationships, including recharge and discharge rates.*
5 *In all cases, the operator shall comply with Federal*
6 *and State laws related to the quality and quantity of*
7 *such waters.*

8 *(B) Mineral activities shall be conducted using*
9 *the technology standard referred to in subsection*
10 *(a)(2) to prevent where possible the formation of acid-*
11 *ic, toxic or other contaminated water. Where the for-*
12 *mation of acidic, toxic or other contaminated water*
13 *occurs despite the use of such technology standard,*
14 *mineral activities shall be conducted using such tech-*
15 *nology so as to minimize the formation of acidic,*
16 *toxic or other contaminated water.*

17 *(C) Mineral activities shall prevent any con-*
18 *tamination of surface and ground water with acid or*
19 *other toxic mine pollutants and shall prevent or re-*
20 *move water from contact with acid or toxic producing*
21 *deposits.*

22 *(D) Reclamation shall restore approximate hy-*
23 *drologic balance existing prior to the mineral activi-*
24 *ties.*

1 (E) Where the quality of surface water or ground
2 water used for domestic, municipal, agricultural, or
3 industrial purposes is adversely impacted by mineral
4 activities, such water shall be treated, or replaced
5 with the same quantity and approximate quality of
6 water, comparable to premining conditions as estab-
7 lished in paragraph (10) of section 204(b).

8 (5) SURFACE RESTORATION.—(A) Except as pro-
9 vided in paragraph (7), the surface area disturbed by
10 mineral activities shall be revegetated and shaped,
11 graded, and contoured to the extent practicable to
12 blend with the surrounding topography. Backfilling of
13 an open pit mine shall be required only if the Sec-
14 retary, or for National Forest System lands the Sec-
15 retary of Agriculture, finds that such open pit or par-
16 tially backfilled, graded, or contoured pit would pose
17 a significant threat to the public health safety or have
18 a significant adverse effect on the environment in
19 terms of surface water or groundwater pollution.

20 (B) In instances where complete backfilling of an
21 open pit is not required, the pit shall be graded to
22 blend with the surrounding topography as much as
23 practicable and revegetated in accordance with para-
24 graph (6).

1 (6) *VEGETATION.—(A) The area subject to min-*
2 *eral activities shall be vegetated in order to establish*
3 *a diverse, effective and permanent vegetative cover of*
4 *the same seasonal variety native to the area subject*
5 *to mineral activities, capable of self-regeneration and*
6 *plant succession and at least equal in extent of cover*
7 *to the natural revegetation of the surrounding area,*
8 *except that introduced species may be used at the dis-*
9 *cretion of the Secretary, or for National Forest Sys-*
10 *tem lands the Secretary of Agriculture, if such intro-*
11 *duction of such species is consistent with subsection*
12 *(a). In such instances where the complete backfill of*
13 *an open mine pit is not required under paragraph*
14 *(5), such Secretary shall prescribe such vegetation re-*
15 *quirements as conform to the applicable land use*
16 *plan.*

17 *(B) In order to insure compliance with subpara-*
18 *graph (A), the period for determining successful*
19 *revegetation shall be for a period of 5 full years after*
20 *the last year of augmented seeding, fertilizing, irriga-*
21 *tion or other work, except that such period shall be*
22 *10 full years where the annual average precipitation*
23 *is 26 inches or less. The period may be for a longer*
24 *time at the discretion of the Secretary concerned*
25 *where the average precipitation is 26 inches or less.*

1 (7) *EXCESS WASTE.*—(A) *Waste material in ex-*
2 *cess of that required to comply with paragraph (5)*
3 *shall be transported and placed in approved areas, in*
4 *a controlled manner in such a way so as to assure*
5 *long-term mass stability, to prevent mass movement*
6 *and to facilitate reclamation. In addition to the*
7 *measures described under paragraph (3), internal*
8 *drainage systems shall be employed, as may be re-*
9 *quired, to control erosion and drainage. The design of*
10 *such excess waste material piles shall be certified by*
11 *a qualified professional engineer.*

12 (B) *Excess waste material piles shall be graded*
13 *and contoured to blend with the surrounding topog-*
14 *raphy as much as practicable and revegetated in ac-*
15 *cordance with paragraph (6).*

16 (8) *SEALING.*—*All drill holes, and openings on*
17 *the surface associated with underground mineral ac-*
18 *tivities, shall be backfilled, sealed or otherwise con-*
19 *trolled when no longer needed for the conduct of min-*
20 *eral activities to ensure protection of the public and*
21 *the environment, and management of fish and wild-*
22 *life and livestock.*

23 (9) *STRUCTURES.*—*All buildings, structures or*
24 *equipment constructed, used or improved during min-*
25 *eral activities shall be removed, unless the Secretary*

1 *concerned in consultation with the affected land man-*
2 *aging agency, determines that use of the buildings,*
3 *structures or equipment would be consistent with sub-*
4 *section (a) or for environmental monitoring and the*
5 *Secretary concerned takes ownership of such struc-*
6 *tures.*

7 (10) *FISH AND WILDLIFE.*—*Fish and wildlife*
8 *habitat in areas subject to mineral activities shall be*
9 *restored in a manner commensurate with or superior*
10 *to habitat conditions which existed prior to the min-*
11 *eral activities, including such conditions as may be*
12 *prescribed by the Director, Fish and Wildlife Service.*

13 (c) *APPLICATION OF RECLAMATION STANDARDS TO*
14 *EXPLORATION.*—*The provisions of this section shall apply*
15 *to mineral exploration pursuant to a permit under this Act,*
16 *except that paragraphs (5) and (6) of subsection (b) shall*
17 *not apply during any interim periods between completion*
18 *of the approved exploration and the commencement of fur-*
19 *ther mineral activities, not to exceed 2 years, if the operator*
20 *maintains a sufficient financial assurance to reclaim the*
21 *disturbed surface should further mineral activities not be*
22 *authorized. The Secretary concerned shall prescribe stand-*
23 *ards for interim stabilization and revegetation.*

24 (d) *SPECIAL RULE.*—*A modified reclamation plan*
25 *shall not be required for mineral activities related to rec-*

1 *lamation where a mining claim is forfeited, relinquished*
2 *or lapsed, or a plan is revoked or suspended or has expired*
3 *in any such case. Reclamation activities shall continue only*
4 *as approved by the Secretary, or for National Forest System*
5 *lands the Secretary of Agriculture, pursuant to the pre-*
6 *viously approved reclamation plan.*

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

8 *(1) The term “best technology currently avail-*
9 *able” means equipment, devices, systems, methods, or*
10 *techniques which have demonstrated engineering and*
11 *economic feasibility, success and practicality. Within*
12 *the constraints of the surface management require-*
13 *ments of this Act, the Secretary, or for National For-*
14 *est System lands the Secretary of Agriculture, shall*
15 *have the discretion to determine the best technology*
16 *currently available on a case-by-case basis.*

17 *(2) The term “waste material” means the mate-*
18 *rial resulting from mineral activities involving ex-*
19 *traction, beneficiation and processing, including but*
20 *not limited to tailings, and such material resulting*
21 *from mineral activities involving processing, to the*
22 *extent such material is not subject to subtitle C of the*
23 *Solid Waste Disposal Act or the Uranium Mill*
24 *Tailings Radiation Control Act.*

1 (3) The term “ore piles” means ore stockpiled for
2 beneficiation prior to the completion of mineral ac-
3 tivities.

4 (4) The term “subgrade ore” means ore that is
5 too low in grade to be processed at the time of extrac-
6 tion but which could reasonably be processed in the
7 foreseeable future.

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

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

15 (a) STATE LAW.—(1) Any reclamation standard or re-
16 quirement in State law or regulation that meets or exceeds
17 the requirements of section 207 shall not be construed to
18 be inconsistent with any such standard.

19 (2) Any bonding standard or requirement in State law
20 or regulation that meets or exceeds the requirements of sec-
21 tion 206 shall not be construed to be inconsistent with such
22 requirements.

23 (3) Any inspection standard or requirement in State
24 law or regulation that meets or exceeds the requirements

1 *of section 404 shall not be construed to be inconsistent with*
2 *such requirements.*

3 (b) *APPLICABILITY OF OTHER STATE REQUIRE-*
4 *MENTS.—(1) Nothing in this Act shall be construed as af-*
5 *fecting any solid waste, or air or water quality, standard*
6 *or requirement of any State law or regulation, or of tribal*
7 *law or regulation, which may be applicable to mineral ac-*
8 *tivities on lands subject to this Act.*

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

14 (c) *COOPERATIVE AGREEMENTS.—(1) Any State may*
15 *enter into a cooperative agreement with the Secretary, or*
16 *for National Forest System lands the Secretary of Agri-*
17 *culture, for the purposes of such Secretary applying such*
18 *standards and requirements referred to in subsection (a)*
19 *and subsection (b) to mineral activities or reclamation on*
20 *lands subject to this Act.*

21 (2) *In such instances where the proposed mineral ac-*
22 *tivities would affect lands not subject to this Act in addition*
23 *to lands subject to this Act, in order to approve a plan of*
24 *operations the Secretary concerned shall enter into a coop-*
25 *erative agreement with the State that sets forth a common*

1 *regulatory framework consistent with the surface manage-*
2 *ment requirements of this Act for the purposes of such plan*
3 *of operations.*

4 (3) *The Secretary concerned shall not enter into a co-*
5 *operative agreement with any State under this section until*
6 *after notice in the Federal Register and opportunity for*
7 *public comment.*

8 (d) *PRIOR AGREEMENTS.*—*Any cooperative agreement*
9 *or such other understanding between the Secretary con-*
10 *cerned and any State, or political subdivision thereof, relat-*
11 *ing to the surface management of mineral activities on*
12 *lands subject to this Act that was in existence on the date*
13 *of enactment of this Act may only continue in force until*
14 *the effective date of this Act, after which time the terms and*
15 *conditions of any such agreement or understanding shall*
16 *only be applicable to plans of operations approved by the*
17 *Secretary concerned prior to the effective date of this Act.*

18 (e) *DELEGATION.*—*The Secretary, or for National For-*
19 *est System lands the Secretary of Agriculture, shall not del-*
20 *egate to any State, or political subdivision thereof, the Sec-*
21 *retary's authorities, duties and obligations under this Act,*
22 *including with respect to any cooperative agreements en-*
23 *tered into under this section.*

24 (f) *PREEMPTION.*—*The requirements of this Act shall*
25 *preempt any conflicting requirements of any State, or polit-*

1 ical subdivision thereof relating to mineral activities for
2 locatable minerals.

3 **SEC. 209. UNSUITABILITY REVIEW.**

4 (a) *AUTHORITY.*—(1) As provided for in this section,
5 the Secretary of the Interior, in carrying out the Secretary's
6 responsibilities under the Federal Land Policy and Man-
7 agement Act of 1976, and the Secretary of Agriculture, in
8 carrying out the Secretary's responsibilities under the For-
9 est and Rangeland Renewable Resources Planning Act of
10 1974, as amended by the National Forest Management Act
11 of 1976, shall each review lands that are subject to this Act
12 in order to determine, in accordance with the provisions
13 of subsection (b), whether there are any areas on such lands
14 which are either unsuitable for all types of mineral activi-
15 ties or conditionally suitable for certain types of mineral
16 activities.

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

22 (3) In any instance where a determination is made
23 in accordance with subsection (b) that an area is condi-
24 tionally suitable for all or certain mineral activities, the
25 Secretary concerned shall take appropriate steps to notify

1 *the public that any operations permit application relevant*
2 *to that area shall be conditioned accordingly.*

3 **(b) SPECIAL CHARACTERISTICS.**—(1) *The Secretary,*
4 *or for National Forest System lands the Secretary of Agri-*
5 *culture, shall determine that an area open to location is*
6 *unsuitable for all or certain mineral activities if such Sec-*
7 *retary finds that such activities would result in significant,*
8 *permanent and irreparable damage to special characteris-*
9 *tics as described in paragraph (3) which cannot be pre-*
10 *vented by the imposition of conditions in the operations*
11 *permit required under section 204 (b).*

12 (2) *The Secretary, or for National Forest System*
13 *lands, the Secretary of Agriculture, may determine, after*
14 *notice and opportunity for public comment, that an area*
15 *is conditionally suitable for all or certain types of mineral*
16 *activities, if the Secretary concerned determines that any*
17 *of the special characteristics of such area, as listed in para-*
18 *graph (3), require protection from the effects of mineral ac-*
19 *tivities.*

20 (3) *Any of the following shall be considered special*
21 *characteristics of an area which contains lands or interests*
22 *in lands open to location under this Act:*

23 (A) *The existence of significant water quality or*
24 *supplies in or associated with such area, such as*
25 *aquifers and aquifer recharge areas.*

1 (B) *The presence in such area of publicly owned*
2 *places which are listed on or are determined eligible*
3 *for listing on the National Register of Historic Places.*

4 (C) *The designation of all or any portion of such*
5 *area or any adjacent area as a National Conservation*
6 *System unit.*

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

11 (E) *The designation of all or any portion of such*
12 *area as Class I under section 162 of the Clean Air Act*
13 *(42 U.S.C. 7401).*

14 (F) *The presence of such other resource values as*
15 *the Secretary, or for National Forest System lands,*
16 *the Secretary of Agriculture, may, by joint rule,*
17 *specify based upon field testing that verifies such cri-*
18 *teria.*

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

1 to the provisions of subsection (b), whether the area is un-
2 suitable for all types of mineral activities or conditionally
3 suitable for certain types of mineral activities. Such review
4 and determination shall precede the final decision on the
5 permit application.

6 (2) The Secretary concerned shall use such review in
7 the next revision or significant amendment to the applicable
8 land use plan to the extent necessary to reflect the
9 unsuitability or conditional suitability of such lands.

10 (d) EFFECT OF DETERMINATION.—(1) In any instance
11 in which a determination of unsuitability is made for any
12 area in accordance with subsection (b)(1), all mineral ac-
13 tivities shall be prohibited in such area, and the Secretary
14 shall (with the consent of the Secretary of Agriculture for
15 National Forest System lands) withdraw such area pursu-
16 ant to section 204 of the Federal Land Policy and Manage-
17 ment Act of 1976 (43 U.S.C. 1714). The Secretary's deter-
18 mination under this section shall constitute the documenta-
19 tion required to be provided under section 204(c)(12) of the
20 Federal Land Policy and Management Act of 1976 (43
21 U.S.C. 1714).

22 (2) In any instance where the Secretary, or for Na-
23 tional Forest System lands, the Secretary of Agriculture,
24 determines in accordance with subsection (b)(2) that, by
25 reason of any of the special characteristics listed in sub-

1 *section (b)(3), an area is conditionally suitable for all or*
2 *certain mineral activities, the Secretary concerned shall in-*
3 *clude such additional conditions in each permit for mineral*
4 *activities in such area as necessary to limit or control min-*
5 *eral activities to the extent necessary to protect the special*
6 *characteristics concerned.*

7 *(3) Nothing in this section shall be construed as affect-*
8 *ing lands where mineral activities were being conducted on*
9 *the date of enactment of this Act under approved plans of*
10 *operations or under notice (as provided for in the regula-*
11 *tions of the Secretary of the Interior in effect prior to the*
12 *date of enactment of this Act relating to operations that*
13 *cause a cumulative disturbance of 5 acres or less).*

14 *(4) Nothing in this section shall be construed as pro-*
15 *hibiting mineral activities at a specific site, where substan-*
16 *tial legal and financial commitments in such mineral ac-*
17 *tivities were in existence on the date of enactment of this*
18 *Act, but nothing in this section shall be construed as prohib-*
19 *iting either Secretary from regulating such activities in ac-*
20 *cordance with other authority of law. As used in this para-*
21 *graph, the term “substantial legal and financial commit-*
22 *ments” means, with respect to a specific site, significant*
23 *investments, expenditures, or undertakings that have been*
24 *made to explore or develop any mining claim or and mill-*
25 *site located at such site under the general mining laws or*

1 converted under this Act, such as but not limited to: con-
2 tracts for minerals produced; construction; contracts for the
3 construction; or commitment to raise capital for the con-
4 struction of processing, beneficiation, extraction, or refining
5 facilities, or transportation or utility infrastructure; explo-
6 ration activities conducted to delineate proven or probable
7 ore reserves; acquisition of mining claims (but only if such
8 acquisition is part of other significant investments specified
9 in this paragraph); and such other costs or expenditures
10 related to mineral activities at such site as are similar to
11 the foregoing itemized costs or expenditures and as may be
12 specified by the Secretaries by joint rule.

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

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

1 **TITLE** **III—ABANDONED**
2 **LOCATABLE MINERALS MINE**
3 **RECLAMATION FUND**

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

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

13 (2) *The Secretary shall notify the Secretary of the*
14 *Treasury as to what portion of the Fund is not, in the Sec-*
15 *retary's judgment, required to meet current withdrawals.*
16 *The Secretary of the Treasury shall invest such portion of*
17 *the Fund in public debt securities with maturities suitable*
18 *for the needs of such Fund and bearing interest at rates*
19 *determined by the Secretary of the Treasury, taking into*
20 *consideration current market yields on outstanding market-*
21 *place obligations of the United States of comparable matu-*
22 *rities. The income on such investments shall be credited to,*
23 *and form a part of, the Fund.*

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

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

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

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

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

12 (5) *All amounts referred to in section 306 (relat-*
13 *ing to royalties and penalties for underreporting).*

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

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

23 (2) *The amount deducted under paragraph (1) of this*
24 *section shall be available to the Secretary, subject to appro-*
25 *priation, for payment of the costs of administering this Act.*

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

2 (a) *IN GENERAL.*—The Secretary is authorized, subject
3 to appropriations, to use moneys in the Fund for the rec-
4 lamation and restoration of land and water resources ad-
5 versely affected by past mineral activities on lands the legal
6 and beneficial title to which resides in the United States,
7 land within the exterior boundary of any national forest
8 system unit, or other lands described in subsection (d) or
9 section 303, including any of the following:

10 (1) *Prevention, abatement, treatment and control*
11 *of water pollution created by abandoned mine drain-*
12 *age.*

13 (2) *Reclamation and restoration of abandoned*
14 *surface and underground mined areas.*

15 (3) *Reclamation and restoration of abandoned*
16 *milling and processing areas.*

17 (4) *Backfilling, sealing, or otherwise controlling,*
18 *abandoned underground mine entries.*

19 (5) *Revegetation of land adversely affected by*
20 *past mineral activities to prevent erosion and sedi-*
21 *mentation and to enhance wildlife habitat.*

22 (6) *Control of surface subsidence due to aban-*
23 *doned underground mines.*

24 (b) *PRIORITIES.*—Expenditure of moneys from the
25 Fund shall reflect the following priorities in the order
26 stated:

1 (1) *The protection of public health, safety, gen-*
2 *eral welfare and property from extreme danger from*
3 *the adverse effects of past mineral activities, espe-*
4 *cially as relates to surface water and groundwater*
5 *contaminates.*

6 (2) *The protection of public health, safety, and*
7 *general welfare from the adverse effects of past min-*
8 *eral activities.*

9 (3) *The restoration of land and water resources*
10 *previously degraded by the adverse effects of past*
11 *mineral activities.*

12 (c) *HABITAT.—Reclamation and restoration activities*
13 *under this title, particularly those identified under sub-*
14 *section (a)(4), shall include appropriate mitigation meas-*
15 *ures to provide for the continuation of any established habi-*
16 *tat for wildlife in existence prior to the commencement of*
17 *such activities.*

18 (d) *OTHER AFFECTED LANDS.—Where mineral explo-*
19 *ration, mining, beneficiation, processing, or reclamation*
20 *activities has been carried out with respect to any mineral*
21 *which would be a locatable mineral if the legal and bene-*
22 *ficial title to the mineral were in the United States, if such*
23 *activities directly affect lands managed by the Bureau of*
24 *Land Management as well as other lands and if the legal*
25 *and beneficial title to more than 50 percent of the affected*

1 *lands resides in the United States, the Secretary is author-*
2 *ized, subject to appropriations, to use moneys in the fund*
3 *for reclamation and restoration under subsection (a) for all*
4 *directly affected lands.*

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

6 (a) *ELIGIBILITY.—Reclamation expenditures under*
7 *this title may only be made with respect to Federal lands*
8 *or Indian lands or water resources that traverse or are con-*
9 *tiguous to Federal lands or Indian lands where such lands*
10 *or waters resources have been affected by past mineral ac-*
11 *tivities, including any of 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 the*
15 *effective date of this Act.*

16 (2) *Lands for which the Secretary makes a deter-*
17 *mination that there is no continuing reclamation re-*
18 *sponsibility of a claim holder, operator, or other per-*
19 *son who abandoned the site prior to completion of re-*
20 *quired reclamation under State or other Federal laws.*

21 (3) *Lands for which it can be established that*
22 *such lands do not contain locatable minerals which*
23 *could economically be extracted through the reprocess-*
24 *ing or remining of such lands, unless such consider-*

1 *ations are in conflict with the priorities set forth*
2 *under paragraphs (1) and (2) of section 302(b).*

3 *(b) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—The*
4 *provisions of section 411(d) of the Surface Mining Control*
5 *and Reclamation Act of 1977 shall apply to expenditures*
6 *made from the Fund established under this title.*

7 *(c) INVENTORY.—The Secretary shall prepare and*
8 *maintain an inventory of abandoned locatable minerals*
9 *mines on Federal lands and any abandoned mine on In-*
10 *dian lands which may be eligible for expenditures under*
11 *this title.*

12 **SEC. 304. FUND EXPENDITURES.**

13 *Moneys available from the Fund may be expended for*
14 *the purposes specified in section 302 directly by the Director*
15 *of the Office of Surface Mining Reclamation and Enforce-*
16 *ment. The Director may also make such money available*
17 *for such purposes to the Director of the Bureau of Land*
18 *Management, the Chief of the United States Forest Service,*
19 *the Director of the National Park Service, Director of the*
20 *United States Fish and Wildlife Service, to any other agen-*
21 *cy of the United States, to an Indian tribe, or to any public*
22 *entity that volunteers to develop and implement, and that*
23 *has the ability to carry out, all or a significant portion*
24 *of a reclamation program under this title.*

1 **SEC. 305. AUTHORIZATION OF APPROPRIATIONS.**

2 *Amounts credited to the Fund are authorized to be ap-*
3 *propriated for the purpose of this title without fiscal year*
4 *limitation.*

5 **SEC. 306. ROYALTY.**

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

17 *(b) DUTIES OF CLAIM HOLDERS, OPERATORS, AND*
18 *TRANSPORTERS.—(1) A person—*

19 *(A) who is required to make any royalty pay-*
20 *ment under this section shall make such payments to*
21 *the United States at such times and in such manner*
22 *as the Secretary may by rule prescribe; and*

23 *(B) shall notify the Secretary, in the time and*
24 *manner as may be specified by the Secretary, of any*
25 *assignment that such person may have made of the*

1 *obligation to make any royalty or other payment*
2 *under a mining claim.*

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

15 *(3) A person conducting mineral activities shall—*

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

24 *(B) not later than the 5th business day after pro-*
25 *duction begins anywhere on a mining claim, or pro-*

1 *duction resumes after more than 90 days after pro-*
2 *duction was suspended, notify the Secretary, in the*
3 *manner prescribed by the Secretary, of the date on*
4 *which such production has begun or resumed.*

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

13 *(c) RECORDKEEPING AND REPORTING REQUIRE-*
14 *MENTS.—(1) A claim holder, operator, or other person di-*
15 *rectly involved in developing, producing, processing, trans-*
16 *porting, purchasing, or selling locatable minerals, con-*
17 *centrates, or products derived therefrom, subject to this Act,*
18 *through the point of royalty computation shall establish and*
19 *maintain any records, make any reports, and provide any*
20 *information that the Secretary may reasonably require for*
21 *the purposes of implementing this section or determining*
22 *compliance with rules or orders under this section. Such*
23 *records shall include, but not be limited to, periodic reports,*
24 *records, documents, and other data. Such reports may also*
25 *include, but not be limited to, pertinent technical and fi-*

1 *financial data relating to the quantity, quality, composition*
2 *volume, weight, and assay of all minerals extracted from*
3 *the mining claim. Upon the request of any officer or em-*
4 *ployee duly designated by the Secretary or any State con-*
5 *ducting an audit or investigation pursuant to this section,*
6 *the appropriate records, reports, or information which may*
7 *be required by this section shall be made available for in-*
8 *spection and duplication by such officer or employee or*
9 *State.*

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

19 *(d) AUDITS.—The Secretary is authorized to conduct*
20 *such audits of all claim holders, operators, transporters,*
21 *purchasers, processors, or other persons directly or indi-*
22 *rectly involved in the production or sales of minerals cov-*
23 *ered by this Act, as the Secretary deems necessary for the*
24 *purposes of ensuring compliance with the requirements of*
25 *this section. For purposes of performing such audits, the*

1 *Secretary shall, at reasonable times and upon request, have*
2 *access to, and may copy, all books, papers and other docu-*
3 *ments that relate to compliance with any provision of this*
4 *section by any person.*

5 *(e) COOPERATIVE AGREEMENTS.—(1) The Secretary is*
6 *authorized to enter into cooperative agreements with the*
7 *Secretary of Agriculture to share information concerning*
8 *the royalty management of locatable minerals, concentrates,*
9 *or products derived therefrom, to carry out inspection, au-*
10 *diting, investigation, or enforcement (not including the col-*
11 *lection of royalties, civil or criminal penalties, or other pay-*
12 *ments) activities under this section in cooperation with the*
13 *Secretary, and to carry out any other activity described in*
14 *this section.*

15 *(2) Except as provided in paragraph (4)(A) of this*
16 *subsection (relating to trade secrets), and pursuant to a co-*
17 *operative agreement, the Secretary of Agriculture shall,*
18 *upon request, have access to all royalty accounting informa-*
19 *tion in the possession of the Secretary respecting the pro-*
20 *duction, removal, or sale of locatable minerals, concentrates,*
21 *or products derived therefrom from claims on lands open*
22 *to location under this Act.*

23 *(3) Trade secrets, proprietary, and other confidential*
24 *information shall be made available by the Secretary pursu-*

1 ant to a cooperative agreement under this subsection to the
2 Secretary of Agriculture upon request only if—

3 (A) the Secretary of Agriculture consents in
4 writing to restrict the dissemination of the informa-
5 tion to those who are directly involved in an audit or
6 investigation under this section and who have a need
7 to know;

8 (B) the Secretary of Agriculture accepts liability
9 for wrongful disclosure; and

10 (C) the Secretary of Agriculture demonstrates
11 that such information is essential to the conduct of an
12 audit or investigation under this subsection.

13 (f) *INTEREST AND SUBSTANTIAL UNDERREPORTING*
14 *ASSESSMENTS.*—(1) In the case of mining claims where
15 royalty payments are not received by the Secretary on the
16 date that such payments are due, the Secretary shall charge
17 interest on such underpayments at the same interest rate
18 as is applicable under section 6621(a)(2) of the Internal
19 Revenue Code of 1986. In the case of an underpayment, in-
20 terest shall be computed and charged only on the amount
21 of the deficiency and not on the total amount.

22 (2) If there is any underreporting of royalty owed on
23 production from a claim for any production month by any
24 person liable for royalty payments under this section, the

1 *Secretary may assess a penalty of 10 percent of the amount*
2 *of that underreporting.*

3 *(3) If there is a substantial underreporting of royalty*
4 *owed on production from a claim for any production month*
5 *by any person responsible for paying the royalty, the Sec-*
6 *retary may assess a penalty of 10 percent of the amount*
7 *of that underreporting.*

8 *(4) For the purposes of this subsection, the term “sub-*
9 *stantial underreporting” means the difference between the*
10 *royalty on the value of the production which should have*
11 *been reported and the royalty on the value of the production*
12 *which was reported, if the value which should have been*
13 *reported is greater than the value which was reported. An*
14 *underreporting constitutes a “substantial underreporting”*
15 *if such difference exceeds 10 percent of the royalty on the*
16 *value of production which should have been reported.*

17 *(5) The Secretary shall not impose the assessment pro-*
18 *vided in paragraphs (2) or (3) of this subsection if the per-*
19 *son liable for royalty payments under this section corrects*
20 *the underreporting before the date such person receives no-*
21 *tice from the Secretary that an underreporting may have*
22 *occurred, or before 90 days after the date of the enactment*
23 *of this section, whichever is later.*

24 *(6) The Secretary shall waive any portion of an assess-*
25 *ment under paragraph (2) or (3) of this subsection attrib-*

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

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

7 *(B) such person had substantial authority for re-*
8 *porting royalty on the value of the production on the*
9 *basis on which it was reported, or*

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

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

17 *(7) All penalties collected under this subsection shall*
18 *be deposited in the Fund.*

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

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

1 *from a mining claim located or converted under this section*
2 *when such loss or waste is due to negligence on the part*
3 *of any person or due to the failure to comply with any rule,*
4 *regulation, or order issued under this section.*

5 (i) *EXCEPTION.—No royalty shall be payable under*
6 *subsection (a) with respect to minerals processed at a facil-*
7 *ity by the same person or entity which extracted the min-*
8 *erals if an urban development action grant has been made*
9 *under section 119 of the Housing and Community Develop-*
10 *ment Act of 1974 with respect to any portion of such facil-*
11 *ity.*

12 (j) *DEFINITION.—For the purposes of this section, for*
13 *any locatable mineral, the term “net smelter return” shall*
14 *have the same meaning as the term defined in section*
15 *613(c)(1) of the Internal Revenue Code.*

16 (k) *EFFECTIVE DATE.—The royalty under this section*
17 *shall take effect with respect to the production of locatable*
18 *minerals after the enactment of this Act, but any royalty*
19 *payments attributable to production during the first 12 cal-*
20 *endar months after the enactment of this Act shall be pay-*
21 *able at the expiration of such 12-month period.*

1 **TITLE IV—ADMINISTRATIVE AND**
2 **MISCELLANEOUS PROVISIONS**
3 **Subtitle A—Administrative**
4 **Provisions**

5 **SEC. 401. POLICY FUNCTIONS.**

6 (a) *MINERALS POLICY.*—Section 2 of the Mining and
7 Minerals Policy Act of 1970 (30 U.S.C. 21a) is amended
8 by adding at the end thereof the following: “It shall also
9 be the responsibility of the Secretary of Agriculture to carry
10 out the policy provisions of paragraphs (1) and (2) of this
11 section.”.

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

19 **SEC. 402. USER FEES.**

20 *The Secretary and the Secretary of Agriculture are*
21 *each authorized to establish and collect from persons subject*
22 *to the requirements of this Act such user fees as may be*
23 *necessary to reimburse the United States for the expenses*
24 *incurred in administering such requirements. Fees may be*
25 *assessed and collected under this section only in such man-*

1 *ner as may reasonably be expected to result in an aggregate*
2 *amount of the fees collected during any fiscal year which*
3 *does not exceed the aggregate amount of administrative ex-*
4 *penses referred to in this section.*

5 **SEC. 403. PUBLIC PARTICIPATION REQUIREMENTS.**

6 (a) OPERATIONS PERMIT.—(1) *Concurrent with sub-*
7 *mittal of an application for an operations permit under*
8 *section 204 or a renewal or significant modification thereof,*
9 *the applicant shall publish a notice in a newspaper of local*
10 *circulation at least once a week for 4 consecutive weeks. The*
11 *notice shall include: the name of the applicant, the location*
12 *of the proposed mineral activities, the type and expected*
13 *duration of the proposed mineral activities, the proposed*
14 *use of the land after the completion of mineral activities*
15 *and a location where such plans are publicly available. The*
16 *applicant shall also notify in writing other Federal, State*
17 *and local government agencies and Indian tribes that regu-*
18 *late mineral activities or land planning decisions in the*
19 *area subject to mineral activities or that manage lands ad-*
20 *acent to the area subject to mineral activities. The appli-*
21 *cant shall provide proof of such notification to the Sec-*
22 *retary, or for National Forest System lands the Secretary*
23 *of Agriculture.*

24 (2) *The applicant for an operations permit shall make*
25 *copies of the complete permit application available for pub-*

1 *lic review at the office of the responsible Federal surface*
2 *management agency located nearest to the location of the*
3 *proposed mineral activities, and at such other public loca-*
4 *tions deemed appropriate by the State or local government*
5 *for the county in which the proposed mineral activities will*
6 *occur prior to final decision by the Secretary, or for Na-*
7 *tional Forest System lands the Secretary of Agriculture.*
8 *Any person, and the authorized representative of a Federal,*
9 *State or local governmental agency or Indian tribe, shall*
10 *have the right to file written comments relating to the ap-*
11 *proval or disapproval of the permit application until 30*
12 *days after the last day of newspaper publication. The Sec-*
13 *retary concerned shall promptly make such comments avail-*
14 *able to the applicant.*

15 *(3) Any person may file written comments during the*
16 *comment period specified in paragraph (2) and any person*
17 *who is, or may be, adversely affected by the proposed min-*
18 *eral activities may request a nonadjudicatory public hear-*
19 *ing to be held in the county in which the mineral activities*
20 *are proposed. The Secretary concerned shall consider all*
21 *written comments filed during such period. If a hearing is*
22 *requested by any person who is, or may be, adversely af-*
23 *ected by the proposed mineral activities, the Secretary con-*
24 *cerned shall consider such request and may conduct such*
25 *hearing. When a hearing is to be held, notice of such hearing*

1 *shall be published in a newspaper of local circulation at*
2 *least once a week for 2 weeks prior to the hearing date.*

3 **SEC. 404. INSPECTION AND MONITORING.**

4 (a) *INSPECTIONS.—(1) The Secretary, or for National*
5 *Forest System lands the Secretary of Agriculture, shall*
6 *make inspections of mineral activities so as to ensure com-*
7 *pliance with the surface management requirements of title*
8 *II.*

9 (2) *The Secretary concerned shall establish a frequency*
10 *of inspections for mineral activities conducted under a per-*
11 *mit issued under title II, but in no event shall such inspec-*
12 *tion frequency be less than one complete inspection per cal-*
13 *endar quarter or, two per calendar quarter in the case of*
14 *a permit for which the Secretary concerned approves an*
15 *application under section 204(g) (relating to temporary ces-*
16 *sation of operations). After revegetation has been established*
17 *in accordance with a reclamation plan, such Secretary shall*
18 *conduct annually 2 complete inspections. Such Secretary*
19 *shall have the discretion to modify the inspection frequency*
20 *for mineral activities that are conducted on a seasonal*
21 *basis. Inspections shall continue under this subsection until*
22 *final release of financial assurance.*

23 (3)(A) *Any person who has reason to believe he or she*
24 *is or may be adversely affected by mineral activities due*
25 *to any violation of the surface management requirements*

1 *may request an inspection. The Secretary, or for National*
2 *Forest System lands the Secretary of Agriculture, shall de-*
3 *termine within 10 working days of receipt of the request*
4 *whether the request states a reason to believe that a viola-*
5 *tion exists. If the person alleges and provides reason to be-*
6 *lieve that an imminent danger to the health or safety of*
7 *the public exists, the 10-day period shall be waived and the*
8 *inspection shall be conducted immediately. When an inspec-*
9 *tion is conducted under this paragraph, the Secretary con-*
10 *cerned shall notify the person requesting the inspection, and*
11 *such person shall be allowed to accompany the Secretary*
12 *concerned or the Secretary's authorized representative dur-*
13 *ing the inspection. The Secretary shall not incur any liabil-*
14 *ity for allowing such person to accompany an authorized*
15 *representative. The identity of the person supplying infor-*
16 *mation to the Secretary relating to a possible violation or*
17 *imminent danger or harm shall remain confidential with*
18 *the Secretary if so requested by that person, unless that per-*
19 *son elects to accompany an authorized representative on the*
20 *inspection.*

21 *(B) The Secretaries shall, by joint rule, establish proce-*
22 *dures for the review of (i) any decision by an authorized*
23 *representative not to inspect or (ii) any refusal by such rep-*
24 *resentative to ensure that remedial actions are taken with*
25 *respect to any alleged violation. The Secretary concerned*

1 *shall furnish such persons requesting the review a written*
2 *statement of the reasons for the Secretary's final disposition*
3 *of the case.*

4 *(b) MONITORING.—(1) The Secretary, or for National*
5 *Forest System lands the Secretary of Agriculture, shall re-*
6 *quire all operators to develop and maintain a monitoring*
7 *and evaluation system which shall identify compliance with*
8 *all surface management requirements.*

9 *(2) Monitoring shall be conducted as close as tech-*
10 *nically feasible to the mineral activity involved, and in all*
11 *cases such monitoring shall be conducted within the permit*
12 *area.*

13 *(3) The point of compliance referred to in paragraph*
14 *(1) shall be as close to the mineral activity involved as is*
15 *technically feasible, but in any event shall be located to com-*
16 *ply with applicable State and Federal standards. In no*
17 *event shall the point of compliance be outside the permit*
18 *area.*

19 *(4) The Secretary concerned may require additional*
20 *monitoring be conducted as necessary to assure compliance*
21 *with the reclamation and other environmental standards of*
22 *this Act.*

23 *(5) The operator shall file reports with the Secretary,*
24 *or for National Forest System lands the Secretary of Agri-*
25 *culture, on a frequency determined by the Secretary con-*

1 *cerned, on the results of the monitoring and evaluation*
2 *process, except that if the monitoring and evaluation show*
3 *a violation of the surface management requirements, it shall*
4 *be reported immediately to the Secretary concerned. Infor-*
5 *mation received pursuant to this subsection from any natu-*
6 *ral person shall not be used against any such natural per-*
7 *son in any criminal case, except a prosecution for perjury*
8 *or for giving a false statement. The Secretary shall evaluate*
9 *the reports submitted pursuant to this paragraph, and*
10 *based on those reports and any necessary inspection shall*
11 *take enforcement action pursuant to this section.*

12 *(6) The Secretary, or for National Forest System lands*
13 *the Secretary of Agriculture, shall determine what informa-*
14 *tion must be reported by the operator pursuant to para-*
15 *graph (5). A failure to report as required by the Secretary*
16 *concerned shall constitute a violation of this Act and subject*
17 *the operator to enforcement action pursuant to section 407.*

18 **SEC. 405. CITIZENS SUITS.**

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

23 *(1) against any person (including the Secretary*
24 *or the Secretary of Agriculture) alleged to have vio-*
25 *lated (if there is evidence the alleged violation has*

1 *been repeated), or to be in violation of, any of the*
2 *provisions of title II or section 404 of this Act or any*
3 *regulation promulgated pursuant to title II or section*
4 *404 of this Act or any term or condition of any per-*
5 *mit issued under title II of this Act; or*

6 *(2) against the Secretary or the Secretary of Ag-*
7 *riculture where there is alleged a failure of such Sec-*
8 *retary to perform any act or duty under title II or*
9 *section 404 of this Act, or to promulgate any regula-*
10 *tion under title II or section 404 of this Act, which*
11 *is not within the discretion of the Secretary con-*
12 *cerned.*

13 *The United States district courts shall have jurisdiction*
14 *over actions brought under this section, without regard to*
15 *the amount in controversy or the citizenship of the parties,*
16 *including actions brought to apply any civil penalty under*
17 *this Act. The district courts of the United States shall have*
18 *jurisdiction to compel agency action unreasonably delayed,*
19 *except that an action to compel agency action reviewable*
20 *under section 406 may only be filed in a United States*
21 *District Court within the circuit in which such action*
22 *would be reviewable under section 406.*

23 *(b) EXCEPTIONS.—(1) No action may be commenced*
24 *under subsection (a) prior to 60 days after the plaintiff has*
25 *given notice in writing of such alleged violation to the Sec-*

1 *retary, or for National Forest System lands the Secretary*
2 *of Agriculture, except that any such action may be brought*
3 *immediately after such notification if the violation com-*
4 *plained of constitutes an imminent threat to the environ-*
5 *ment or to the health or safety of the public.*

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

11 (3) *No action may be commenced under paragraph (2)*
12 *of subsection (a) against either Secretary to review any rule*
13 *promulgated by, or to any permit issued or denied by such*
14 *Secretary if such rule or permit issuance or denial is judi-*
15 *cially reviewable under section 406 or under any other pro-*
16 *vision of law at any time after such promulgation, issuance,*
17 *or denial is final.*

18 (c) *VENUE.—Venue of all actions brought under this*
19 *section shall be determined in accordance with title 28*
20 *U.S.C. 1391.*

21 (d) *INTERVENTION; NOTICE.—(1) In any action under*
22 *this section, the Secretary, or for National Forest System*
23 *lands the Secretary of Agriculture, may intervene as a mat-*
24 *ter of right at any time. A judgment in an action under*

1 *this section to which the United States is not a party shall*
2 *not have any binding effect upon the United States.*

3 (2) *Whenever an action is brought under this section*
4 *the plaintiff shall serve a copy of the complaint on the At-*
5 *torney General of the United States and on the Secretary,*
6 *or for National Forest System lands the Secretary of Agri-*
7 *culture. No consent judgment shall be entered in an action*
8 *brought under this section in which the United States is*
9 *not a party prior to 45 days following the date on which*
10 *a copy of the proposed consent judgment is submitted to*
11 *the Attorney General and the Secretary, or for National*
12 *Forest System lands the Secretary of Agriculture. During*
13 *such 45-day period the Attorney General or such Secretary*
14 *may submit comments on the proposed consent judgment*
15 *to the court and parties or may intervene as a matter of*
16 *right.*

17 (e) *COSTS.—The court, in issuing any final order in*
18 *any action brought pursuant to this section may award*
19 *costs of litigation (including attorney and expert witness*
20 *fees) to any prevailing party whenever the court determines*
21 *such award is appropriate. The court may, if a temporary*
22 *restraining order or preliminary injunction is sought, re-*
23 *quire the filing of a bond or equivalent security in accord-*
24 *ance with the Federal Rules of Civil Procedure.*

1 (f) *SAVINGS CLAUSE.*—*Nothing in this section shall re-*
2 *strict any right which any person (or class of persons) may*
3 *have under chapter 7 of title 5 of the United States Code,*
4 *under section 406 of this Act or under any other statute*
5 *or common law to bring an action to seek any relief against*
6 *the Secretary or the Secretary of Agriculture or against any*
7 *other person, including any action for any violation of this*
8 *Act or of any regulation or permit issued under this Act*
9 *or for any failure to act as required by law. Nothing in*
10 *this section shall affect the jurisdiction of any court under*
11 *any provision of title 28 of the United States Code, includ-*
12 *ing any action for any violation of this Act or of any regu-*
13 *lation or permit issued under this Act or for any failure*
14 *to act as required by law.*

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

16 (a) *REVIEW BY SECRETARY.*—(1)(A) *Any person is-*
17 *sued a notice of violation or cessation order under section*
18 *407, or any person having an interest which is or may be*
19 *adversely affected by such notice or order, may apply to*
20 *the Secretary, or for National Forest System lands the Sec-*
21 *retary of Agriculture, for review of the notice or order with-*
22 *in 30 days of receipt thereof, or as the case may be, within*
23 *30 days of such notice or order being modified, vacated or*
24 *terminated.*

1 (B) Any person who is subject to a penalty assessed
2 under section 106, section 107(c), or section 407 may apply
3 to the Secretary concerned for review of the assessment with-
4 in 30 days of notification of such penalty.

5 (C) Any person having an interest which is or may
6 be adversely affected by a decision made by the Secretary
7 or the Secretary of Agriculture under section 203, 204, 205,
8 206, 209, or 404(a)(3) may apply to such Secretary for re-
9 view of the decision within 30 days after it is made.

10 (2) The Secretary concerned shall provide an oppor-
11 tunity for a public hearing at the request of any party to
12 the proceeding as specified in paragraph (1). The filing of
13 an application for review under this subsection shall not
14 operate as a stay of any order or notice issued under section
15 407.

16 (3) For any review proceeding under this subsection,
17 the Secretary concerned shall make findings of fact and
18 shall issue a written decision incorporating therein an
19 order vacating, affirming, modifying or terminating the no-
20 tice, order or decision, or with respect to an assessment,
21 the amount of penalty that is warranted. Where the appli-
22 cation for review concerns a cessation order issued under
23 section 407, the Secretary concerned shall issue the written
24 decision within 30 days of the receipt of the application
25 for review or within 30 days after the conclusion of any

1 *hearing referred to in paragraph (2), whichever is later,*
2 *unless temporary relief has been granted by the Secretary*
3 *concerned under paragraph (4).*

4 (4) *Pending completion of any review proceedings*
5 *under this subsection, the applicant may file with the Sec-*
6 *retary, or for National Forest System lands the Secretary*
7 *of Agriculture, a written request that the Secretary grant*
8 *temporary relief from any order issued under section 407*
9 *together with a detailed statement giving reasons for such*
10 *relief. The Secretary concerned shall expeditiously issue an*
11 *order or decision granting or denying such relief. The Sec-*
12 *retary concerned may grant such relief under such condi-*
13 *tions as he may prescribe only if such relief shall not ad-*
14 *versely affect the health or safety of the public or cause sig-*
15 *nificant, imminent environmental harm to land, air or*
16 *water resources.*

17 (5) *The availability of review under this subsection*
18 *shall not be construed to limit the operation of rights under*
19 *section 405.*

20 (b) *JUDICIAL REVIEW.—(1) Any final action by the*
21 *Secretaries of the Interior and Agriculture in promulgating*
22 *regulations to implement this Act, or any other final ac-*
23 *tions constituting rulemaking to implement this Act, shall*
24 *be subject to judicial review only in the United States Court*
25 *of Appeals for the District of Columbia. Any action subject*

1 *to judicial review under this subsection shall be affirmed*
2 *unless the court concludes that such action is arbitrary, ca-*
3 *pricious, or otherwise inconsistent with law. A petition for*
4 *review of any action subject to judicial review under this*
5 *subsection shall be filed within 60 days from the date of*
6 *such action, or after such date if the petition is based solely*
7 *on grounds arising after the sixtieth day. Any such petition*
8 *may be made by any person who commented or otherwise*
9 *participated in the rulemaking or any person who may be*
10 *adversely affected by the action of the Secretaries.*

11 *(2) Final agency action under this Act, including such*
12 *final action on those matters described under subsection (a),*
13 *shall be subject to judicial review in accordance with para-*
14 *graph (4) and pursuant to 28 U.S.C. 1391 of the United*
15 *States Code on or before 60 days from the date of such final*
16 *action. Any action subject to judicial review under this sub-*
17 *section shall be affirmed unless the court concludes that such*
18 *action is arbitrary, capricious, or otherwise inconsistent*
19 *with law.*

20 *(3) The availability of judicial review established in*
21 *this subsection shall not be construed to limit the operations*
22 *of rights under section 405 (relating to citizens suits).*

23 *(4) The court shall hear any petition or complaint*
24 *filed under this subsection solely on the record made before*
25 *the Secretary or Secretaries concerned. The court may af-*

1 *firm or vacate any order or decision or may remand the*
2 *proceedings to the Secretary or Secretaries for such further*
3 *action as it may direct.*

4 *(5) The commencement of a proceeding under this sec-*
5 *tion shall not, unless specifically ordered by the court, oper-*
6 *ate as a stay of the action, order or decision of the Secretary*
7 *or Secretaries concerned.*

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

22 **SEC. 407. ENFORCEMENT.**

23 *(a) ORDERS.—(1) If the Secretary, or for National*
24 *Forest System lands the Secretary of Agriculture, or an au-*
25 *thorized representative of such Secretary, determines that*

1 any person is in violation of any surface management or
2 monitoring requirement, such Secretary or authorized rep-
3 resentative shall issue to such person a notice of violation
4 describing the violation and the corrective measures to be
5 taken. The Secretary concerned, or the authorized represent-
6 ative of such Secretary, shall provide such person with a
7 period of time not to exceed 30 days to abate the violation.
8 Such period of time may be extended by the Secretary con-
9 cerned upon a showing of good cause by such person. If,
10 upon the expiration of time provided for such abatement,
11 the Secretary concerned, or the authorized representative of
12 such Secretary, finds that the violation has not been abated
13 he shall immediately order a cessation of all mineral activi-
14 ties or the portion thereof relevant to the violation.

15 (2) If the Secretary concerned, or the authorized rep-
16 resentative of the Secretary concerned, determines that any
17 condition or practice exists, or that any person is in viola-
18 tion of any surface management or monitoring require-
19 ment, and such condition, practice or violation is causing,
20 or can reasonably be expected to cause—

21 (A) an imminent danger to the health or safety
22 of the public; or

23 (B) significant, imminent environmental harm
24 to land, air or water resources;

1 *such Secretary or authorized representative shall imme-*
2 *diately order a cessation of mineral activities or the portion*
3 *thereof relevant to the condition, practice or violation.*

4 (3)(A) *A cessation order pursuant to paragraphs (1)*
5 *or (2) shall remain in effect until such Secretary, or author-*
6 *ized representative, determines that the condition, practice*
7 *or violation has been abated, or until modified, vacated or*
8 *terminated by the Secretary or authorized representative.*
9 *In any such order, the Secretary or authorized representa-*
10 *tive shall determine the steps necessary to abate the viola-*
11 *tion in the most expeditious manner possible and shall in-*
12 *clude the necessary measures in the order. The Secretary*
13 *concerned shall require appropriate financial assurances to*
14 *ensure that the abatement obligations are met.*

15 (B) *Any notice or order issued pursuant to paragraphs*
16 *(1) or (2) may be modified, vacated or terminated by the*
17 *Secretary concerned or an authorized representative of such*
18 *Secretary. Any person to whom any such notice or order*
19 *is issued shall be entitled to a hearing on the record.*

20 (4) *If, after 30 days of the date of the order referred*
21 *to in paragraph (3)(A) the required abatement has not oc-*
22 *curred the Secretary concerned shall take such alternative*
23 *enforcement action against the claimholder or operator (or*
24 *any person who controls the claimholder or operator) as*
25 *will most likely bring about abatement in the most expedi-*

1 *tious manner possible. Such alternative enforcement action*
2 *may include, but is not necessarily limited to, seeking ap-*
3 *propriate injunctive relief to bring about abatement. Noth-*
4 *ing in this paragraph shall preclude the Secretary, or for*
5 *National Forest System lands the Secretary of Agriculture,*
6 *from taking alternative enforcement action prior to the ex-*
7 *piration of 30 days.*

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

17 (6) *The Secretary, or for National Forest System lands*
18 *the Secretary of Agriculture, shall not cause forfeiture of*
19 *the financial assurance while administrative or judicial re-*
20 *view is pending.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 *(2) falsifies, tampers with, renders inaccurate, or*
4 *fails to install any monitoring device or method be re-*
5 *quired to be maintained under this Act,*

6 *shall upon conviction, be punished by a fine of not more*
7 *than \$10,000, or by imprisonment for not more than 2*
8 *years, or by both. If a conviction of a person is for a viola-*
9 *tion committed after a first conviction of such person under*
10 *this paragraph, punishment shall be by a fine of not more*
11 *than \$20,000 per day of violation, or by imprisonment of*
12 *not more than 4 years, or both. Each day of continuing*
13 *violation may be deemed a separate violation for purposes*
14 *of penalty assessments.*

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

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

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

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

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

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

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

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

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

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

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

11 (c) *NOTICE.*—Within 180 days after the date of enact-
12 ment of this Act, the Secretary shall give notice to holders
13 of mining claims and mill sites maintained under the gen-
14 eral mining laws as to the requirements of sections 104,
15 105, and 106.

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

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

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

24 (b) *PREEXISTING CLAIMS.*—(1) Notwithstanding any
25 other provision of law, any unpatented mining claim or
26 mill site located under the general mining laws before the

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

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

1 *the area covered by the plan (except for incidental boundary*
2 *revisions) or which significantly increases the risk of ad-*
3 *verse effects on the environment shall not be subject to this*
4 *paragraph and shall be subject to other provisions of this*
5 *Act.*

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

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

19 *(3)(A) If a substantially complete application for ap-*
20 *proval of a plan of operations or for a modification of, or*
21 *amendment to, a plan of operations had been submitted by*
22 *November 3, 1993 and either a scoping document or an En-*
23 *vironmental Assessment prepared for purposes of compli-*
24 *ance with the National Environmental Policy Act of 1969*
25 *had been published with respect to such plan, modification,*

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

22 (B) In order to meet the requirements of title II, the
23 person conducting mineral activities under a plan of oper-
24 ations (or modified or amended plan referred to in subpara-
25 graph (A)) shall apply for a modification under section

1 203(f) and 204(f) no later than 3 years after the date of
2 enactment of this Act. During such 5-year period the provi-
3 sions of section 404 (relating to inspection and monitoring)
4 and section 407 (relating to enforcement) shall apply on
5 the basis of the surface management requirements applica-
6 ble to such plans of operations prior to the effective date
7 of this Act.

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

15 (4) If a notice or notice of intent had been filed with
16 the authorized officer in the applicable office of the Bureau
17 of Land Management or the United States Forest Service
18 (as provided for in the regulations of the Secretary of the
19 Interior or the Secretary of Agriculture, respectively, in ef-
20 fect prior to the date of enactment of this Act) prior to the
21 date of enactment this Act, mineral activities may continue
22 under such notice or notice of intent for a period of 2 years
23 after the effective date of this Act, after which time the re-
24 quirements of title II shall apply, subject to the limitations
25 of section 209(d)(2). In order to meet the requirements of

1 *title II, the person conducting mineral activities under such*
2 *notice or notice of intent must apply for a permit under*
3 *section 203 or 204 no later than 18 months after the effec-*
4 *tive date of this Act, unless such mineral activities are con-*
5 *ducted pursuant to section 202(b). During such 2-year pe-*
6 *riod the provisions of section 404 (relating to inspection*
7 *and monitoring) and 407 (relating to enforcement) shall*
8 *apply on the basis of the surface management requirements*
9 *applicable to such notices prior to the effective date of this*
10 *Act.*

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

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

21 (b) *CONTEST PROCEEDINGS.*—*As soon as practicable*
22 *after the date of enactment of this Act, the Secretary shall*
23 *initiate contest proceedings challenging the validity of all*
24 *unpatented claims referred to in subsection (a), including*
25 *those claims for which a patent application has not been*

1 filed. If a claim is determined to be invalid, the Secretary
2 shall promptly declare the claim to be null and void. If,
3 as a result of such proceeding, a claim is determined valid,
4 the claim shall be converted and thereby become subject to
5 this Act's provisions on the date of the completion of the
6 contest proceeding.

7 (c) OIL SHALE CLAIMS.—(1) The provisions of section
8 411 shall apply to oil shale claims referred to in section
9 2511(e)(2) of the Energy Policy Act of 1992 (Public Law
10 102–486).

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

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

14 (B) Insert the following before the period: “in the
15 same manner as if such claims were subject to title
16 II of the Mineral Exploration and Development Act
17 of 1993”.

18 **SEC. 413. PURCHASING POWER ADJUSTMENT.**

19 The Secretary shall adjust all location fees, claim
20 maintenance rates, penalty amounts, and other dollar
21 amounts established in this Act for changes in the purchas-
22 ing power of the dollar every 10 years following the date
23 of enactment of this Act, employing the Consumer Price
24 Index for all-urban consumers published by the Department
25 of Labor as the basis for adjustment, and rounding accord-

1 *ing to the adjustment process of conditions of the Federal*
2 *Civil Penalties Inflation Adjustment Act of 1990 (104 Stat.*
3 *890).*

4 **SEC. 414. SAVINGS CLAUSE.**

5 (a) *SPECIAL APPLICATION OF MINING LAWS.*—*Noth-*
6 *ing in this Act shall be construed as repealing or modifying*
7 *any Federal law, regulation, order or land use plan, in ef-*
8 *fect prior to the date of enactment of this Act that prohibits*
9 *or restricts the application of the general mining laws, in-*
10 *cluding laws that provide for special management criteria*
11 *for operations under the general mining laws as in effect*
12 *prior to the date of enactment of this Act, to the extent such*
13 *laws provide environmental protection greater than re-*
14 *quired under this Act, and any such prior law shall remain*
15 *in force and effect with respect to claims located (or pro-*
16 *posed to be located) or converted under this Act. Nothing*
17 *in this Act shall be construed as applying to or limiting*
18 *mineral investigations, studies, or other mineral activities*
19 *conducted by any Federal or State agency acting in its gov-*
20 *ernmental capacity pursuant to other authority.*

21 (b) *EFFECT ON OTHER FEDERAL LAWS.*—*The provi-*
22 *sions of this Act shall supersede the general mining laws,*
23 *but, except for the general mining laws, nothing in this Act*
24 *shall be construed as superseding, modifying, amending or*
25 *repealing any provision of Federal law not expressly super-*

1 *seded, modified, amended or repealed by this Act. Nothing*
2 *in this Act shall be construed as modifying or affecting any*
3 *provision of the Native American Graves Protection and*
4 *Repatriation Act (Public Law 101-601) or any provision*
5 *of the American Indian Religious Freedom Act (42 U.S.C.*
6 *1996).*

7 (c) *PROTECTION OF CONSERVATION AREAS.—In order*
8 *to protect the resources and values of National Conservation*
9 *System units, the Secretary, as appropriate, shall utilize*
10 *authority under this Act and other applicable law to the*
11 *fullest extent necessary to prevent mineral activities within*
12 *the boundaries of such units that could have an adverse im-*
13 *pact on the resources or values for which such units were*
14 *established.*

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

16 *Copies of records, reports, inspection materials or in-*
17 *formation obtained by the Secretary or the Secretary of Ag-*
18 *riculture under this Act shall be made immediately avail-*
19 *able to the public, consistent with section 552 of title 5 of*
20 *the United States Code, in central and sufficient locations*
21 *in the county, multi county, and State area of mineral ac-*
22 *tivity or reclamation so that such items are conveniently*
23 *available to residents in the area proposed or approved for*
24 *mineral activities.*

1 **SEC. 416. MISCELLANEOUS POWERS.**

2 (a) *IN GENERAL.*—*In carrying out his or her duties*
3 *under this Act, the Secretary, or for National Forest System*
4 *lands the Secretary of Agriculture, may conduct any inves-*
5 *tigation, inspection, or other inquiry necessary and appro-*
6 *priate and may conduct, after notice, any hearing or audit,*
7 *necessary and appropriate to carrying out his duties.*

8 (b) *ANCILLARY POWERS.*—*In connection with any*
9 *hearing, inquiry, investigation, or audit under this Act, the*
10 *Secretary, or for National Forest System lands the Sec-*
11 *retary of Agriculture, is authorized to take any of the fol-*
12 *lowing actions:*

13 (1) *Require, by special or general order, any per-*
14 *son to submit in writing such affidavits and answers*
15 *to questions as the Secretary concerned may reason-*
16 *ably prescribe, which submission shall be made within*
17 *such reasonable period and under oath or otherwise,*
18 *as may be necessary.*

19 (2) *Administer oaths.*

20 (3) *Require by subpoena the attendance and tes-*
21 *timony of witnesses and the production of all books,*
22 *papers, records, documents, matter, and materials, as*
23 *such Secretary may request.*

24 (4) *Order testimony to be taken by deposition be-*
25 *fore any person who is designated by such Secretary*
26 *and who has the power to administer oaths, and to*

1 *compel testimony and the production of evidence in*
2 *the same manner as authorized under paragraph (3)*
3 *of this subsection.*

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

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

18 (d) *ENTRY AND ACCESS.*—*Without advance notice and*
19 *upon presentation of appropriate credentials, the Secretary,*
20 *or for National Forest System lands the Secretary of Agri-*
21 *culture, or any authorized representative thereof—*

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

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

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

8 (4) may, on any mining claim located or con-
9 verted under this Act, and without advance notice,
10 stop and inspect any motorized form of transpor-
11 tation that he has probable cause to believe is carry-
12 ing locatable minerals, concentrates, or products de-
13 rived therefrom from a claim site for the purpose of
14 determining whether the operator of such vehicle has
15 documentation related to such locatable minerals, con-
16 centrates, or products derived therefrom as required
17 by law, if such documentation is required under this
18 Act; and

19 (5) may, if accompanied by any appropriate law
20 enforcement officer, or an appropriate law enforce-
21 ment officer alone may stop and inspect any motor-
22 ized form of transportation which is not on a claim
23 site if he has probable cause to believe such vehicle is
24 carrying locatable minerals, concentrates, or products
25 derived therefrom from a claim site on Federal lands

1 *or allocated to such claim site. Such inspection shall*
2 *be for the purpose of determining whether the operator*
3 *of such vehicle has the documentation required by*
4 *law, if such documentation is required under this Act.*

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

6 *(a) MINING CLAIMS.—After January 5, 1993, no pat-*
7 *ent shall be issued by the United States for any mining*
8 *claim located under the general mining laws or under this*
9 *Act unless the Secretary determines that, for the claim con-*
10 *cerned—*

11 *(1) a patent application was filed with the Sec-*
12 *retary on or before January 5, 1993; and*

13 *(2) all requirements established under sections*
14 *2325 and 2326 of the Revised Statutes (30 U.S.C. 29*
15 *and 30) for vein or lode claims and sections 2329,*
16 *2330, 2331, and 2333 of the Revised Statutes (30*
17 *U.S.C. 35, 36, and 37) for placer claims were fully*
18 *complied with by that date.*

19 *If the Secretary makes the determinations referred to in*
20 *paragraphs (1) and (2) for any mining claim, the holder*
21 *of the claim shall be entitled to the issuance of a patent*
22 *in the same manner and degree to which such claim holder*
23 *would have been entitled to prior to the enactment of this*
24 *Act, unless and until such determinations are withdrawn*

1 *or invalidated by the Secretary or by a court of the United*
2 *States.*

3 *(b) MILL SITES.—After January 5, 1993, no patent*
4 *shall be issued by the United States for any mill site claim*
5 *located under the general mining laws unless the Secretary*
6 *determines that for the mill site concerned—*

7 *(1) a patent application for such land was filed*
8 *with the Secretary on or before January 5, 1993; and*

9 *(2) all requirements applicable to such patent*
10 *application were fully complied with by that date.*

11 *If the Secretary makes the determinations referred to in*
12 *paragraphs (1) and (2) for any mill site claim, the holder*
13 *of the claim shall be entitled to the issuance of a patent*
14 *in the same manner and degree to which such claim holder*
15 *would have been entitled to prior to the enactment of this*
16 *Act, unless and until such determinations are withdrawn*
17 *or invalidated by the Secretary or by a court of the United*
18 *States.*

19 **SEC. 418. MULTIPLE MINERAL DEVELOPMENT AND SUR-**
20 **FACE RESOURCES.**

21 *The provisions of sections 4 and 6 of the Act of August*
22 *13, 1954 (30 U.S.C. 524 and 526), commonly known as*
23 *the Multiple Minerals Development Act, and the provisions*
24 *of section 4 of the Act of July 23, 1955 (30 U.S.C. 612),*

1 *shall apply to all mining claims located or converted under*
2 *this Act.*

3 **SEC. 419. MINERAL MATERIALS.**

4 *(a) DETERMINATIONS.—Section 3 of the Act of July*
5 *23, 1955 (30 U.S.C. 611), is amended as follows:*

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

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

9 *(3) Strike “or cinders” and insert in lieu thereof*
10 *“cinders, and clay”.*

11 *(4) Add the following new subsection at the end*
12 *thereof:*

13 *“(b)(1) Subject to valid existing rights, after the date*
14 *of enactment of the Mineral Exploration and Development*
15 *Act of 1993, notwithstanding the reference to common vari-*
16 *eties in subsection (a) and to the exception to such term*
17 *relating to a deposit of materials with some property giving*
18 *it distinct and special value, all deposits of mineral mate-*
19 *rials referred to in such subsection, including the block*
20 *pumice referred to in such subsection, shall be subject to*
21 *disposal only under the terms and conditions of the Mate-*
22 *rials Act of 1947.*

23 *“(2) For purposes of paragraph (1), the term ‘valid*
24 *existing rights’ means that a mining claim located for any*
25 *such mineral material had some property giving it the dis-*

1 *tinct and special value referred to in subsection (a), or as*
2 *the case may be, met the definition of block pumice referred*
3 *to in such subsection, was properly located and maintained*
4 *under the general mining laws prior to the date of enact-*
5 *ment of the Mineral Exploration and Development Act of*
6 *1993, and was supported by a discovery of a valuable min-*
7 *eral deposit within the meaning of the general mining laws*
8 *as in effect immediately prior to the date of enactment of*
9 *the Mineral Exploration and Development Act of 1993 and*
10 *that such claim continues to be valid under this Act.”.*

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

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

16 (2) *In subsection (c) insert “and mineral mate-*
17 *rial” after “vegetative”.*

18 (c) *CONFORMING AMENDMENT.—Section 1 of the Act*
19 *of July 31, 1947, entitled “An Act to provide for the dis-*
20 *posal of materials on the public lands of the United States”*
21 *(30 U.S.C. 601 and following) is amended by striking*
22 *“common varieties of” in the first sentence.*

23 (d) *SHORT TITLES.—*

1 out regard to whether or not the legal and beneficial title
2 to the mineral is held by the United States. This section
3 applies only to minerals which are locatable minerals or
4 minerals which would be locatable minerals if the legal and
5 beneficial title to such minerals were held by the United
6 States.

7 **SEC. 421. SEVERABILITY.**

8 *If any provision of this Act or the applicability thereof*
9 *to any person or circumstances is held invalid, the remain-*
10 *der of this Act and the application of such provision to*
11 *other persons or circumstances shall not be affected thereby.*

HR 322 RH—2

HR 322 RH—3

HR 322 RH—4

HR 322 RH—5

HR 322 RH—6

HR 322 RH—7

HR 322 RH—8

HR 322 RH—9

HR 322 RH—10