

111TH CONGRESS
1ST SESSION

S. 140

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 SENATE OF THE UNITED STATES

JANUARY 6, 2009

Mrs. FEINSTEIN introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

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

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Abandoned Mine Reclamation Act of 2009”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions and references.
- Sec. 3. Application rules.

TITLE I—MINERAL EXPLORATION AND DEVELOPMENT

- Sec. 101. Royalty.
 Sec. 102. Hardrock mining claim maintenance fee.
 Sec. 103. Reclamation fee.
 Sec. 104. Effect of payments for use and occupancy of claims.

TITLE II—ABANDONED MINE CLEANUP FUND

- Sec. 201. Establishment of Fund.
 Sec. 202. Contents of Fund.
 Sec. 203. Use and objectives of the Fund.
 Sec. 204. Eligible lands and waters.
 Sec. 205. Expenditures.
 Sec. 206. Availability of amounts.

TITLE III—EFFECTIVE DATE

- Sec. 301. Effective date.

1 SEC. 2. DEFINITIONS AND REFERENCES.

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

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

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

8 (B) Any partner of such person.

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

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

14 (3) The term “beneficiation” means the crush-
 15 ing and grinding of locatable mineral ore and such
 16 processes as are employed to free the mineral from

1 other constituents, including but not necessarily lim-
2 ited to, physical and chemical separation techniques.

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

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

18 (6) The term “exploration”—

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

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

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

3 (7) The term “Federal land” means any land,
4 and any interest in land, that is owned by the
5 United States and open to location of mining claims
6 under the general mining laws.

7 (8) The term “hardrock mineral” has the
8 meaning given the term “locatable mineral” except
9 that legal and beneficial title to the mineral need not
10 be held by the United States.

11 (9) The term “Indian lands” means lands held
12 in trust for the benefit of an Indian tribe or indi-
13 vidual or held by an Indian tribe or individual sub-
14 ject to a restriction by the United States against
15 alienation.

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

25 (11) The term “locatable mineral”—

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

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

7 (ii) the Geothermal Steam Act of
8 1970 (30 U.S.C. 1001 et seq.);

9 (iii) the Act of July 31, 1947, com-
10 monly known as the Materials Act of 1947
11 (30 U.S.C. 601 et seq.); or

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

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

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

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

23 (12) The term “mineral activities” means any
24 activity on a mining claim, millsite claim, or tunnel
25 site claim for, related to, or incidental to, mineral

1 exploration, mining, beneficiation, processing, or rec-
2 lamation activities for any locatable mineral.

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

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

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

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

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

24 (b) REFERENCES TO OTHER LAWS.—(1) Any ref-
25 erence in this Act to the term general mining laws is a

1 reference to those Acts that generally comprise chapters
2 2, 12A, and 16, and sections 161 and 162, of title 30,
3 United States Code.

4 (2) Any reference in this Act to the Act of July 23,
5 1955, is a reference to the Act entitled “An Act to amend
6 the Act of July 31, 1947 (61 Stat. 681) and the mining
7 laws to provide for multiple use of the surface of the same
8 tracts of the public lands, and for other purposes” (30
9 U.S.C. 601 et seq.).

10 **SEC. 3. APPLICATION RULES.**

11 (a) IN GENERAL.—This Act applies to any mining
12 claim, millsite claim, or tunnel site claim located under
13 the general mining laws, before, on, or after the date of
14 enactment of this Act, except as provided in subsection
15 (b).

16 (b) PREEXISTING CLAIMS.—(1) Any unpatented min-
17 ing claim or millsite claim located under the general min-
18 ing laws before the date of enactment of this Act for which
19 a plan of operation has not been approved or a notice filed
20 prior to the date of enactment shall, upon the effective
21 date of this Act, be subject to the requirements of this
22 Act, except as provided in paragraph (2).

23 (2)(A) If a plan of operations is approved for mineral
24 activities on any claim or site referred to in paragraph
25 (1) prior to the date of enactment of this Act but such

1 operations have not commenced prior to the date of enact-
2 ment of this Act—

3 (i) during the 10-year period beginning on the
4 date of enactment of this Act, mineral activities at
5 such claim or site shall be subject to such plan of
6 operations;

7 (ii) during such 10-year period, modifications of
8 any such plan may be made in accordance with the
9 provisions of law applicable prior to the enactment
10 of this Act if such modifications are deemed minor
11 by the Secretary concerned; and

12 (iii) the operator shall bring such mineral ac-
13 tivities into compliance with this Act by the end of
14 such 10-year period.

15 (B) Where an application for modification of a plan
16 of operations referred to in subparagraph (A)(ii) has been
17 timely submitted and an approved plan expires prior to
18 Secretarial action on the application, mineral activities
19 and reclamation may continue in accordance with the
20 terms of the expired plan until the Secretary makes an
21 administrative decision on the application.

22 (c) FEDERAL LANDS SUBJECT TO EXISTING PER-
23 MIT.—(1) Any Federal land shall be subject to the require-
24 ments of section 101(a)(2) if the land is—

25 (A) subject to an operations permit; and

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

4 (2) Any Federal land added through a plan modifica-
5 tion to an operations permit on Federal land that is sub-
6 mitted after the date of enactment of this Act shall be
7 subject to the terms of section 101(a)(3).

8 (d) APPLICATION OF ACT TO BENEFICIATION AND
9 PROCESSING OF NON-FEDERAL MINERALS ON FEDERAL
10 LANDS.—The provisions of this Act shall apply in the
11 same manner and to the same extent to mining claims,
12 millsite claims, and tunnel site claims used for
13 beneficiation or processing activities for any mineral with-
14 out regard to whether or not the legal and beneficial title
15 to the mineral is held by the United States. This sub-
16 section applies only to minerals that are locatable minerals
17 or minerals that would be locatable minerals if the legal
18 and beneficial title to such minerals were held by the
19 United States.

20 **TITLE I—MINERAL EXPLO-** 21 **RATION AND DEVELOPMENT**

22 **SEC. 101. ROYALTY.**

23 (a) RESERVATION OF ROYALTY.—

24 (1) IN GENERAL.—Except as provided in para-
25 graph (2) and subject to paragraph (3), production

1 of all locatable minerals from any mining claim lo-
2 cated under the general mining laws and maintained
3 in compliance with this Act, or mineral concentrates
4 or products derived from locatable minerals from
5 any such mining claim, as the case may be, shall be
6 subject to a royalty of 8 percent of the gross income
7 from mining. The claim holder or any operator to
8 whom the claim holder has assigned the obligation
9 to make royalty payments under the claim and any
10 person who controls such claim holder or operator
11 shall be liable for payment of such royalties.

12 (2) ROYALTY FOR FEDERAL LANDS SUBJECT
13 TO EXISTING PERMIT.—The royalty under para-
14 graph (1) shall be 4 percent in the case of any Fed-
15 eral land that—

16 (A) is subject to an operations permit on
17 the date of the enactment of this Act; and

18 (B) produces valuable locatable minerals in
19 commercial quantities on the date of enactment
20 of this Act.

21 (3) FEDERAL LAND ADDED TO EXISTING OPER-
22 ATIONS PERMIT.—Any Federal land added through
23 a plan modification to an operations permit that is
24 submitted after the date of enactment of this Act

1 shall be subject to the royalty that applies to Fed-
2 eral land under paragraph (1).

3 (4) DEPOSIT.—Amounts received by the United
4 States as royalties under this subsection shall be de-
5 posited into the Abandoned Mine Cleanup Fund es-
6 tablished by section 201(a).

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

9 (A) who is required to make any royalty pay-
10 ment under this section shall make such payments
11 to the United States at such times and in such man-
12 ner as the Secretary may by rule prescribe; and

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

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

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

5 (3) A person conducting mineral activities shall—

6 (A) develop and comply with the site security
7 provisions in the operations permit designed to pro-
8 tect from theft the locatable minerals, concentrates
9 or products derived therefrom which are produced or
10 stored on a mining claim, and such provisions shall
11 conform with such minimum standards as the Sec-
12 retary may prescribe by rule, taking into account the
13 variety of circumstances on mining claims; and

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

20 (4) The Secretary may by rule require any person en-
21 gaged in transporting a locatable mineral, concentrate, or
22 product derived therefrom to carry on his or her person,
23 in his or her vehicle, or in his or her immediate control,
24 documentation showing, at a minimum, the amount, ori-
25 gin, and intended destination of the locatable mineral, con-

1 centrate, or product derived therefrom in such cir-
2 cumstances as the Secretary determines is appropriate.

3 (c) RECORDKEEPING AND REPORTING REQUIRE-
4 MENTS.—A claim holder, operator, or other person di-
5 rectly involved in developing, producing, processing, trans-
6 porting, purchasing, or selling locatable minerals, con-
7 centrates, or products derived therefrom, subject to this
8 Act, through the point of royalty computation shall estab-
9 lish and maintain any records, make any reports, and pro-
10 vide any information that the Secretary may reasonably
11 require for the purposes of implementing this section or
12 determining compliance with rules or orders under this
13 section. Such records shall include, but not be limited to,
14 periodic reports, records, documents, and other data. Such
15 reports may also include, but not be limited to, pertinent
16 technical and financial data relating to the quantity, qual-
17 ity, composition volume, weight, and assay of all minerals
18 extracted from the mining claim. Upon the request of any
19 officer or employee duly designated by the Secretary con-
20 ducting an audit or investigation pursuant to this section,
21 the appropriate records, reports, or information that may
22 be required by this section shall be made available for in-
23 spection and duplication by such officer or employee. Fail-
24 ure by a claim holder, operator, or other person referred
25 to in the first sentence to cooperate with such an audit,

1 provide data required by the Secretary, or grant access
2 to information may, at the discretion of the Secretary, re-
3 sult in involuntary forfeiture of the claim.

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

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

1 (2) Except as provided in paragraph (3) of this sub-
2 section (relating to trade secrets), and pursuant to a coop-
3 erative agreement, the Secretary of Agriculture shall, upon
4 request, have access to all royalty accounting information
5 in the possession of the Secretary respecting the produc-
6 tion, removal, or sale of locatable minerals, concentrates,
7 or products derived therefrom from claims on lands open
8 to location under this Act.

9 (3) Trade secrets, proprietary, and other confidential
10 information protected from disclosure under section 552
11 of title 5, United States Code, popularly known as the
12 Freedom of Information Act, shall be made available by
13 the Secretary to other Federal agencies as necessary to
14 assure compliance with this Act and other Federal laws.
15 The Secretary, the Secretary of Agriculture, the Adminis-
16 trator of the Environmental Protection Agency, and other
17 Federal officials shall ensure that such information is pro-
18 vided protection in accordance with the requirements of
19 that section.

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

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

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

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

16 (4) The Secretary may waive or reduce the assess-
17 ment provided in paragraph (2) of this subsection if the
18 person liable for royalty payments under this section cor-
19 rects the underreporting before the date such person re-
20 ceives notice from the Secretary that an underreporting
21 may have occurred, or before 90 days after the date of
22 the enactment of this section, whichever is later.

23 (5) The Secretary shall waive any portion of an as-
24 sessment under paragraph (2) of this subsection attrib-
25 utable to that portion of the underreporting for which the

1 person responsible for paying the royalty demonstrates
2 that—

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

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

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

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

16 (6) All penalties collected under this subsection shall
17 be deposited in the Abandoned Mine Cleanup Fund estab-
18 lished by section 201(a).

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

23 (h) EXPANDED ROYALTY OBLIGATIONS.—Each per-
24 son liable for royalty payments under this section shall
25 be jointly and severally liable for royalty on all locatable

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

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

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

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

1 maintained in compliance with this Act were a lease under
2 that Act.

3 **SEC. 102. HARDROCK MINING CLAIM MAINTENANCE FEE.**

4 (a) FEE.—

5 (1) Except as provided in section 2511(e)(2) of
6 the Energy Policy Act of 1992 (relating to oil shale
7 claims), for each unpatented mining claim, mill or
8 tunnel site on federally owned lands, whether located
9 before, on, or after enactment of this Act, each
10 claimant shall pay to the Secretary, on or before Au-
11 gust 31 of each year, a claim maintenance fee of
12 \$300 per claim to hold such unpatented mining
13 claim, mill or tunnel site for the assessment year be-
14 ginning at noon on the next day, September 1. Such
15 claim maintenance fee shall be in lieu of the assess-
16 ment work requirement contained in the Mining Law
17 of 1872 (30 U.S.C. 28 et seq.) and the related filing
18 requirements contained in section 314(a) and (c) of
19 the Federal Land Policy and Management Act of
20 1976 (43 U.S.C. 1744(a) and (c)).

21 (2)(A) The claim maintenance fee required
22 under this subsection shall be waived for a claimant
23 who certifies in writing to the Secretary that on the
24 date the payment was due, the claimant and all re-
25 lated parties—

1 (i) held not more than 10 mining claims,
2 mill sites, or tunnel sites, or any combination
3 thereof, on public lands; and

4 (ii) have performed assessment work re-
5 quired under the Mining Law of 1872 (30
6 U.S.C. 28 et seq.) to maintain the mining
7 claims held by the claimant and such related
8 parties for the assessment year ending on noon
9 of September 1 of the calendar year in which
10 payment of the claim maintenance fee was due.

11 (B) For purposes of subparagraph (A), with re-
12 spect to any claimant, the term “all related parties”
13 means—

14 (i) the spouse and dependent children (as
15 defined in section 152 of the Internal Revenue
16 Code of 1986), of the claimant; or

17 (ii) a person affiliated with the claimant,
18 including—

19 (I) a person controlled by, controlling,
20 or under common control with the claim-
21 ant; or

22 (II) a subsidiary or parent company
23 or corporation of the claimant.

24 (3)(A) The Secretary shall adjust the fees re-
25 quired by this subsection to reflect changes in the

1 Consumer Price Index published by the Bureau of
2 Labor Statistics of the Department of Labor every
3 5 years after the date of enactment of this Act, or
4 more frequently if the Secretary determines an ad-
5 justment to be reasonable.

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

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

13 (4) Moneys received under this subsection that
14 are not otherwise allocated for the administration of
15 the mining laws by the Department of the Interior
16 shall be deposited in the Abandoned Mine Cleanup
17 Fund established by section 201(a).

18 (b) LOCATION.—

19 (1) Notwithstanding any provision of law, for
20 every unpatented mining claim, mill or tunnel site
21 located after the date of enactment of this Act and
22 before September 30, 1998, the locator shall, at the
23 time the location notice is recorded with the Bureau
24 of Land Management, pay to the Secretary a loca-

1 tion fee, in addition to the fee required by subsection
2 (a) of \$50 per claim.

3 (2) Moneys received under this subsection that
4 are not otherwise allocated for the administration of
5 the mining laws by the Department of the Interior
6 shall be deposited in the Abandoned Mine Cleanup
7 Fund established by section 201(a).

8 (c) TRANSFER.—

9 (1) Notwithstanding any provision of law, for
10 every unpatented mining claim, mill, or tunnel site
11 the ownership interest of which is transferred after
12 the date of enactment of this Act, the transferee
13 shall, at the time the transfer document is recorded
14 with the Bureau of Land Management, pay to the
15 Secretary a transfer fee, in addition to the fee re-
16 quired by subsection (a) of \$100 per claim.

17 (2) Moneys received under this subsection that
18 are not otherwise allocated for the administration of
19 the mining laws by the Department of the Interior
20 shall be deposited in the Abandoned Mine Cleanup
21 Fund established by section 201(a).

22 (d) CO-OWNERSHIP.—The co-ownership provisions of
23 the Mining Law of 1872 (30 U.S.C. 28 et seq.) will remain
24 in effect except that the annual claim maintenance fee,

1 where applicable, shall replace applicable assessment re-
2 quirements and expenditures.

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

8 (f) **OTHER REQUIREMENTS.**—

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

17 (2) Section 2324 of the Revised Statutes of the
18 United States (30 U.S.C. 28) is amended by insert-
19 ing “or section 102 of the Abandoned Mine Rec-
20 lamation Act of 2009” after “Act of 1993,”.

21 **SEC. 103. RECLAMATION FEE.**

22 (a) **IMPOSITION OF FEE.**—

23 (1) **IN GENERAL.**—Except as provided in para-
24 graph (2), each operator of a hardrock minerals
25 mining operation shall pay to the Secretary, for de-

1 posit in the Abandoned Mine Cleanup Fund estab-
2 lished by section 201(a), a reclamation fee of 0.3
3 percent of the gross income of the hardrock minerals
4 mining operation for each calendar year.

5 (2) EXCEPTION.—With respect to any calendar
6 year required under subsection (b), an operator of a
7 hardrock minerals mining operation shall not be re-
8 quired to pay the reclamation fee under paragraph
9 (1) if—

10 (A) the gross annual income of the
11 hardrock minerals mining operation for the cal-
12 endar year is an amount less than \$500,000;
13 and

14 (B) the hardrock minerals mining oper-
15 ation is comprised of—

16 (i) 1 or more hardrock mineral mines
17 located in a single patented claim; or

18 (ii) 2 or more contiguous patented
19 claims.

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

24 (c) DEPOSIT OF REVENUES.—Amounts received by
25 the Secretary under subsection (a)(1) shall be deposited

1 into the Abandoned Mine Cleanup Fund established by
2 section 201(a).

3 (d) EFFECT.—Nothing in this section requires a re-
4 duction in, or otherwise affects, any similar fee required
5 under any law (including regulations) of any State.

6 **SEC. 104. EFFECT OF PAYMENTS FOR USE AND OCCUPANCY**
7 **OF CLAIMS.**

8 Timely payment of the claim maintenance fee re-
9 quired by section 102(a) of this Act or any related law
10 relating to the use of Federal land, asserts the claimant’s
11 authority to use and occupy the Federal land concerned
12 for prospecting and exploration, consistent with the re-
13 quirements of this Act and other applicable law.

14 **TITLE II—ABANDONED MINE**
15 **CLEANUP FUND**

16 **SEC. 201. ESTABLISHMENT OF FUND.**

17 (a) ESTABLISHMENT.—There is established on the
18 books of the Treasury of the United States a separate ac-
19 count to be known as the Abandoned Mine Cleanup Fund
20 (hereinafter in this title referred to as the “Fund”).

21 (b) INVESTMENT.—The Secretary shall notify the
22 Secretary of the Treasury as to what portion of the Fund
23 is not, in the Secretary’s judgment, required to meet cur-
24 rent withdrawals. The Secretary of the Treasury shall in-
25 vest such portion of the Fund in public debt securities

1 with maturities suitable for the needs of such Fund and
2 bearing interest at rates determined by the Secretary of
3 the Treasury, taking into consideration current market
4 yields on outstanding marketplace obligations of the
5 United States of comparable maturities.

6 **SEC. 202. CONTENTS OF FUND.**

7 The following amounts shall be credited to the Fund:

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

11 (2) All amounts deposited in the Fund under
12 section 101 (relating to royalties and penalties for
13 underreporting).

14 (3) All amounts received by the United States
15 pursuant to section 102 as claim maintenance, loca-
16 tion, and transfer fees minus the moneys allocated
17 for administration of the mining laws by the Depart-
18 ment of the Interior.

19 (4) All amounts received by the Secretary in ac-
20 cordance with section 103(a).

21 (5) All income on investments under section
22 201(b).

23 **SEC. 203. USE AND OBJECTIVES OF THE FUND.**

24 (a) IN GENERAL.—The Secretary is authorized, with-
25 out further appropriation, to use moneys in the Fund for

1 the reclamation and restoration of land and water re-
2 sources adversely affected by past mineral activities on
3 lands the legal and beneficial title to which resides in the
4 United States, land within the exterior boundary of any
5 national forest system unit, or other lands described in
6 subsection (d), including any of the following:

7 (1) Protecting public health and safety.

8 (2) Preventing, abating, treating, and control-
9 ling water pollution created by abandoned mine
10 drainage, including in river watershed areas.

11 (3) Reclaiming and restoring abandoned surface
12 and underground mined areas.

13 (4) Reclaiming and restoring abandoned milling
14 and processing areas.

15 (5) Backfilling, sealing, or otherwise control-
16 ling, abandoned underground mine entries.

17 (6) Revegetating land adversely affected by past
18 mineral activities in order to prevent erosion and
19 sedimentation, to enhance wildlife habitat, and for
20 any other reclamation purpose.

21 (7) Controlling of surface subsidence due to
22 abandoned underground mines.

23 (b) ALLOCATION.—Expenditures of moneys from the
24 Fund shall reflect the following priorities in the order stat-
25 ed:

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

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

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

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

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

1 ized, subject to appropriations, to use moneys in the Fund
2 for reclamation and restoration under subsection (a) for
3 all directly affected lands.

4 (e) RESPONSE OR REMOVAL ACTIONS.—Reclamation
5 and restoration activities under this title which constitute
6 a removal or remedial action under section 101 of the
7 Comprehensive Environmental Response, Compensation,
8 and Liability Act of 1980 (42 U.S.C. 9601), shall be con-
9 ducted with the concurrence of the Administrator of the
10 Environmental Protection Agency. The Secretary and the
11 Administrator shall enter into a Memorandum of Under-
12 standing to establish procedures for consultation, concur-
13 rence, training, exchange of technical expertise and joint
14 activities under the appropriate circumstances, that pro-
15 vide assurances that reclamation or restoration activities
16 under this title shall not be conducted in a manner that
17 increases the costs or likelihood of removal or remedial
18 actions under the Comprehensive Environmental Re-
19 sponse, Compensation, and Liability Act of 1980 (42
20 U.S.C. 9601 et seq.), and that avoid oversight by multiple
21 agencies to the maximum extent practicable.

22 **SEC. 204. ELIGIBLE LANDS AND WATERS.**

23 (a) ELIGIBILITY.—Reclamation expenditures under
24 this title may be made with respect to Federal, State,
25 local, tribal, and private land or water resources that tra-

1 verse or are contiguous to Federal, State, local, tribal, or
2 private land where such lands or water resources have
3 been affected by past mineral activities, including any of
4 the following:

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

9 (2) Lands for which the Secretary makes a de-
10 termination that there is no continuing reclamation
11 responsibility of a claim holder, operator, or other
12 person who abandoned the site prior to completion
13 of required reclamation under State or other Federal
14 laws.

15 (b) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—
16 The provisions of section 411(d) of the Surface Mining
17 Control and Reclamation Act of 1977 (30 U.S.C.
18 1240a(d)) shall apply to expenditures made from the
19 Fund.

20 (c) INVENTORY.—

21 (1) IN GENERAL.—The Secretary shall prepare
22 and maintain a publicly available inventory of aban-
23 doned locatable minerals mines on public lands and
24 any abandoned mine on Indian lands that may be el-
25 igible for expenditures under this title, and shall de-

1 liver a yearly report to the Congress on the progress
2 in cleanup of such sites.

3 (2) PRIORITY.—In preparing and maintaining
4 the inventory described in paragraph (1), the Sec-
5 retary shall give priority to abandoned locatable
6 minerals mines in accordance with section 203(b).

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

11 **SEC. 205. EXPENDITURES.**

12 Moneys available from the Fund may be expended for
13 the purposes specified in section 203 directly by the Direc-
14 tor of the Office of Surface Mining Reclamation and En-
15 forcement. The Director may also make such money avail-
16 able for such purposes to the Director of the Bureau of
17 Land Management, the Chief of the United States Forest
18 Service, the Director of the National Park Service, or Di-
19 rector of the United States Fish and Wildlife Service, to
20 any other agency of the United States, to an Indian tribe,
21 or to any public entity that volunteers to develop and im-
22 plement, and that has the ability to carry out, all or a
23 significant portion of a reclamation program under this
24 title.

1 **SEC. 206. AVAILABILITY OF AMOUNTS.**

2 Amounts credited to the Fund shall—

3 (1) be available, without further appropriation,
4 for obligation and expenditure; and

5 (2) remain available until expended.

6 **TITLE III—EFFECTIVE DATE**

7 **SEC. 301. EFFECTIVE DATE.**

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

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