

117TH CONGRESS
2D SESSION

H. R. 7580

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

APRIL 26, 2022

Mr. GRIJALVA (for himself, Mr. LOWENTHAL, Mr. HUFFMAN, Ms. TLAIB, Mr. BEYER, Mr. BLUMENAUER, Ms. PORTER, Mr. DEFazio, Ms. MCCOLLUM, Ms. NORTON, Mr. LEVIN of California, and Mr. COHEN) introduced the following bill; which was referred to the Committee on 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 “Clean Energy Minerals Reform Act of 2022”.

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

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

TITLE I—MINERAL LEASING, EXPLORATION, AND DEVELOPMENT

- Sec. 101. Closure to entry and location.
- Sec. 102. Limitation on patents.
- Sec. 103. Prospecting license and hardrock leases.
- Sec. 104. Competitive leasing.
- Sec. 105. Small miners leases.
- Sec. 106. Lands containing nonhardrock minerals; other uses.
- Sec. 107. Royalty.
- Sec. 108. Existing production.
- Sec. 109. Hardrock mining claim maintenance fee.
- Sec. 110. Effect of payments for use and occupancy of claims.
- Sec. 111. Protection of special places.
- Sec. 112. Suitability determination.

TITLE II—CONSULTATION PROCEDURE

- Sec. 201. Requirement for consultation.
- Sec. 202. Timing.
- Sec. 203. Scoping stage consultation.
- Sec. 204. Decision stage procedures.
- Sec. 205. Documentation and reporting.
- Sec. 206. Implementation.
- Sec. 207. Sensitive Tribal information.

TITLE III—ENVIRONMENTAL CONSIDERATIONS OF MINERAL EXPLORATION AND DEVELOPMENT

- Sec. 301. General standard for hardrock mining on Federal land.
- Sec. 302. Permits.
- Sec. 303. Exploration permit.
- Sec. 304. Operations permit.
- Sec. 305. Persons ineligible for permits.
- Sec. 306. Financial assurance.
- Sec. 307. Operation and reclamation.
- Sec. 308. State law and regulation.

TITLE IV—ABANDONED HARDROCK MINE RECLAMATION

- Sec. 401. Establishment of Fund.
- Sec. 402. Contents of Fund.
- Sec. 403. Displaced material reclamation fee.
- Sec. 404. Use of the Fund.

TITLE V—ADDITIONAL PROVISIONS

- Sec. 501. Policy functions.
- Sec. 502. User fees and inflation adjustment.
- Sec. 503. Inspection and monitoring.
- Sec. 504. Citizens suits.
- Sec. 505. Administrative and judicial review.
- Sec. 506. Reporting requirements.
- Sec. 507. Enforcement.

Sec. 508. Regulations.
Sec. 509. Oil shale claims.
Sec. 510. Savings clause.
Sec. 511. Availability of public records.
Sec. 512. Miscellaneous powers.
Sec. 513. Mineral materials.
Sec. 514. Effective date.

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

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

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

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

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

11 (B) Any partner of such person.

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

14 (3) The term “agency” means any authority of
15 the United States that is an “agency” under section
16 3502(1) of title 44, United States Code.

17 (4) The term “applicant” means any person ap-
18 plying for a permit, license, or lease under this Act
19 or a modification to or a renewal of a permit, li-
20 cense, or lease under this Act.

21 (5) The term “beneficiation” means the crush-
22 ing and grinding of hardrock mineral ore and such

1 processes as are employed to free the mineral from
2 other constituents, including physical and chemical
3 separation techniques.

4 (6) The term “casual use”—

5 (A) subject to subparagraphs (B) and (C),
6 means mineral activities that do not ordinarily
7 result in any disturbance of public lands and re-
8 sources;

9 (B) includes collection of geochemical,
10 rock, soil, or mineral specimens using
11 handtools, hand panning, or nonmotorized sluic-
12 ing; and

13 (C) does not include—

14 (i) the use of mechanized earth-mov-
15 ing equipment, suction dredging, or explo-
16 sives;

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

19 (iii) the construction of roads or drill
20 pads; and

21 (iv) the use of toxic or hazardous ma-
22 terials.

23 (7) The term “claim holder” means a person
24 holding a mining claim, millsite claim, or tunnel site
25 claim located under the general mining laws and

1 maintained in compliance with such laws. Such term
2 may include an agent of a claim holder.

3 (8) The term “control” means having the abil-
4 ity, directly or indirectly, to determine (without re-
5 gard to whether exercised through one or more cor-
6 porate structures) the manner in which an entity
7 conducts mineral activities, through any means, in-
8 cluding ownership interest, authority to commit the
9 entity’s real or financial assets, position as a direc-
10 tor, officer, or partner of the entity, or contractual
11 arrangement.

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

15 (10) The term “displaced material” means any
16 crude ore and waste dislodged from its location at
17 the time hardrock mineral activities begin at a sur-
18 face, underground, or in-situ mine.

19 (11) The term “exploration”—

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

1 (B) includes mineral activities associated
2 with sampling, drilling, and analyzing hardrock
3 mineral values; and

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

6 (12) The term “Federal land” means any land,
7 and any interest in land, that is owned by the
8 United States, except lands in the National Park
9 System, Indian lands, and lands on the Outer Conti-
10 nental Shelf.

11 (13) The term “Fund” means the Hardrock
12 Minerals Reclamation Fund established by this Act.

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

21 (15) The term “Indian Tribe” means any In-
22 dian Tribe, band, nation, pueblo, or other organized
23 group or community, including any Alaska Native
24 village, village corporation, or regional corporation
25 as defined in or established pursuant to the Alaska

1 Native Claims Settlement Act (43 U.S.C. 1601 et
2 seq.), that is recognized as eligible for the special
3 programs and services provided by the United States
4 to Indians because of their status as Indians.

5 (16) The term “hardrock mineral”—

6 (A) subject to subparagraph (B), means
7 any mineral that was subject to location under
8 the general mining laws as of the date of enact-
9 ment of this Act, and that is not subject to dis-
10 position under—

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

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

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

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

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

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

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

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

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

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

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

1 or lands within the National Forest System, includ-
2 ing:

3 (A) National Volcanic Monuments.

4 (B) Recreation Areas, Scenic Recreation
5 Areas, and Winter Recreation Areas.

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

9 (D) National Game and Wildlife Preserves.

10 (E) Special Management, Wildlife, Con-
11 servation and Protection Areas, including bo-
12 tanical, hydrological (watershed), geological,
13 historical, paleontological, and zoological areas.

14 (F) Experimental Forests, Ranges, and
15 Watersheds.

16 (G) Research Sites and Research Natural
17 Areas.

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

20 (I) Recommended Wilderness and Primi-
21 tive Areas.

22 (20) The term “operator” means any person
23 proposing or authorized by a permit issued under
24 this Act to conduct mineral activities and any agent
25 of such person.

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

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

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

15 (A) as sacred by virtue of its established
16 religious significance to, or ceremonial use by,
17 an Indian religion; or

18 (B) to be of established cultural signifi-
19 cance.

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

22 (25) The term “Secretary concerned” means—

23 (A) the Secretary of Agriculture (acting
24 through the Chief of the Forest Service) with
25 respect to National Forest System land; and

1 (B) the Secretary of the Interior (acting
2 through the Director of the Bureau of Land
3 Management) with respect to other Federal
4 land.

5 (26)(A) The term “small miner” means a per-
6 son (including all related parties thereto) that—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (b) REFERENCES TO OTHER LAWS.—

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

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

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

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

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

14 **TITLE I—MINERAL LEASING, EX-**
15 **PLOURATION, AND DEVELOP-**
16 **MENT**

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

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

23 (b) EXISTING NONPRODUCING CLAIMS.—

24 (1) CLAIMS WITHOUT PLAN OF OPERATIONS.—

25 Any claim under the general mining laws existing on
26 the effective date of this Act for which a plan of op-

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

8 (A) relinquishes the claim; or

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

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

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

19 (B) the claim belongs to a small miner.

20 (3) CONVERSION.—Upon showing to the satis-
21 faction of the Secretary of a valuable mineral deposit
22 on lands subject to such a claim, the Secretary may
23 convert the claim to a noncompetitive lease under
24 the regulations issued under subsection (d).

1 (4) CLAIMS NOT CONVERTED.—Any such claims
2 not converted to leases at the end of the applicable
3 period under paragraph (1) or (2) shall be consid-
4 ered invalid and void.

5 (c) EXISTING CLAIMS WITH PLAN OF OPERATION.—

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

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

13 (i) mineral activities on lands subject
14 to such claim shall be subject to such plan
15 of operations; and

16 (ii) modification of such plan may be
17 made in accordance with the provisions of
18 law applicable before the date of enactment
19 of this Act if such modifications are con-
20 sidered minor by the Secretary concerned;
21 and

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

1 (2) ACTIVITIES PENDING DECISION ON MODI-
2 FICATION TO PLAN OF OPERATIONS.—If an applica-
3 tion for modification of a plan of operations referred
4 to in paragraph (1)(A)(ii) has been timely submitted
5 and an approved plan expires before the Secretary
6 concerned takes action on the application, mineral
7 activities and reclamation may continue in accord-
8 ance with the terms of the expired plan until such
9 Secretary makes an administrative decision on the
10 application.

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

17 (d) CONVERSION REGULATIONS.—

18 (1) IN GENERAL.—The Secretary shall issue
19 regulations not later than 1 year after the date of
20 enactment of this Act to provide for the conversion
21 of mining claims to noncompetitive mining leases.

22 (2) CONTENT.—The regulations issued under
23 paragraph (1) shall—

24 (A) prohibit the conversion of a mining
25 claim to a mining lease by a claimholder who is

1 in violation of this Act or other State or Fed-
2 eral environmental, health, or worker safety
3 law;

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

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

13 (D) require the consent of the surface
14 managing agency for conversion of a mining
15 claim to a noncompetitive mining lease;

16 (E) require the fiscal terms of the con-
17 verted noncompetitive mining lease to be the
18 same as provided in this Act for other hardrock
19 mining leases;

20 (F) require compliance with all provisions
21 of this Act; and

22 (G) include any other terms the Secretary
23 considers appropriate.

24 (e) NATIONAL ENVIRONMENTAL POLICY ACT.—The
25 Secretary is not required to conduct an environmental

1 analysis under the National Environmental Policy Act of
2 1969 (42 U.S.C. 4321 et seq.) for the issuance of a non-
3 competitive lease under this section, unless the non-
4 competitive lease modifies or extends the surface disturb-
5 ance already authorized under a mine plan of operations
6 covering the mining claim that is converted.

7 **SEC. 102. LIMITATION ON PATENTS.**

8 (a) MINING CLAIMS.—

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

14 (A) a patent application was filed with the
15 Secretary on or before September 30, 1994;
16 and

17 (B) all requirements established under sec-
18 tions 2325 and 2326 of the Revised Statutes
19 (30 U.S.C. 29 and 30), in the case of a vein or
20 lode claim, or sections 2329, 2330, 2331, and
21 2333 of the Revised Statutes (30 U.S.C. 35,
22 36, and 37), in the case of a placer claim, were
23 fully complied with by that date.

24 (2) RIGHT TO PATENT.—If the Secretary makes
25 the determinations referred to in subparagraphs (A)

1 and (B) of paragraph (1) for any mining claim, the
2 holder of the claim shall be entitled to the issuance
3 of a patent in the same manner and degree to which
4 such claim holder would have been entitled to prior
5 to the enactment of this Act, unless such determina-
6 tions are withdrawn or invalidated by the Secretary
7 or by a court of the United States.

8 (b) MILLSITE CLAIMS.—

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

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

17 (B) all requirements applicable to such
18 patent application were fully complied with be-
19 fore that date.

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

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

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

5 (a) IN GENERAL.—No person may conduct mineral
6 prospecting for commercial purposes for any hardrock
7 mineral on Federal lands without a prospecting license or
8 a small miners lease.

9 (b) PROSPECTING LICENSES.—

10 (1) IN GENERAL.—The Secretary may, under
11 such rules and regulations as the Secretary may pre-
12 scribe and with the concurrence of the relevant sur-
13 face management agency, grant an applicant a
14 prospecting license that shall give the exclusive right
15 to prospect for specified hardrock minerals on Fed-
16 eral lands for a period of not exceeding 2 years.

17 (2) MAXIMUM AREA.—The area subject to such
18 a license shall not exceed 2,560 acres of land, in rea-
19 sonably compact form.

20 (3) LICENSE APPLICATION FEE.—The Sec-
21 retary shall charge a fee for each license application
22 to cover the costs of processing the license, and the
23 license shall be subject to annual rentals equal to
24 \$10 per acre per year.

1 (4) TERMS AND CONDITIONS.—A prospecting li-
2 cense must conform with the terms and conditions
3 of a comprehensive land use plan approved under
4 the Federal Land Policy and Management Act of
5 1976 (43 U.S.C. 1701 et seq.) or the Forest and
6 Rangeland Renewable Resources Planning Act of
7 1974 (16 U.S.C. 1600 et seq.). For areas where a
8 comprehensive land use plan treating hardrock min-
9 ing as a multiple-use activity has not been com-
10 pleted, the Secretary concerned shall ensure that the
11 land to be covered by the license is suitable for min-
12 eral activities.

13 (5) EXTENSION.—A prospecting license may be
14 extended for up to an additional 4 years upon a
15 showing by the licensee that the licensee explored
16 with reasonable diligence and was unable to deter-
17 mine the existence and workability of a valuable de-
18 posit covered by the license, or that the failure to
19 perform diligent prospecting activities was due to
20 conditions beyond the licensee's control.

21 (c) NONCOMPETITIVE LEASES.—

22 (1) IN GENERAL.—Upon a showing to the satis-
23 faction of the Secretary by a prospecting licensee
24 under subsection (a) that a valuable deposit of a
25 hardrock mineral has been discovered by the licensee

1 within an area covered by the prospecting license
2 and with the consent of the surface agency, the li-
3 censee shall be entitled to a lease for any or all of
4 the land included in the prospecting license, as well
5 as any nonmineral lands necessary for processing or
6 milling operations, at a royalty of no less than 12.5
7 percent of the gross value of production of hardrock
8 minerals or mineral concentrates or products derived
9 from hardrock minerals under the lease. Rentals for
10 such lease shall be set by the Secretary at no less
11 than \$10 per acre per year, with rentals paid in any
12 one year credited against royalties accruing for that
13 year. The recipient of such lease is not entitled to
14 an operations permit.

15 (2) LEASE PERIOD.—

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

21 (B) EXTENSION DURING NONPRODUC-
22 TION.—If hardrock minerals are not being pro-
23 duced in commercial quantities at the end of
24 the primary term or any subsequent term of
25 such a lease, the Secretary may issue a 10-year

1 extension of the lease in the interest of con-
2 servation, reclamation maintenance, or upon a
3 successful showing by the lessee that the lease
4 cannot be successfully operated at a profit or
5 for other reasons. No more than one extension
6 under this subparagraph may be issued.

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

12 (e) REDUCTION OF ROYALTY RATE.—

13 (1) Subject to paragraph (2), the Secretary—

14 (A) may reduce the royalty rate for a lease
15 upon a showing by clear and convincing evi-
16 dence by the person conducting mineral activi-
17 ties under the lease that production would not
18 occur without the reduction in royalty; and

19 (B) may reduce royalty and rental rates
20 for a lease to encourage exploration for and de-
21 velopment of hardrock minerals classified as
22 strategic and critical by the Department of En-
23 ergy.

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

4 (f) PROTECTION OF LAND AND OTHER RE-
5 SOURCES.—The Secretary may include in any lease or li-
6 cense issued under this Act such provisions as are nec-
7 essary to adequately protect the lands and other resources
8 in the vicinity of the area subject to the lease or license.
9 For land not managed by the Department of the Interior,
10 the Secretary shall consult with the appropriate surface
11 management agency in formulating such provisions.

12 **SEC. 104. COMPETITIVE LEASING.**

13 (a) IN GENERAL.—Subject to sections 111 and 112,
14 Federal lands known to contain valuable deposits of
15 hardrock minerals that are not covered by claims, licenses,
16 or leases may only be open to hardrock mineral exploration
17 or development through competitive leasing by the Sec-
18 retary by such methods the Secretary may adopt by regu-
19 lation and in such areas as the Secretary may determine,
20 including nonmineral lands the Secretary considers nec-
21 essary for processing or milling operations. The total area
22 of land subject to any such lease shall not exceed 2,560
23 acres.

24 (b) TERMS AND REQUIREMENTS.—All terms and re-
25 quirements for competitive leases under this section shall

1 be the same as if the leases were issued noncompetitively
2 under section 103(c).

3 **SEC. 105. SMALL MINERS LEASES.**

4 (a) **IN GENERAL.**—The Secretary may issue small
5 miners leases to qualified small miners that apply, under
6 such rules and regulations as the Secretary may prescribe,
7 including conditions to require diligent development of the
8 lease and to ensure protection of surface resources and
9 groundwater.

10 (b) **EXCLUSIVE RIGHT.**—A small miners lease shall
11 give the lease holder the exclusive right to prospect for
12 hardrock minerals for 3 years on up to 200 acres of con-
13 tiguous or non-contiguous Federal land.

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

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

18 (e) **RENEWAL.**—Such leases may be renewed for ad-
19 ditional 3-year periods, with no limit, with a \$10 per acre
20 per year rental charged for renewed leases.

21 (f) **CHALLENGE.**—Any individual may file a challenge
22 with the Secretary that a lease holder is in violation of
23 the diligence terms of a small miners lease or does not
24 qualify as a small miner. A small miners lease that is
25 under such a challenge may not be renewed unless the Sec-

1 retary has determined that the lease holder is a small
2 miner and is in compliance with all the terms of the lease.

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

5 (h) CONVERSION OF EXISTING CLAIMS.—An existing
6 claim, as of the date of enactment of this Act, that belongs
7 to an individual that qualifies as a small miner may be
8 converted to a small miners lease under the same terms
9 and conditions that apply to other small miners leases, ex-
10 cept that such lease—

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

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

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

19 (i) LIMITATIONS.—A small miners lease—

20 (1) may only be held by the primary lease hold-
21 er, a spouse thereof, or a direct descendent thereof;

22 (2) may not be sold or transferred, other than
23 to a spouse or direct descendent of the primary lease
24 holder; and

1 including leases for other minerals, if such other uses
2 would not unreasonably interfere with operations
3 under the prospecting license.

4 (2) PROSPECTING LICENSES.—The Secretary
5 shall include in such prospecting licenses such terms
6 and conditions as the Secretary finds necessary to
7 avoid unreasonable interference with other uses oc-
8 ccurring on, or other leases of, the licensed lands.

9 (3) LEASES.—The Secretary shall include in
10 leases under this Act stipulations to allow for simul-
11 taneous operations under other leases for the same
12 lands.

13 **SEC. 107. ROYALTY.**

14 (a) EXISTING PRODUCTION.—Production of hardrock
15 minerals on Federal land under an operations permit from
16 which valuable hardrock minerals were produced in com-
17 mercial quantities before the date of enactment of this
18 Act, other than production under a small miners lease,
19 shall be subject to a royalty established by the Secretary
20 at no less than 8 percent of the gross value of such produc-
21 tion, or of mineral concentrates or products derived from
22 hardrock minerals. Any Federal land added through a
23 plan modification to an operations permit on Federal land
24 that is submitted after the date of enactment of this Act
25 shall be subject to a royalty established by the Secretary

1 for such lease of no less than 12.5 percent of the gross
2 value of production of hardrock minerals, or mineral con-
3 centrates or products derived from hardrock minerals.

4 (b) LIABILITY.—The claim or lease holder, or any op-
5 erator to whom the claim or lease holder has assigned the
6 obligation to make royalty payments under the claim or
7 lease and any person who controls such claim or lease
8 holder or operator, shall be liable for payment of such roy-
9 alties.

10 (c) DISPOSITION.—Of the revenues collected under
11 this title, including rents, royalties, claim maintenance
12 fees, interest charges, fines, and penalties—

13 (1) 25 percent shall be paid to the State within
14 the boundaries of which the leased, licensed, or
15 claimed lands, or operations subject to such interest
16 charges, fines, or penalties are or were located; and

17 (2) the remainder shall be deposited in the ac-
18 count established under section 401.

19 (d) DUTIES OF CLAIM OR LEASE HOLDERS, OPERA-
20 TORS, AND TRANSPORTERS.—

21 (1) REGULATION.—The Secretary shall pre-
22 scribe by rule the time and manner in which—

23 (A) a person who is required to make a
24 royalty payment under this section shall make
25 such payment; and

1 (B) shall notify the Secretary of any as-
2 signment that such person may have made of
3 the obligation to make any royalty or other pay-
4 ment under a mining claim or lease under this
5 title.

6 (2) WRITTEN INSTRUMENT.—Any person pay-
7 ing royalties under this section shall file a written
8 instrument, together with the first royalty payment,
9 affirming that such person is responsible for making
10 proper payments for all amounts due for all time pe-
11 riods for which such person has a payment responsi-
12 bility.

13 (3) ADDITIONAL AMOUNTS.—Such responsi-
14 bility for the periods referred to in paragraph (2)
15 shall include any and all additional amounts billed
16 by the Secretary and determined to be due by final
17 agency or judicial action.

18 (4) JOINT AND SEVERAL LIABILITY.—Any per-
19 son liable for royalty payments under this section
20 who assigns any payment obligation shall remain
21 jointly and severally liable for all royalty payments
22 due for the period.

23 (5) OBLIGATIONS.—A person conducting min-
24 eral activities shall—

1 (A) develop and comply with the site secu-
2 rity provisions in the operations permit de-
3 signed to protect from theft the hardrock min-
4 erals, concentrates, or products derived there-
5 from that are produced or stored on the area
6 subject to a mining claim or lease, and such
7 provisions shall conform with such minimum
8 standards as the Secretary may prescribe by
9 rule, taking into account the variety of cir-
10 cumstances on areas subject to mining claims
11 and leases; and

12 (B) not later than the fifth business day
13 after production begins anywhere on an area
14 subject to a mining claim or lease, or produc-
15 tion resumes after more than 90 days after pro-
16 duction was suspended, notify the Secretary, in
17 the manner prescribed by the Secretary, of the
18 date on which such production has begun or re-
19 sumed.

20 (6) REQUIRED DOCUMENTATION.—The Sec-
21 retary may by rule require any person engaged in
22 transporting a hardrock mineral, concentrate, or
23 product derived therefrom to carry on his or her per-
24 son, in his or her vehicle, or in his or her immediate
25 control, documentation showing, at a minimum, the

1 amount, origin, and intended destination of the
2 hardrock mineral, concentrate, or product derived
3 therefrom in such circumstances as the Secretary
4 determines is appropriate.

5 (e) RECORDKEEPING AND REPORTING REQUIRE-
6 MENTS.—

7 (1) IN GENERAL.—A claim or lease holder, op-
8 erator, or other person directly involved in devel-
9 oping, producing, processing, transporting, pur-
10 chasing, or selling hardrock minerals, concentrates,
11 or products derived therefrom, subject to this Act,
12 through the point of royalty computation shall estab-
13 lish and maintain any records, make any reports,
14 and provide any information that the Secretary may
15 reasonably require for the purposes of implementing
16 this section or determining compliance with rules or
17 orders under this section. Such records shall include
18 periodic reports, records, documents, and other data.
19 Such reports may also include pertinent technical
20 and financial data relating to the quantity, quality,
21 composition volume, weight, and assay of all min-
22 erals extracted from the mining claim or lease.

23 (2) AVAILABILITY FOR INSPECTION.—Upon the
24 request of any officer or employee duly designated
25 by the Secretary conducting an audit or investiga-

1 tion pursuant to this section, the appropriate
2 records, reports, or information that may be re-
3 quired by this section shall be made available for in-
4 spection and duplication by such officer or employee.

5 (3) FORFEITURE.—Failure by a claim or lease
6 holder, operator, or other person referred to in the
7 first sentence to cooperate with such an audit, pro-
8 vide data required by the Secretary, or grant access
9 to information may, at the discretion of the Sec-
10 retary, result in involuntary forfeiture of the claim
11 or lease.

12 (4) MAINTENANCE OF RECORDS.—Records re-
13 quired by the Secretary under this section shall be
14 maintained for 7 years after release of financial as-
15 surance under section 306 unless the Secretary noti-
16 fies the operator that the Secretary has initiated an
17 audit or investigation involving such records and
18 that such records must be maintained for a longer
19 period. In any case when an audit or investigation
20 is underway, records shall be maintained until the
21 Secretary releases the operator of the obligation to
22 maintain such records.

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

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

9 (g) COOPERATIVE AGREEMENTS.—

10 (1) IN GENERAL.—The Secretary is authorized
11 to enter into cooperative agreements with the Sec-
12 retary of Agriculture to share information con-
13 cerning the royalty management of hardrock min-
14 erals, concentrates, or products derived therefrom, to
15 carry out inspection, auditing, investigation, or en-
16 forcement (not including the collection of royalties,
17 civil or criminal penalties, or other payments) activi-
18 ties under this section in cooperation with the Sec-
19 retary, and to carry out any other activity described
20 in this section.

21 (2) SECRETARY OF AGRICULTURE.—Except as
22 provided in paragraph (3), and pursuant to a coop-
23 erative agreement, the Secretary of Agriculture
24 shall, upon request, have access to all royalty ac-
25 counting information in the possession of the Sec-

1 retary respecting the production, removal, or sale of
2 hardrock minerals, concentrates, or products derived
3 therefrom from claims or leases on lands open to lo-
4 cation under this Act.

5 (3) TRADE SECRETS.—Trade secrets, propri-
6 etary, and other confidential information protected
7 from disclosure under section 552 of title 5, United
8 States Code, shall be made available by the Sec-
9 retary to other Federal agencies as necessary to as-
10 sure compliance with this Act and other Federal
11 laws. The Secretary, the Secretary of Agriculture,
12 the Administrator of the Environmental Protection
13 Agency, and other Federal officials shall ensure that
14 such information is provided protection in accord-
15 ance with the requirements of that section.

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

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

1 charged only on the amount of the deficiency and
2 not on the total amount.

3 (2) UNDERREPORTING.—If there is any under-
4 reporting of royalty owed on production from a
5 claim or lease for any production month by any per-
6 son liable for royalty payments under this section,
7 the Secretary shall assess a penalty of not greater
8 than 25 percent of the amount of that under-
9 reporting.

10 (3) SELF-REPORTING.—The Secretary may
11 waive or reduce the assessment provided in para-
12 graph (2) of this subsection if the person liable for
13 royalty payments under this section corrects the
14 underreporting before the date such person receives
15 notice from the Secretary that an underreporting
16 may have occurred, or before 90 days after the date
17 of enactment of this section, whichever is later.

18 (4) WAIVER.—The Secretary shall waive any
19 portion of an assessment under paragraph (2) of
20 this subsection attributable to that portion of the
21 underreporting for which the person responsible for
22 paying the royalty demonstrates that—

23 (A) such person had written authorization
24 from the Secretary to report royalty on the

1 value of the production on basis on which it was
2 reported;

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

6 (C) such person previously had notified the
7 Secretary, in such manner as the Secretary may
8 by rule prescribe, of relevant reasons or facts
9 affecting the royalty treatment of specific pro-
10 duction which led to the underreporting; or

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

13 (5) DEFINITION.—For the purposes of this sub-
14 section, the term “underreporting” means the dif-
15 ference between the royalty on the value of the pro-
16 duction that should have been reported and the roy-
17 alty on the value of the production which was re-
18 ported, if the value that should have been reported
19 is greater than the value that was reported.

20 (6) HARDROCK MINERALS RECLAMATION
21 FUND.—All penalties collected under this subsection
22 shall be deposited in the Hardrock Minerals Rec-
23 lamation Fund established by this Act.

24 (i) EXPANDED ROYALTY OBLIGATIONS.—Each per-
25 son liable for royalty payments under this section shall

1 be jointly and severally liable for royalty on all hardrock
2 minerals, concentrates, or products derived therefrom lost
3 or wasted from a mining claim or lease when such loss
4 or waste is due to negligence on the part of any person
5 or due to the failure to comply with any rule, regulation,
6 or order issued under this section.

7 (j) GROSS INCOME FROM MINING DEFINED.—For
8 the purposes of this section, for any hardrock 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 (k) EFFECTIVE DATE.—Royalties under this Act
13 shall take effect with respect to the production of hardrock
14 minerals after the enactment of this Act, but any royalty
15 payments attributable to production during the first 12
16 calendar months after the enactment of this Act shall be
17 payable at the expiration of such 12-month period.

18 (l) 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 or lease maintained in compliance with this
25 Act were a lease under such Act.

1 **SEC. 108. EXISTING PRODUCTION.**

2 The holder of a mining claim located or converted
3 under this Act for which mineral activities have already
4 commenced under an approved plan of operations as of
5 the date of enactment of this Act shall have the exclusive
6 right of possession and use of the claimed land for mineral
7 activities, including the right of ingress and egress to such
8 claimed lands for such activities, subject to the rights of
9 the United States under this Act and other applicable
10 Federal law. Such rights of the claim holder shall termi-
11 nate upon completion of mineral activities on such lands
12 to the satisfaction of the Secretary.

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

14 (a) FEE.—

15 (1) IN GENERAL.—

16 (A) REQUIRED FEES.—Except as provided
17 in section 2511(e)(2) of the Energy Policy Act
18 of 1992 (30 U.S.C. 242), or as otherwise pro-
19 vided in this Act, for each unpatented mining
20 claim, mill, or tunnel site on federally owned
21 lands, whether located before or on the date of
22 enactment of this Act, each claimant shall pay
23 to the Secretary, on or before August 31 of
24 each year, a claim maintenance fee of \$200 per
25 claim to hold such unpatented mining claim,
26 mill or tunnel site for the assessment year be-

1 ginning at noon on the next day, September 1.
2 Such claim maintenance fee shall be in lieu of
3 the assessment work requirement contained in
4 the Mining Law of 1872 (30 U.S.C. 28 et seq.)
5 and the related filing requirements contained in
6 section 314 (a) and (c) of the Federal Land
7 Policy and Management Act of 1976 (43 U.S.C.
8 1744 (a) and (c)).

9 (B) FREE ADJUSTMENTS.—Any adjustment
10 to the fees under this subsection under section
11 502 shall begin to apply the calendar year fol-
12 lowing the calendar year in which such adjust-
13 ment is made.

14 (C) EXCEPTION FOR SMALL MINERS.—
15 Subparagraph (A) and the assessment work re-
16 quirement contained in the Mining Law of 1872
17 (30 U.S.C. 28 et seq.) shall not apply with re-
18 spect to any claim held by a small miner.

19 (2) Moneys received under this subsection that
20 are not otherwise allocated for the administration of
21 the mining laws by the Department of the Interior
22 shall be deposited in the Hardrock Minerals Rec-
23 lamation Fund established by section 401.

24 (b) CO-OWNERSHIP.—The co-ownership provisions of
25 the Mining Law of 1872 (30 U.S.C. 28 et seq.) shall re-

1 main in effect except that the annual claim maintenance
2 fee, where applicable, shall replace applicable assessment
3 requirements and expenditures.

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

9 (d) OTHER REQUIREMENTS.—

10 (1) REQUIRED FILINGS.—Nothing in this sec-
11 tion shall change or modify the requirements of sec-
12 tion 314(b) of the Federal Land Policy and Manage-
13 ment Act of 1976 (43 U.S.C. 1744(b)), or the re-
14 quirements of section 314(c) of the Federal Land
15 Policy and Management Act of 1976 (43 U.S.C.
16 1744(c)) related to filings required by section
17 314(b), which remain in effect.

18 (2) MINING LAW OF 1872.—Section 2324 of the
19 Revised Statutes of the United States (30 U.S.C.
20 28) is amended by inserting “or section 103(a) of
21 the Clean Energy Minerals Reform Act of 2022”
22 after “Act of 1993”.

1 **SEC. 110. EFFECT OF PAYMENTS FOR USE AND OCCUPANCY**
2 **OF CLAIMS.**

3 Except as otherwise provided in section 101, timely
4 payment of the claim maintenance fee required by section
5 109 or any related law relating to the use of Federal land,
6 asserts the claimant's authority to use and occupy the
7 Federal land concerned for prospecting and exploration,
8 consistent with the requirements of this Act and other ap-
9 plicable law.

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

11 (a) **PROTECTION OF NATIONAL PARK SYSTEM UNITS**
12 **AND NATIONAL MONUMENTS.**—No permit shall be issued
13 under this Act that authorizes mineral activities that
14 would impair the land or resources of a unit of the Na-
15 tional Park System or a national monument. For purposes
16 of this subsection, the term “impair” includes any diminu-
17 tion of the affected land including wildlife, scenic assets,
18 water resources, air quality, and acoustic qualities, or
19 other changes that would impair a citizen's experience at
20 the National Park System unit or a national monument.

21 (b) **PROTECTION OF CONSERVATION AREAS.**—In
22 order to protect the resources and values of National Con-
23 servation System units, the Secretary, as appropriate,
24 shall utilize authority under this Act and other applicable
25 law to the fullest extent necessary to prevent mineral ac-

1 tivities that could have an adverse impact on the resources
2 or values for which such units were established.

3 (c) LANDS NOT OPEN TO MINING.—Notwithstanding
4 any other provision of law and subject to valid existing
5 rights, no hardrock mining activity shall be allowed in any
6 of the following:

7 (1) Sacred sites.

8 (2) Wilderness study areas.

9 (3) Designated critical habitat.

10 (4) Areas of critical environmental concern.

11 (5) Units of the National Conservation System.

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

20 (7) Inventoried Roadless Areas under the
21 Roadless Area Conservation Rule, part 294 of title
22 36, Code of Federal Regulations, Colorado Roadless
23 Areas, or Idaho Roadless Areas.

1 **SEC. 112. SUITABILITY DETERMINATION.**

2 (a) IN GENERAL.—The Secretary concerned shall
3 make each determination of whether lands are suitable for
4 mineral activities that is otherwise required by this Act,
5 in accordance with subsection (b).

6 (b) SUITABILITY.—

7 (1) IN GENERAL.—The Secretary concerned
8 shall consider lands suitable for mineral activities if
9 the Secretary concerned finds that such activities
10 would not result in undue degradation to a special
11 characteristic described in paragraph (2) that cannot
12 be prevented by the imposition of conditions in the
13 permit required for such activities under title III.

14 (2) SPECIAL CHARACTERISTICS.—For purposes
15 of paragraph (1) the Secretary concerned shall con-
16 sider each of the following to be a special char-
17 acteristic:

18 (A) The existence of a significant water re-
19 source or supply in or associated with such
20 lands, including any aquifer or aquifer recharge
21 area.

22 (B) The presence on such lands, or any
23 adjacent land, of a publicly owned place that is
24 listed on, or determined by the Secretary of the
25 Interior to be eligible for listing on, the Na-
26 tional Register of Historic Places.

1 (C) The designation of all or any portion
2 of such lands, or any adjacent land, as a Na-
3 tional Conservation System unit.

4 (D) The designation of all or any portion
5 of such lands, or any adjacent land, as critical
6 habitat under the Endangered Species Act of
7 1973 (16 U.S.C. 1531 et seq.).

8 (E) The designation of all or any portion
9 of such lands, or any adjacent land, as a class
10 I area under section 162 of the Clean Air Act
11 (42 U.S.C. 7472).

12 (F) The presence of such other resource
13 values as the Secretary concerned may by rule
14 specify, determined based upon field testing,
15 evaluation, or credible information that verifies
16 such values.

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

19 (H) The presence on such lands, or any
20 adjacent land, of a sacred site.

21 (I) The presence or designation of such
22 lands adjacent to lands not open to mining pur-
23 suant to section 111.

24 (3) A determination under this subsection of
25 suitability for mineral activities shall be made after

1 publication of notice and an opportunity for submis-
2 sion of public comment for a period of not less than
3 60 days.

4 (4) Any determination made in accordance with
5 this subsection with respect to lands shall be incor-
6 porated into each Federal land use plan applicable
7 to such lands, at the time such plan is adopted, re-
8 vised, or significantly amended pursuant to any Fed-
9 eral law other than this Act.

10 (c) CHANGE REQUEST.—The Secretary concerned
11 shall, by rule, provide for an opportunity for any person
12 to request a change in determination for any Federal land
13 found suitable under subsection (a).

14 (d) EXISTING OPERATIONS.—Nothing in this section
15 shall be construed as affecting lands on which mineral ac-
16 tivities were being conducted on the date of enactment of
17 this Act under an approved plan of operations or under
18 notice.

19 **TITLE II—CONSULTATION** 20 **PROCEDURE**

21 **SEC. 201. REQUIREMENT FOR CONSULTATION.**

22 (a) SCOPE.—Agencies shall ensure meaningful and
23 timely consultation with Indian Tribes and Tribal officials
24 prior to undertaking any mineral activities that may have
25 substantial direct, indirect, or cumulative impacts on—

1 (1) the lands, including allotted, ceded, or tradi-
2 tional lands, or interests of an Indian Tribe or a
3 member of an Indian Tribe;

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

7 (3) the relationship between the Federal Gov-
8 ernment and an Indian Tribe; or

9 (4) the distribution of power and responsibil-
10 ities between the Federal Government and an Indian
11 Tribe.

12 (b) MULTIAGENCY MINERAL ACTIVITIES.—If more
13 than one agency is involved in a mineral activity, some
14 or all of the agencies may designate a lead agency, which
15 shall be responsible for fulfilling the consultation required
16 under subsection (a). An agency that does not designate
17 a lead agency shall remain individually responsible for the
18 consultation required under subsection (a). All agencies
19 involved in the mineral activity shall remain involved in
20 and engaged with the consultation process regardless of
21 whether or not a lead agency has been designated.

22 (c) LIMITATION.—Nothing in this Act shall exempt
23 an agency from additional consultation required under any
24 other law or from taking any other consultative actions
25 as required by any other law or agency prerogative in addi-

1 tion to those required by this Act. Nor does it preclude
2 an agency from additional consultation that complies with
3 agency regulations for consultation, advances agency con-
4 sultation practices, or supports agency efforts to build or
5 strengthen government-to-government relationships with
6 an Indian Tribe.

7 (d) TEMPORARY WAIVER.—

8 (1) IN GENERAL.—The agency may temporarily
9 waive the requirements of this title in all or any por-
10 tion of any emergency area during all or any portion
11 of an emergency period.

12 (2) DURATION OF WAIVER.—A temporary waiv-
13 er under this subsection shall end upon the termi-
14 nation of the applicable emergency period.

15 (3) DEFINITIONS.—For the purposes of this
16 subsection—

17 (A) the term “emergency area” means a
18 geographical area in which there exists an
19 emergency or disaster declared by the President
20 pursuant to the National Emergencies Act (50
21 U.S.C. 1601 et seq.) or the Robert T. Stafford
22 Disaster Relief and Emergency Assistance Act
23 (42 U.S.C. 5121 et seq.); and

24 (B) the term “emergency period” means
25 the period during which there exists an emer-

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

6 **SEC. 202. TIMING.**

7 Consultation under sections 203 and 204 shall be
8 completed before any Federal funds are expended for the
9 mineral activity and before the issuance of any license.

10 **SEC. 203. SCOPING STAGE CONSULTATION.**

11 (a) **PLANNING DOCUMENT.**—As early as possible in
12 the planning stage of a mineral activity, the agency shall
13 compile a draft of the scope of the project. The agency
14 shall make a reasonable and good faith effort, consistent
15 with section 800.4(b)(1) of title 36, Code of Federal Regu-
16 lations, as such regulation was in effect on July 6, 2004,
17 to identify areas that contain sites important to Indian
18 Tribes whether or not such sites are explicitly known to
19 the agency. The agency shall make a reasonable and good
20 faith effort to identify any geographic areas important to
21 Indian Tribes that might be affected and any other antici-
22 pated impacts to Tribal interests.

23 (b) **INITIAL CONSULTATION CONTACT.**—The agen-
24 cy—

1 (1) shall send, via United States mail and, if
2 possible, email, a copy of the planning document and
3 a letter requesting consultation meetings to the rel-
4 evant Tribal Government officials, including the
5 Tribal leader and all members of any elected Tribal
6 governing body, relevant Tribal governmental agen-
7 cies (including the Tribal Historic Preservation Offi-
8 cer or cultural resource manager), owners of indi-
9 vidual allotments, other stakeholders identified by
10 the Tribe, and relevant non-Tribal stakeholders (in-
11 cluding the State Historic Preservation Officer and
12 local governments that have jurisdiction on any af-
13 fected land via agreement with the agency); and

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

16 (c) CONSULTATION MEETING ARRANGEMENTS.—The
17 agency shall negotiate with the affected Indian Tribes to
18 determine the time, place, agenda, travel funds, facilitator,
19 format, and goals of a consultation meeting. The agency
20 shall keep thorough documentation of all steps taken to
21 contact and engage the affected Indian Tribes in consulta-
22 tion. If, after a good faith effort, the agency fails to en-
23 gage the affected Indian Tribes, it may terminate its
24 scoping stage consultation efforts by providing all con-
25 sultation partners with a written notification and expla-

1 nation for its decision to end scoping stage consultation
2 efforts, signed by the head of the agency, and proceed to
3 the decision stage procedures described in section 204. A
4 good faith effort to consult must involve consistent and
5 sustained efforts to contact and engage with the appro-
6 priate-level officials via the available channels of commu-
7 nication (United States mail, e-mail, and telephone).

8 (d) SCOPING STAGE CONSULTATION MEETING.—A
9 scoping stage consultation meeting shall begin with con-
10 firmation of the format, facilitator, and agenda, with ade-
11 quate time scheduled for introductions and for interaction
12 throughout the meeting among participants. Whenever
13 possible, Tribal stakeholders (such as allottees or inter-
14 ested Tribal members) shall be brought into the on-going
15 planning process directly by forming ad hoc workgroups
16 (including Tribal leaders or their designees) and, if appro-
17 priate, initiating a process for consensual development of
18 regulations, such as negotiated rulemaking. A scoping
19 stage consultation meeting shall conclude with planning
20 for the next meeting, if necessary.

21 (e) TERMINATION OF SCOPING STAGE CONSULTA-
22 TION WITH A MEMORANDUM OF AGREEMENT.—

23 (1) TERMINATION.—Except as provided by sub-
24 section (c), scoping stage consultation shall termi-
25 nate upon the execution of a memorandum of agree-

1 ment signed by the head of the agency and the af-
2 fected Indian Tribes.

3 (2) SIGNATORIES.—The affected Indian Tribes
4 and the agency may jointly invite additional parties
5 to be signatories of the memorandum of agreement.
6 The signatories have sole authority to execute,
7 amend, or terminate the memorandum of agreement.
8 If any signatory determines that the terms of the
9 memorandum of agreement cannot be carried out,
10 the signatories shall consult to seek amendment of
11 the memorandum of agreement. If the memorandum
12 of agreement is not amended, any signatory may ter-
13 minate the agreement, and the process will return to
14 scoping stage consultation. The agency shall provide
15 all nonsignatory consulting partners with the oppor-
16 tunity to submit a written statement, explanation, or
17 comment on the consultation proceedings that shall
18 become part of the agency’s official consultation
19 record.

20 (3) MEMORANDUM OF AGREEMENT.—The
21 memorandum of agreement—

22 (A) may address multiple activities if—

23 (i) the activities are similar and repet-
24 itive or are multistate or regional in scope,
25 or where routine management activities are

1 undertaken at Federal installations, facili-
2 ties, or other land management units; and

3 (ii) the scope of the activities is clear-
4 ly delineated;

5 (B) may establish standard processes for
6 certain categories of activities determined
7 through consultation and defined in the memo-
8 randum of agreement;

9 (C) shall include a provision for monitoring
10 and reporting on its implementation;

11 (D) shall include provisions for termination
12 or reconsideration if the activity has not been
13 completed within a specified time;

14 (E) shall include provisions to address new
15 discoveries, which may include halting the activ-
16 ity and returning to scoping stage consultation;

17 (F) shall include provisions to address
18 changes or modifications to the scope or nature
19 of the activity, impacts or conditions of the
20 project or site;

21 (G) may incorporate relevant Tribal laws,
22 standards, regulations, or policies;

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

1 (I) shall include provisions to address and
2 resolve disputes.

3 (f) TERMINATION OF SCOPING STAGE CONSULTA-
4 TION WITHOUT A MEMORANDUM OF AGREEMENT.—The
5 agency shall make a good faith effort through sustained
6 interaction and collaboration to reach a consensus result-
7 ing in a memorandum of agreement. If, after a good faith
8 effort and a reasonable amount of time given the nature
9 and complexities of the proposed activity and potential im-
10 pacts, the agency determines that further consultation will
11 not be productive, it may terminate consultation by pro-
12 viding all consultation partners with a written notification
13 and explanation for its decision, signed by the head of the
14 agency, and proceed to the decision stage procedures de-
15 scribed in section 204. Any decision by an agency to termi-
16 nate consultation must be supported by an adequate docu-
17 mentation and evidence of its good faith efforts and the
18 basis for its decision. The affected Indian Tribes may at
19 any point decide to terminate consultation. In case of ter-
20 mination by either party, the agency shall provide the af-
21 fected Indian Tribes or other affected parties with the op-
22 portunity to submit a written statement, explanation, or
23 comment on the consultation proceedings that will become
24 part of the agency’s official consultation record.

1 **SEC. 204. DECISION STAGE PROCEDURES.**

2 (a) PROPOSAL DOCUMENT.—The agency shall com-
3 pile a document consisting of the plan for the activity, its
4 anticipated impacts to Tribal interests, any memorandum
5 of agreement, and any written statements made by con-
6 sulting partners during the scoping stage as described in
7 section 203. The agency shall include sufficient supporting
8 documentation to the extent permitted by law and within
9 available funds to enable any reviewing parties to under-
10 stand its basis. The agency may use documentation pre-
11 pared to comply with other laws to fulfill the requirements
12 of this provision to the extent that such documentation
13 is sufficiently pertinent to and focused on the relevant
14 issues as to allow reasonable ease of review. The agency
15 shall mail and, if possible, email a copy of the Proposal
16 Document to all affected Indian Tribes and stakeholders,
17 including those that withdrew from the process. At a min-
18 imum, the document shall go to the Tribal leader, all
19 members of any elected Tribal governing body, and stake-
20 holders. The agency shall follow up to confirm receipt of
21 the document. After these steps have been completed, the
22 Proposal Document shall be published in the Federal Reg-
23 ister, subject to the provisions of section 207.

24 (b) PUBLIC COMMENT PERIOD.—The agency shall
25 provide a period of not less than 90 days after publication
26 in the Federal Register for comments on the Proposal

1 Document. A reasonable extension shall be granted upon
2 request of not less than 30 days by any member of any
3 of the affected Indian Tribal governing bodies or a stake-
4 holder.

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

21 (d) FINAL DECISION.—The agency shall provide a
22 60-day period following the issuance of the preliminary de-
23 cision letter for response by the affected Indian Tribes and
24 stakeholders. Thereafter, the agency shall notify in writ-
25 ing, signed by the head of the agency, the affected Indian

1 Tribes and stakeholders, including those that withdrew
2 from the process, of the agency's final decision.

3 **SEC. 205. DOCUMENTATION AND REPORTING.**

4 (a) OFFICIAL CONSULTATION RECORD.—The agency
5 shall keep an official consultation record that allows accu-
6 rate tracking of the process so that agencies and con-
7 sulting parties can correct any errors or omissions, and
8 provides an official record of the process that can be re-
9 ferred to in any litigation that may arise. The agency shall
10 document all efforts to initiate consultation as well as doc-
11 umenting the process once it has begun. Such documenta-
12 tion, including correspondence, telephone logs, and emails,
13 shall be included in the agency's official consultation
14 record. The agency shall also keep notes so that the con-
15 sultation record documents the content of consultation
16 meetings, site visits, and phone calls in addition to infor-
17 mation about dates and who participated.

18 (b) PAYMENT FOR TRIBAL DOCUMENTATION
19 WORK.—If the agency asks an Indian Tribe for specific
20 information or documentation regarding the location, na-
21 ture, and condition of individual sites, to conduct a survey,
22 or in any way fulfill the duties of the agency in a role
23 similar to that of a consultant or contractor, then the
24 agency must pay for such services, if so requested by the
25 Indian Tribe, as it would for any private consultant or

1 contractor. An Indian Tribe may select a contractor to
2 perform such work on its behalf, to be paid for by the
3 agency.

4 (c) REPORT TO CONGRESS.—Each agency shall on a
5 biennial basis submit to Congress a report on its consulta-
6 tion activities.

7 **SEC. 206. IMPLEMENTATION.**

8 Not later than 30 days after the date of enactment
9 of this Act, the head of each agency shall designate an
10 official with principal responsibility for the agency's review
11 of existing consultation and coordination policies and pro-
12 cedures, and implementation of this Act. Not later than
13 60 days after the effective date of this order, the des-
14 ignated official shall submit to the Office of Management
15 and Budget a description of the agency's revised consulta-
16 tion process in conformity with this Act.

17 **SEC. 207. SENSITIVE TRIBAL INFORMATION.**

18 (a) CLOSED MEETINGS.—Notwithstanding any provi-
19 sion of the Administrative Procedures Act, consultation
20 meetings shall be closed to the public at the request of
21 the Indian Tribal Government.

22 (b) SENSITIVE INFORMATION.—Notwithstanding any
23 provision of section 552 of title 5, United States Code
24 (commonly known as the Freedom of Information Act),
25 the Administrative Procedures Act, or any other applicable

1 laws or regulations, all information designated by the In-
2 dian Tribe as sensitive, such as the location of sacred sites
3 or other details of cultural or religious practices, shall be
4 deleted from any public publication made as part of the
5 consultation process or in the process of carrying out the
6 activity.

7 (c) LIMITED INFORMATION ACCESS.—The agency, in
8 consultation with the Indian Tribe or such Tribe’s des-
9 ignee, shall determine who may have access to the infor-
10 mation for the purposes of carrying out the mineral activ-
11 ity.

12 (d) INDIVIDUAL ALLOTMENTS.—Instances where sa-
13 cred sites are located on individual allotments or public
14 domain allotments shall be addressed on a case-by-case
15 basis and shall involve the allottees.

16 (e) SACRED SITES.—The location and uses of a sa-
17 cred site shall be protected in accordance with this provi-
18 sion and section 111.

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

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

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

19 **SEC. 302. PERMITS.**

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

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

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

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

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

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

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

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

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

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

23 (4) The applicant has demonstrated that the
24 exploration plan and reclamation plan will be in
25 compliance with the requirements of this Act and all

1 other applicable Federal requirements, and any
2 State requirements agreed to by the Secretary con-
3 cerned.

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

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

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

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

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

24 (1) PRIOR WRITTEN APPROVAL.—No transfer,
25 assignment, or sale of rights granted by a permit

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

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

7 (A) is eligible to receive a permit under
8 section 304;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (d) TERM OF PERMIT; RENEWAL.—

19 (1) IN GENERAL.—An operations permit—

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

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

1 (ii) the length of time remaining on
2 the applicant's hardrock mining lease;

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

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

12 (2) FAILURE TO COMMENCE MINERAL ACTIVI-
13 TIES.—Failure by the operator to commence mineral
14 activities within 2 years of the date scheduled in an
15 operations permit shall require a modification of the
16 permit if the Secretary concerned determines that
17 modifications are necessary to comply with section
18 111.

19 (e) PERMIT MODIFICATION.—

20 (1) APPLICATION.—During the term of an op-
21 erations permit the operator may submit an applica-
22 tion to modify the permit (including the operations
23 plan or reclamation plan).

24 (2) MODIFICATION BY THE SECRETARY CON-
25 CERNED.—The Secretary concerned may, at any

1 time, require reasonable modification to any oper-
2 ations plan or reclamation plan upon a determina-
3 tion that the requirements of this Act cannot be met
4 if the plan is followed as approved. Such determina-
5 tion shall be based on a written finding and subject
6 to public notice and hearing requirements estab-
7 lished by the Secretary concerned.

8 (3) UNANTICIPATED EVENTS OR CONDI-
9 TIONS.—A permit modification is required before
10 changes are made to the approved plan of oper-
11 ations, or if unanticipated events or conditions exist
12 on the mine site, including in the case of—

13 (A) development of acid or toxic drainage;

14 (B) loss of springs or water supplies;

15 (C) water quantity, water quality, or other
16 resulting water impacts that are significantly
17 different than those predicted in the applica-
18 tion;

19 (D) the need for long-term water treat-
20 ment;

21 (E) significant reclamation difficulties or
22 reclamation failure;

23 (F) the discovery of significant scientific or
24 biological resources that were not addressed in
25 the original plan;

1 (G) the discovery of a properties eligible
2 for listing on the National Register of Historic
3 Places; or

4 (H) the discovery of hazards to public safe-
5 ty.

6 (f) TEMPORARY CESSATION OF OPERATIONS.—

7 (1) SECRETARIAL APPROVAL REQUIRED.—An
8 operator conducting mineral activities under an op-
9 erations permit in effect under this title may not
10 temporarily cease mineral activities for a period
11 greater than 180 days unless the Secretary con-
12 cerned has approved such temporary cessation or
13 unless the temporary cessation is permitted under
14 the original permit.

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

24 (3) REQUIRED INFORMATION.—An application
25 for approval of temporary cessation of operations

1 shall include such information required under sub-
2 section (b) and any other provisions prescribed by
3 the Secretary concerned to minimize impacts on
4 human health, the environment, or properties eligible
5 for listing on the National Register of Historic
6 Places. After receipt of a complete application for
7 temporary cessation of operations such Secretary
8 shall conduct an inspection of the area for which
9 temporary cessation of operations has been re-
10 quested.

11 (4) CONDITIONS FOR APPROVAL.—To approve
12 an application for temporary cessation of operations,
13 the Secretary concerned shall make each of the fol-
14 lowing determinations:

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

22 (B) A determination that reclamation is in
23 compliance with the approved reclamation plan,
24 except in those areas specifically designated in
25 the application for temporary cessation of oper-

1 ations for which a delay in meeting such stand-
2 ards is necessary to facilitate the resumption of
3 operations.

4 (C) A determination that the amount of fi-
5 nancial assurance filed with the permit applica-
6 tion is sufficient to assure completion of the
7 reclamation activities identified in the approved
8 reclamation plan in the event of forfeiture.

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

17 (g) PERMIT REVIEWS.—The Secretary concerned
18 shall review each permit issued under this section every
19 10 years during the term of such permit, and before ap-
20 proving the resumption of operations under subsection (f),
21 such Secretary shall require the operator to take such ac-
22 tions as the Secretary deems necessary to assure that min-
23 eral activities conform to the permit, including adjustment
24 of financial assurance requirements.

1 (h) TRANSFER, ASSIGNMENT, OR SALE OF
2 RIGHTS.—

3 (1) WRITTEN APPROVAL.—No transfer, assign-
4 ment, or sale of rights granted by a permit under
5 this section shall be made without the prior written
6 approval of the Secretary concerned.

7 (2) CONDITIONS OF APPROVAL.—The Secretary
8 concerned may allow a person holding a permit to
9 transfer, assign, or sell rights under the permit to
10 a successor, if such Secretary finds, in writing, that
11 the successor—

12 (A) has submitted all required information
13 and is eligible to receive a permit in accordance
14 with section 305;

15 (B) has submitted evidence of financial as-
16 surance satisfactory under section 306; and

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

19 (3) ASSUMED LIABILITY.—The successor in in-
20 terest shall assume the liability and reclamation re-
21 sponsibilities established by the existing permit and
22 shall conduct the mineral activities in full compli-
23 ance with this Act, and the terms and conditions of
24 the permit as in effect at the time of transfer, as-
25 signment, or sale.

1 (4) FEE.—Each application for approval of a
2 permit transfer, assignment, or sale pursuant to this
3 subsection shall be accompanied by a fee payable to
4 the Secretary concerned in such amount as may be
5 established by such Secretary. Such amount shall be
6 equal to the actual or anticipated cost of reviewing
7 and approving or disapproving such transfer, assign-
8 ment, or sale, as determined by such Secretary.

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

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

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

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

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

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

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

18 (c) CORRECTION.—

19 (1) REINSTATEMENT.—The Secretary con-
20 cerned may issue or reinstate a permit under this
21 title if the applicant submits proof that the violation
22 referred to in subsection (a) or (b) has been cor-
23 rected or is in the process of being corrected to the
24 satisfaction of such Secretary and the regulatory au-
25 thority involved or if the applicant submits proof

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

8 (2) **CONDITIONAL APPROVAL.**—Any permit
9 which is issued or reinstated based upon proof sub-
10 mitted under this subsection shall be conditionally
11 approved or conditionally reinstated, as the case may
12 be. If the violation is not successfully abated or the
13 violation is upheld on appeal, the permit shall be
14 suspended or revoked.

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

22 **SEC. 306. FINANCIAL ASSURANCE.**

23 (a) **FINANCIAL ASSURANCE REQUIRED.**—

24 (1) **FORM OF ASSURANCE.**—After a permit is
25 issued under this title and before any exploration or

1 operations begin under the permit, the operator shall
2 file with the Secretary concerned evidence of finan-
3 cial assurance payable to the United States. The fi-
4 nancial assurance shall be provided in the form of a
5 surety bond, letters of credit, certificates of deposit,
6 or cash.

7 (2) COVERED ACTIVITIES.—The financial assur-
8 ance shall cover all lands within the initial permit
9 area and all affected waters that may require res-
10 toration, treatment, or other management as a re-
11 sult of mineral activities, and shall be extended to
12 cover all lands and waters added pursuant to any
13 permit modification made under section 303(e) or
14 section 304(e), or affected by mineral activities.

15 (b) AMOUNT.—The amount of the financial assur-
16 ance required under this section shall be sufficient to as-
17 sure the completion of reclamation and restoration satis-
18 fying the requirements of this Act if the work were to be
19 performed by the Secretary concerned in the event of for-
20 feiture, including the construction and maintenance costs
21 for any treatment facilities necessary to meet Federal and
22 State environmental requirements. The calculation of such
23 amount shall take into account the maximum level of fi-
24 nancial exposure which shall arise during the mineral ac-

1 tivity and administrative costs associated with a govern-
2 ment agency reclaiming the site.

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

9 (d) ADJUSTMENTS.—The amount of the financial as-
10 surance and the terms of the acceptance of the assurance
11 may be adjusted by the Secretary concerned from time to
12 time as the area requiring coverage is increased or de-
13 creased, or where the costs of reclamation or treatment
14 change, or pursuant to section 304(f), but the financial
15 assurance shall otherwise be in compliance with this sec-
16 tion. The Secretary concerned shall review the financial
17 guarantee every 3 years and as part of the permit applica-
18 tion review under section 304(g).

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

1 (1) A determination that reclamation or res-
2 toration covered by the financial assurance has been
3 accomplished as required by this Act.

4 (2) A determination that the terms and condi-
5 tions of any other applicable Federal requirements,
6 and State requirements applicable pursuant to coop-
7 erative agreements under section 308, have been ful-
8 filled.

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

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

24 (2) After the operator has completed success-
25 fully all remaining mineral activities and reclamation

1 activities and all requirements of the operations plan
2 and the reclamation plan, and all other requirements
3 of this Act have been fully met, the remaining por-
4 tion of the financial assurance may be released.

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

10 (g) EFFLUENT.—Notwithstanding section 307(b)(4),
11 where any discharge or other water-related condition re-
12 sulting from the mineral activities requires treatment in
13 order to meet the applicable effluent limitations and water
14 quality standards, the financial assurance shall include the
15 estimated cost of maintaining such treatment for the pro-
16 jected period that will be needed after the cessation of
17 mineral activities. The portion of the financial assurance
18 attributable to such estimated cost of treatment shall not
19 be released until the discharge has ceased for a period of
20 5 years, as determined by ongoing monitoring and testing,
21 or, if the discharge continues, until the operator has met
22 all applicable effluent limitations and water quality stand-
23 ards for 5 full years without treatment.

24 (h) ENVIRONMENTAL HAZARDS.—If the Secretary
25 concerned determines, after final release of financial as-

1 surance, that an environmental hazard resulting from the
2 mineral activities exists, or the terms and conditions of
3 the explorations or operations permit of this Act were not
4 fulfilled in fact at the time of release, such Secretary shall
5 issue an order under section 507 requiring the claim hold-
6 er or operator (or any person who controls the claim hold-
7 er or operator) to correct the condition such that applica-
8 ble laws and regulations and any conditions from the plan
9 of operations are met.

10 **SEC. 307. OPERATION AND RECLAMATION.**

11 (a) GENERAL RULE.—(1) The operator shall restore
12 lands subject to mineral activities carried out under a per-
13 mit issued under this title to a condition capable of sup-
14 porting—

15 (A) the uses which such lands were capable of
16 supporting prior to surface disturbance by the oper-
17 ator; or

18 (B) other beneficial uses which conform to ap-
19 plicable land use plans as determined by the Sec-
20 retary concerned.

21 (2) Reclamation shall proceed as contemporaneously
22 as practicable with the conduct of mineral activities. In
23 the case of a cessation of mineral activities beyond that
24 provided for as a temporary cessation under this Act, rec-
25 lamation activities shall begin immediately.

1 (b) OPERATION AND RECLAMATION STANDARDS.—

2 The Secretary of the Interior and the Secretary of Agri-
3 culture shall jointly promulgate regulations that establish
4 operation and reclamation standards for mineral activities
5 permitted under this Act. The Secretaries may determine
6 whether outcome-based performance standards or tech-
7 nology-based design standards are most appropriate. The
8 regulations shall address the following:

9 (1) Segregation, protection, and replacement of
10 topsoil or other suitable growth medium, and the
11 prevention, where possible, of soil contamination.

12 (2) Maintenance of the stability of all surface
13 areas.

14 (3) Control of sediments to prevent erosion and
15 manage drainage.

16 (4) Minimization of the formation and migra-
17 tion of acidic, alkaline, metal-bearing, or other dele-
18 terious leachate.

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

22 (6) Establishment of a diverse, effective, and
23 permanent vegetative cover of the same seasonal va-
24 riety native to the area affected by mineral activities,

1 and equal in extent of cover to the natural vegeta-
2 tion of the area.

3 (7) Design and maintenance of leach oper-
4 ations, impoundments, and excess waste according to
5 standard engineering standards to achieve and main-
6 tain stability and reclamation of the site.

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

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

11 (10) Preservation of cultural, paleontological,
12 and cave resources.

13 (11) Prevention and suppression of fire within
14 the leased area.

15 (c) SURFACE OR GROUND WATER WITHDRAWALS.—

16 The Secretary concerned shall work with State and local
17 governments with authority over the allocation and use of
18 surface and ground water in the area around the mine
19 site as necessary to ensure that any surface or ground
20 water withdrawals made as a result of mining activities
21 approved under this section do not cause undue degrada-
22 tion.

23 (d) SPECIAL RULE.—Reclamation activities for a
24 mining claim, license, or lease that has been forfeited, re-
25 linquished, or lapsed, or a plan that has expired or been

1 revoked or suspended, shall continue subject to review and
2 approval by the Secretary concerned.

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

4 (a) STATE LAW.—

5 (1) RECLAMATION, LAND USE, ENVIRON-
6 MENTAL, AND PUBLIC HEALTH STANDARDS.—Any
7 reclamation, land use, environmental, or public
8 health protection standard or requirement in State
9 law or regulation that meets or exceeds the require-
10 ments of this Act shall not be construed to be incon-
11 sistent with any such standard.

12 (2) BONDING REQUIREMENTS.—Any bonding
13 standard or requirement in State law or regulation
14 that meets or exceeds the requirements of this Act
15 shall not be construed to be inconsistent with such
16 requirements.

17 (3) INSPECTION STANDARDS.—Any inspection
18 standard or requirement in State law or regulation
19 that meets or exceeds the requirements of this Act
20 shall not be construed to be inconsistent with such
21 requirements.

22 (b) APPLICABILITY OF OTHER STATE REQUIRE-
23 MENTS.—

24 (1) ENVIRONMENTAL STANDARDS.—Nothing in
25 this Act shall be construed as affecting any toxic

1 substance, solid waste, or air or water quality,
2 standard or requirement of any State, county, local,
3 or Tribal law or regulation, which may be applicable
4 to mineral activities on lands subject to this Act.

5 (2) WATER RESOURCES.—Nothing in this Act
6 shall be construed as affecting in any way the right
7 of any person to enforce or protect, under applicable
8 law, such person’s interest in water resources af-
9 fected by mineral activities on lands subject to this
10 Act.

11 (c) COOPERATIVE AGREEMENTS.—

12 (1) IN GENERAL.—Any State may enter into a
13 cooperative agreement with the Secretary concerned
14 for the purposes of such Secretary applying such
15 standards and requirements referred to in subsection
16 (a) and subsection (b) to mineral activities or rec-
17 lamation on lands subject to this Act.

18 (2) COMMON REGULATORY FRAMEWORK.—In
19 such instances where the proposed mineral activities
20 would affect lands not subject to this Act in addition
21 to lands subject to this Act, in order to approve a
22 plan of operations the Secretary concerned shall
23 enter into a cooperative agreement with the State
24 that sets forth a common regulatory framework con-
25 sistent with the requirements of this Act for the pur-

1 poses of such plan of operations. Any such common
2 regulatory framework shall not negate the authority
3 of the Federal Government to independently inspect
4 mines and operations and bring enforcement actions
5 for violations.

6 (3) NOTICE AND PUBLIC COMMENT.—The Sec-
7 retary concerned shall not enter into a cooperative
8 agreement with any State under this section until
9 after notice in the Federal Register and opportunity
10 for public comment and hearing.

11 (d) PRIOR AGREEMENTS.—Any cooperative agree-
12 ment or such other understanding between the Secretary
13 concerned and any State, or political subdivision thereof,
14 relating to the management of mineral activities on lands
15 subject to this Act that was in existence on the date of
16 enactment of this Act may only continue in force until 1
17 year after the date of enactment of this Act. During such
18 1-year period, the State and the Secretary shall review the
19 terms of the agreement and make changes that are nec-
20 essary to be consistent with this Act.

1 **TITLE IV—ABANDONED**
2 **HARDROCK MINE RECLAMATION**

3 **SEC. 401. ESTABLISHMENT OF FUND.**

4 (a) ESTABLISHMENT.—There is established in the
5 Department of the Treasury a separate account to be
6 known as the Hardrock Minerals Reclamation Fund.

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

17 (c) ADMINISTRATION.—In addition to other uses au-
18 thorized by this title, the Secretary may use amounts in
19 the Fund as necessary for the administrative expenses of
20 the United States, Indian Tribes, and the States to imple-
21 ment this title.

22 **SEC. 402. CONTENTS OF FUND.**

23 (a) IN GENERAL.—The following amounts shall be
24 credited to the Fund:

1 (1) All moneys collected pursuant to section
2 502 and section 506.

3 (2) All fees received under section
4 304(a)(1)(B).

5 (3) All donations by persons, corporations, as-
6 sociations, and foundations for the purposes of this
7 title.

8 (4) All amounts deposited in the Fund under
9 title I.

10 (5) All income on investments under section
11 401(b).

12 (6) All amounts deposited in the Fund under
13 section 403.

14 (b) DONATIONS.—The Secretary may accept for the
15 Government a gift of money to be deposited into the Fund.
16 The Secretary may reject a gift to the Fund if such rejec-
17 tion is in the interest of the Government.

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

19 (a) IMPOSITION OF FEE.—Except as provided in sub-
20 section (g), each operator conducting hardrock mineral ac-
21 tivities shall pay to the Secretary, for deposit in the
22 Hardrock Minerals Fund established by section 401, a dis-
23 placed material reclamation fee of 7 cents per ton of dis-
24 placed material.

1 (b) PAYMENT DEADLINE.—Such reclamation fee
2 shall be paid not later than 60 days after the end of each
3 calendar year beginning with the first calendar year occur-
4 ring after the date of enactment of this Act.

5 (c) SUBMISSION OF STATEMENT.—Together with
6 such reclamation fee, all operators conducting hardrock
7 mineral activities shall submit to the Secretary a state-
8 ment of the amount of displaced material produced during
9 mineral activities during the previous calendar year, the
10 accuracy of which shall be sworn to by the operator and
11 notarized.

12 (d) PENALTY.—Any corporate officer, agent, or di-
13 rector of a person conducting hardrock mineral activities,
14 and any other person acting on behalf of such a person,
15 who knowingly makes any false statement, representation,
16 or certification, or knowingly fails to make any statement,
17 representation, or certification, required under this section
18 with respect to such operation shall, upon conviction, be
19 punished by a fine of not more than \$10,000.

20 (e) CIVIL ACTION TO RECOVER FEE.—Any portion
21 of such reclamation fee not properly or promptly paid pur-
22 suant to this section shall be recoverable, with statutory
23 interest, from the hardrock mineral activities operator, in
24 any court of competent jurisdiction in any action at law
25 to compel payment of debts.

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

4 (g) EXEMPTION.—The fee under this section shall
5 not apply for small miners.

6 **SEC. 404. USE OF THE FUND.**

7 Subject to the availability of appropriations, the Sec-
8 retary shall use moneys in the Fund to carry out section
9 40704 of the Infrastructure Investment and Jobs Act (30
10 U.S.C. 1245).

11 **TITLE V—ADDITIONAL**
12 **PROVISIONS**

13 **SEC. 501. POLICY FUNCTIONS.**

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

17 (1) by inserting “and to ensure that mineral ex-
18 traction and processing not cause undue degradation
19 of the natural and cultural resources of the public
20 lands” after “activities”; and

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

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

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

10 (a) IN GENERAL.—

11 (1) The Secretary and the Secretary of Agri-
12 culture may each establish and collect from persons
13 subject to the requirements of this Act such user
14 fees as may be necessary to reimburse the United
15 States for the expenses incurred in administering
16 such requirements. Fees may be assessed and col-
17 lected under this section only in such manner as
18 may reasonably be expected to result in an aggre-
19 gate amount of the fees collected during any fiscal
20 year which does not exceed the aggregate amount of
21 administrative expenses referred to in this section.

22 (b) ADJUSTMENT.—

23 (1) INFLATION.—The Secretary shall adjust the
24 fees required by this section, and all claim mainte-
25 nance fees, rental rates, penalty amounts, and other

1 dollar amounts established in this Act, to reflect
2 changes in the Consumer Price Index published by
3 the Bureau of Labor Statistics of the Department of
4 Labor every 3 years after the date of enactment of
5 this Act, or more frequently if the Secretary deter-
6 mines an adjustment to be reasonable.

7 (2) NOTICE.—The Secretary shall provide
8 claimants, license holders, and lease holders notice of
9 any adjustment made under this subsection not later
10 than July 1 of any year in which the adjustment is
11 made.

12 (3) APPLICABILITY.—A fee adjustment under
13 this subsection shall begin to apply the calendar year
14 following the calendar year in which it is made.

15 **SEC. 503. INSPECTION AND MONITORING.**

16 (a) INSPECTIONS.—

17 (1) IN GENERAL.—The Secretary concerned
18 shall make inspections of mineral activities so as to
19 ensure compliance with the requirements of this Act.

20 (2) FREQUENCY.—The Secretary concerned
21 shall establish a frequency of inspections for mineral
22 activities conducted under a permit issued under
23 title III, but in no event shall such inspection fre-
24 quency be less than one complete inspection per cal-
25 endar quarter or, two per calendar quarter in the

1 case of a permit for which the Secretary concerned
2 approves an application under section 304(f). After
3 revegetation has been established in accordance with
4 a reclamation plan, such Secretary shall conduct 2
5 complete inspections annually. Such Secretary shall
6 have the discretion to modify the inspection fre-
7 quency for mineral activities that are conducted on
8 a seasonal basis. Inspections shall continue under
9 this subsection until final release of financial assur-
10 ance.

11 (3) BY REQUEST.—

12 (A) IN GENERAL.—Any person who has
13 reason to believe he or she is or may be ad-
14 versely affected by mineral activities due to any
15 violation of the requirements of a permit ap-
16 proved under this Act may request an inspec-
17 tion.

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

22 (C) IMMINENT THREAT.—If the person al-
23 leges and provides reason to believe that an im-
24 minent threat to the environment or danger to
25 the health or safety of the public exists, the 10-

1 day period shall be waived and the inspection
2 shall be conducted immediately.

3 (D) NOTIFICATION.—When an inspection
4 is conducted under this paragraph, the Sec-
5 retary concerned shall notify the person re-
6 questing the inspection, and such person shall
7 be allowed to accompany the Secretary con-
8 cerned or the Secretary’s authorized representa-
9 tive during the inspection.

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

13 (F) ANONYMITY.—The identity of the per-
14 son supplying information to the Secretary re-
15 lating to a possible violation or imminent dan-
16 ger or harm shall remain confidential with the
17 Secretary if so requested by that person, unless
18 that person elects to accompany an authorized
19 representative on the inspection.

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

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

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

4 (H) WRITTEN STATEMENT.—The Sec-
5 retary concerned shall furnish a person request-
6 ing a review a written statement of the reasons
7 for the Secretary's final disposition of the case.

8 (b) MONITORING.—

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

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

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

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

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

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

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

1 (2) against the Secretary or the Secretary of
2 Agriculture where there is alleged a failure of such
3 Secretary to perform any act or duty under this Act,
4 or to promulgate any regulation under this Act,
5 which is not within the discretion of the Secretary
6 concerned.

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

18 (c) EXCEPTIONS.—

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

1 constitutes an imminent threat to the environment
2 or to the health or safety of the public or to prop-
3 erties eligible for listing on the National Register of
4 Historic Places.

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

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

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

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

1 award is appropriate. The court may, if a temporary re-
2 straining order or preliminary injunction is sought, require
3 the filing of a bond or equivalent security in accordance
4 with the Federal Rules of Civil Procedure.

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

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

20 (a) REVIEW BY SECRETARY.—

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

1 the notice or order within 30 days after receipt
2 thereof, or as the case may be, within 30 days after
3 such notice or order is modified, vacated, or termi-
4 nated.

5 (2) REVIEW OF PENALTY.—Any person who is
6 subject to a penalty assessed under section 507 may
7 apply to the Secretary concerned for review of the
8 assessment within 45 days of notification of such
9 penalty.

10 (3) THIRD-PARTY REQUESTS.—Any person may
11 apply to the Secretary concerned for review of a de-
12 cision under this subsection within 30 days after
13 such decision is issued.

14 (4) STAYS PENDING REVIEW.—Pending a re-
15 view by the Secretary or resolution of an administra-
16 tive appeal, final decisions (except enforcement ac-
17 tions under section 507) shall be stayed.

18 (5) PUBLIC HEARING.—The Secretary con-
19 cerned shall provide an opportunity for a public
20 hearing at the request of any party to the pro-
21 ceeding as specified in paragraph (1). The filing of
22 an application for review under this subsection shall
23 not operate as a stay of any order or notice issued
24 under section 506.

1 (6) WRITTEN DECISION.—For any review pro-
2 ceeding under this subsection, the Secretary con-
3 cerned shall make findings of fact and shall issue a
4 written decision incorporating therein an order
5 vacating, affirming, modifying, or terminating the
6 notice, order, or decision, or with respect to an as-
7 sessment, the amount of penalty that is warranted.
8 Where the application for review concerns a ces-
9 sation order issued under section 506 the Secretary
10 concerned shall issue the written decision within 30
11 days of the receipt of the application for review or
12 within 30 days after the conclusion of any hearing
13 referred to in paragraph (5), whichever is later, un-
14 less temporary relief has been granted by the Sec-
15 retary concerned under paragraph (7).

16 (7) TEMPORARY RELIEF.—Pending completion
17 of any review proceedings under this subsection, the
18 applicant may file with the Secretary concerned a
19 written request that the Secretary grant temporary
20 relief from any order issued under section 506 to-
21 gether with a detailed statement giving reasons for
22 such relief. The Secretary concerned shall expedi-
23 tiously issue an order or decision granting or deny-
24 ing such relief. The Secretary concerned may grant
25 such relief under such conditions as he or she may

1 prescribe only if such relief shall not adversely affect
2 the health or safety of the public or cause imminent
3 environmental harm to land, air, or water resources.

4 (8) SAVINGS CLAUSE.—The availability of re-
5 view under this subsection shall not be construed to
6 limit the operation of rights under section 504.

7 (b) JUDICIAL REVIEW.—

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

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

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

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

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

1 (5) COMMENCE OF A PROCEEDING NOT A
2 STAY.—The commencement of a proceeding under
3 this section shall not, unless specifically ordered by
4 the court, operate as a stay of the action, order, or
5 decision of the Secretary or Secretaries concerned.

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

21 **SEC. 506. REPORTING REQUIREMENTS.**

22 (a) REPORT TO SECRETARY.—An operator engaging
23 in any mineral activities located on Federal land or on In-
24 dian land shall submit to the Secretary an annual report,
25 in a time and manner prescribed by the Secretary, describ-

1 ing the total amount (in metric tons) and value of
2 hardrock minerals produced through such mineral activi-
3 ties, including the total amount and value of any minerals
4 produced from a mine partially located on either Federal
5 land or Indian land, disaggregated by mineral and by per-
6 centage extracted from Federal land and percentage ex-
7 tracted from Indian land.

8 (b) FAILURE TO REPORT.—Any person who fails to
9 comply with the requirements of subsection (a) shall be
10 subject to a civil penalty not to exceed \$25,000 per day
11 during which such failure continues, which may be as-
12 sessed by the Secretary.

13 (c) REPORT TO CONGRESS.—The Secretary shall
14 submit an annual report to Congress providing the fol-
15 lowing information for each hardrock mine located on
16 Federal land or on Indian land:

17 (1) The data submitted for such mine under
18 subsection (a).

19 (2) The name of the mine operator.

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

21 (4) The Bureau of Land Management Field Of-
22 fice with jurisdiction over such mine.

23 (5) Whether such mine is located on Federal
24 land.

1 (6) Whether such mine is located on Indian
2 land.

3 (d) REGULATIONS.—The Secretary shall promulgate
4 such regulations as are necessary to carry out this section
5 not later than 180 days after the date of enactment of
6 this Act.

7 **SEC. 507. ENFORCEMENT.**

8 (a) ORDERS.—

9 (1) NOTICE OF VIOLATION.—If the Secretary
10 concerned, or an authorized representative of such
11 Secretary, determines that any person is in violation
12 of any environmental protection requirement or any
13 regulation issued by the Secretaries to implement
14 this Act, such Secretary or authorized representative
15 shall issue to such person a notice of violation de-
16 scribing the violation and the corrective measures to
17 be taken. The Secretary concerned, or the author-
18 ized representative of such Secretary, shall provide
19 such person with a period of time not to exceed 30
20 days to abate the violation. Such period of time may
21 be extended by the Secretary concerned upon a
22 showing of good cause by such person. If, upon the
23 expiration of time provided for such abatement, the
24 Secretary concerned, or the authorized representa-
25 tive of such Secretary, finds that the violation has

1 not been abated he or she shall immediately order a
2 cessation of all mineral activities or the portion
3 thereof relevant to the violation.

4 (2) ORDER FOR IMMEDIATE CESSATION.—If the
5 Secretary concerned, or the authorized representa-
6 tive of the Secretary concerned, determines that any
7 condition or practice exists, or that any person is in
8 violation of any requirement under a permit ap-
9 proved under this Act, and such condition, practice
10 or violation is causing, or can reasonably be expected
11 to cause either of the following, such Secretary or
12 authorized representative shall immediately order a
13 cessation of mineral activities or the portion thereof
14 relevant to the condition, practice, or violation:

15 (A) An imminent danger to the health or
16 safety of the public.

17 (B) Significant, imminent environmental
18 harm to land, air, water, or fish or wildlife re-
19 sources.

20 (3) DURATION.—

21 (A) TERMINATION.—A cessation order
22 pursuant to paragraph (1) or (2) shall remain
23 in effect until such Secretary, or authorized
24 representative, determines that the condition,
25 practice, or violation has been abated, or until

1 modified, vacated or terminated by the Sec-
2 retary or authorized representative. In any such
3 order, the Secretary or authorized representa-
4 tive shall determine the steps necessary to abate
5 the violation in the most expeditious manner
6 possible and shall include the necessary meas-
7 ures in the order.

8 (B) FINANCIAL ASSURANCES.—The Sec-
9 retary concerned shall require appropriate fi-
10 nancial assurances to ensure that the abate-
11 ment obligations are met when issuing an order
12 under this section.

13 (C) AUTHORITY OF THE SECRETARY.—
14 Any notice or order issued pursuant to para-
15 graph (1) or (2) may be modified, vacated, or
16 terminated by the Secretary concerned or an
17 authorized representative of such Secretary.
18 Any person to whom any such notice or order
19 is issued shall be entitled to a hearing on the
20 record.

21 (4) ALTERNATIVE ENFORCEMENT ACTION.—If,
22 after 30 days of the date of the order referred to in
23 subsection (a) the required abatement has not oc-
24 curred, the Secretary concerned shall take such al-
25 ternative enforcement action against the claim hold-

1 er, license holder, lease holder, or operator (or any
2 person who controls the claim holder, license holder,
3 lease holder, or operator) as will most likely bring
4 about abatement in the most expeditious manner
5 possible. Such alternative enforcement action may
6 include seeking appropriate injunctive relief to bring
7 about abatement. Nothing in this paragraph shall
8 preclude the Secretary concerned from taking alter-
9 native enforcement action prior to the expiration of
10 30 days.

11 (5) FAILURE OR DEFAULT.—If a claim holder,
12 license holder, lease holder, or operator (or any per-
13 son who controls the claim holder, license holder,
14 lease holder, or operator) fails to abate a violation
15 or defaults on the terms of the permit, the Secretary
16 concerned shall forfeit the financial assurance for
17 the plan as necessary to ensure abatement and rec-
18 lamation under this Act. The Secretary concerned
19 may prescribe conditions under which a surety may
20 perform reclamation in accordance with the ap-
21 proved plan in lieu of forfeiture.

22 (6) PENDING REVIEW.—The Secretary con-
23 cerned shall not cause forfeiture of the financial as-
24 surance while administrative or judicial review is
25 pending.

1 (7) LIABILITY IN THE EVENT OF FOR-
2 FEITURE.—In the event of forfeiture, the claim hold-
3 er, license holder, lease holder, operator, or any affil-
4 iate thereof, as appropriate as determined by the
5 Secretary by rule, shall be jointly and severally liable
6 for any remaining reclamation obligations under this
7 Act.

8 (b) COMPLIANCE.—The Secretary concerned may re-
9 quest the Attorney General to institute a civil action for
10 relief, including a permanent or temporary injunction or
11 restraining order, or any other appropriate enforcement
12 order, including the imposition of civil penalties, in the dis-
13 trict court of the United States for the district in which
14 the mineral activities are located whenever a person—

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

18 (2) interferes with, hinders, or delays the Sec-
19 retary concerned in carrying out an inspection under
20 section 503.

21 Such court shall have jurisdiction to provide such relief
22 as may be appropriate. Any relief granted by the court
23 to enforce an order under paragraph (1) shall continue
24 in effect until the completion or final termination of all

1 proceedings for review of such order unless the district
2 court granting such relief sets it aside.

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

7 (d) PENALTIES.—

8 (1) FAILURE TO COMPLY WITH REQUIREMENTS
9 OF A PERMIT.—Any person who fails to comply with
10 any requirement of a permit approved under this
11 Act or any regulation issued by the Secretaries to
12 implement this Act shall be liable for a penalty of
13 not more than \$25,000 per violation. Each day of
14 violation may be deemed a separate violation for
15 purposes of penalty assessments.

16 (2) FAILURE TO COMPLY WITH A CESSATION
17 ORDER.—A person who fails to correct a violation
18 for which a cessation order has been issued under
19 subsection (a) within the period permitted for its
20 correction shall be assessed a civil penalty of not less
21 than \$1,000 per violation for each day during which
22 such failure continues.

23 (3) PENALTIES FOR DIRECTORS, OFFICERS,
24 AND AGENTS.—Whenever a corporation is in viola-
25 tion of a requirement of a permit approved under

1 this Act or any regulation issued by the Secretaries
2 to implement this Act or fails or refuses to comply
3 with an order issued under subsection (a), any direc-
4 tor, officer, or agent of such corporation who know-
5 ingly authorized, ordered, or carried out such viola-
6 tion, failure, or refusal shall be subject to the same
7 penalties as may be imposed upon the person re-
8 ferred to in paragraph (1).

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

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

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

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

21 (4) refuses to permit an audit pursuant to this
22 Act;

23 (5) fails to maintain an adequate financial as-
24 surance under section 306;

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

3 (7) with regard to plans conditionally approved
4 under section 305(c)(2), fails to abate a violation to
5 the satisfaction of the Secretary concerned, or if the
6 validity of the violation is upheld on the appeal
7 which formed the basis for the conditional approval.

8 (f) FALSE STATEMENTS; TAMPERING.—Any person
9 who knowingly—

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

16 (2) falsifies, tampers with, renders inaccurate,
17 or fails to install any monitoring device or method
18 required to be maintained under this Act,

19 shall upon conviction, be punished by a fine of not more
20 than \$10,000, or by imprisonment for not more than 2
21 years, or by both. If a conviction of a person is for a viola-
22 tion committed after a first conviction of such person
23 under this subsection, punishment shall be by a fine of
24 not more than \$20,000 per day of violation, or by impris-
25 onment of not more than 4 years, or both. Each day of

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

3 (g) KNOWING VIOLATIONS.—Any person who know-
4 ingly—

5 (1) engages in mineral activities without a per-
6 mit required under title II; or

7 (2) violates any other requirement of a permit
8 issued under this Act, or any condition or limitation
9 thereof,

10 shall upon conviction be punished by a fine of not less
11 than \$5,000 nor more than \$50,000 per day of violation,
12 or by imprisonment for not more than 3 years, or both.

13 If a conviction of a person is for a violation committed
14 after the first conviction of such person under this sub-
15 section, punishment shall be a fine of not less than
16 \$10,000 per day of violation, or by imprisonment of not
17 more than 6 years, or both.

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

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

4 **SEC. 508. REGULATIONS.**

5 The Secretary and the Secretary of Agriculture shall
6 issue such regulations as are necessary to implement this
7 Act. The regulations implementing titles II and III and
8 this title that affect the Forest Service shall be joint regu-
9 lations issued by both Secretaries, and shall be issued not
10 later than 180 days after the date of enactment of this
11 Act.

12 **SEC. 509. OIL SHALE CLAIMS.**

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

15 (1) by striking “as prescribed by the Sec-
16 retary”; and

17 (2) by inserting before the period the following:
18 “in the same manner as required by title II of the
19 Clean Energy Minerals Reform Act of 2022”.

20 **SEC. 510. SAVINGS CLAUSE.**

21 (a) SPECIAL APPLICATION OF MINING LAWS.—Noth-
22 ing in this Act shall be construed as repealing or modi-
23 fying any Federal law, regulation, order, or land use plan,
24 in effect prior to the date of enactment of this Act that
25 prohibits or restricts the application of the general mining

1 laws, including laws that provide for special management
2 criteria for operations under the general mining laws as
3 in effect prior to the date of enactment of this Act, to
4 the extent such laws provide for protection of natural and
5 cultural resources and the environment greater than re-
6 quired under this Act, and any such prior law shall remain
7 in force and effect with respect to claims converted to
8 leases under this Act. Nothing in this Act shall be con-
9 strued as applying to or limiting mineral investigations,
10 studies, or other mineral activities conducted by any Fed-
11 eral or State agency acting in its governmental capacity
12 pursuant to other authority. Nothing in this Act shall af-
13 fect or limit any assessment, investigation, evaluation, or
14 listing pursuant to the Comprehensive Environmental Re-
15 sponse, Compensation, and Liability Act of 1980 (42
16 U.S.C. 9601 et seq.), or the Solid Waste Disposal Act (42
17 U.S.C. 3251 et seq.).

18 (b) EFFECT ON OTHER FEDERAL LAWS.—

19 (1) GENERAL MINING LAWS.—The provisions of
20 this Act shall supersede the general mining laws.

21 (2) OTHER LAWS.—Except for the general min-
22 ing laws, nothing in this Act shall be construed as
23 superseding, modifying, amending, or repealing any
24 provision of Federal law not expressly superseded,
25 modified, amended, or repealed by this Act.

1 (3) ENVIRONMENTAL LAWS.—Nothing in this
2 Act shall be construed as altering, affecting, amend-
3 ing, modifying, or changing, directly or indirectly,
4 any law which refers to and provides authorities or
5 responsibilities for, or is administered by, the Envi-
6 ronmental Protection Agency or the Administrator
7 of the Environmental Protection Agency, includ-
8 ing—

9 (A) the Federal Water Pollution Control
10 Act (33 U.S.C. 1251 et seq.);

11 (B) the National Environmental Policy Act
12 of 1969 (42 U.S.C. 4321 et seq.);

13 (C) title XIV of the Public Health Service
14 Act (the Safe Drinking Water Act) (42 U.S.C.
15 300f et seq.);

16 (D) the Clean Air Act (42 U.S.C. 7401 et
17 seq.);

18 (E) the Pollution Prevention Act of 1990
19 (42 U.S.C. 13101 et seq.);

20 (F) the Toxic Substances Control Act (15
21 U.S.C. 2601 et seq.);

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

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

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

3 (J) the Federal Hazardous Substances Act
4 (15 U.S.C. 1261 et seq.);

5 (K) the Endangered Species Act of 1973
6 (16 U.S.C. 1540);

7 (L) the Atomic Energy Act of 1954 (42
8 U.S.C. 2011 et seq.);

9 (M) the Noise Control Act of 1972 (42
10 U.S.C. 4901 et seq.);

11 (N) the Solid Waste Disposal Act (42
12 U.S.C. 6901 et seq.);

13 (O) the Comprehensive Environmental Re-
14 sponse, Compensation, and Liability Act of
15 1980 (42 U.S.C. 9601 et seq.);

16 (P) the Superfund Amendments and Reau-
17 thorization Act of 1986 (Public Law 99-499;
18 100 Stat. 1613);

19 (Q) the Ocean Dumping Act (33 U.S.C.
20 1401 et seq.);

21 (R) the Environmental Research, Develop-
22 ment, and Demonstration Authorization Act of
23 1978 (42 U.S.C. 4365);

24 (S) the Pollution Prosecution Act of 1990
25 (42 U.S.C. 4321 note; Public Law 101-593);

1 (T) the Federal Facilities Compliance Act
2 of 1992 (Public Law 102–386; 106 Stat.
3 1505); and

4 (U) any statute containing an amendment
5 to any of such Acts.

6 (4) FEDERAL INDIAN LAW.—Nothing in this
7 Act shall be construed as modifying or affecting any
8 provision of—

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

11 (B) American Indian Religious Freedom
12 Act (42 U.S.C. 1996);

13 (C) the National Historic Preservation Act
14 (16 U.S.C. 470 et seq.);

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

17 (E) the Archaeological Resources Protec-
18 tion Act of 1979 (16 U.S.C. 470aa et seq.).

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

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

23 Copies of records, reports, inspection materials, or in-
24 formation obtained by the Secretary or the Secretary of
25 Agriculture under this Act shall be made immediately

1 available to the public, consistent with section 552 of title
2 5, United States Code, in central and sufficient locations
3 in the county, multicounty, and State area of mineral ac-
4 tivities or reclamation so that such items are conveniently
5 available to residents in the area proposed or approved for
6 mineral activities and on the internet.

7 **SEC. 512. MISCELLANEOUS POWERS.**

8 (a) IN GENERAL.—In carrying out his or her duties
9 under this Act, the Secretary concerned may conduct any
10 investigation, inspection, or other inquiry necessary and
11 appropriate and may conduct, after notice, any hearing
12 or audit, necessary and appropriate to carrying out his
13 or her duties.

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

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

25 (2) Administer oaths.

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

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

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

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

1 (d) ENTRY AND ACCESS.—Without advance notice
2 and upon presentation of appropriate credentials, the Sec-
3 retary concerned or any authorized representative there-
4 of—

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

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

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

16 (4) may, on any mining claim, license, or lease
17 maintained in compliance with this Act, and without
18 advance notice, stop and inspect any motorized form
19 of transportation that such Secretary has probable
20 cause to believe is carrying hardrock minerals, con-
21 centrates, or products derived therefrom from a
22 claim site for the purpose of determining whether
23 the operator of such vehicle has documentation re-
24 lated to such hardrock minerals, concentrates, or

1 products derived therefrom as required by law, if
2 such documentation is required under this Act; and

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

16 **SEC. 513. MINERAL MATERIALS.**

17 (a) DETERMINATIONS.—Section 3 of the Act of July
18 23, 1955 (30 U.S.C. 611), is amended—

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

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

22 (3) by inserting “mineral materials, including”
23 after “varieties of”;

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

1 (5) by adding at the end the following:

2 “(b)(1) Subject to valid existing rights, after the date
3 of enactment of the Clean Energy Minerals Reform Act
4 of 2022, notwithstanding the reference to common vari-
5 eties in subsection (a) and to the exception to such term
6 relating to a deposit of materials with some property giv-
7 ing it distinct and special value, all deposits of mineral
8 materials referred to in such subsection, including the
9 block pumice referred to in such subsection, shall be sub-
10 ject to disposal only under the terms and conditions of
11 the Materials Act of 1947 (30 U.S.C. 601–603).

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

15 “(A) had and still has some property giving it
16 the distinct and special value referred to in sub-
17 section (a), or as the case may be, met the definition
18 of block pumice referred to in such subsection;

19 “(B) was properly located and maintained
20 under the general mining laws prior to the date of
21 enactment of the Clean Energy Minerals Reform Act
22 of 2022; and

23 “(C) was supported by a discovery of a valuable
24 mineral deposit within the meaning of the general
25 mining laws as in effect immediately prior to the

1 date of enactment of the Clean Energy Minerals Re-
2 form Act of 2022.”.

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

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

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

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

15 (d) SHORT TITLES.—

16 (1) SURFACE RESOURCES.—The Act of July
17 23, 1955, is amended by inserting after section 7
18 the following new section:

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

21 (2) MINERAL MATERIALS.—The Act of July 31,
22 1947, entitled “An Act to provide for the disposal of
23 materials on the public lands of the United States”
24 (30 U.S.C. 601 et seq.) is amended by inserting
25 after section 4 the following new section:

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

3 (e) REPEALS.—(1) Subject to valid existing rights,
4 the Act of August 4, 1892 (chapter 375; 27 Stat. 348;
5 30 U.S.C. 161), commonly known as the Building Stone
6 Act, is hereby repealed.

7 (2) Subject to valid existing rights, the Act of Janu-
8 ary 31, 1901 (chapter 186; 31 Stat. 745; 30 U.S.C. 162),
9 commonly known as the Saline Placer Act, is hereby re-
10 pealed.

11 **SEC. 514. EFFECTIVE DATE.**

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

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