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(Original Signature of Member)

115TH CONGRESS
2D SESSION

H. R. _____

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

Mr. GRIJALVA introduced the following bill; which was referred to the Committee on _____

A BILL

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

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Hardrock Leasing and Reclamation Act of 2018”.

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—ENVIRONMENTAL CONSIDERATIONS OF MINERAL
EXPLORATION AND DEVELOPMENT

- Sec. 201. General standard for hardrock mining on Federal land.
- Sec. 202. Permits.
- Sec. 203. Exploration permit.
- Sec. 204. Operations permit.
- Sec. 205. Persons ineligible for permits.
- Sec. 206. Financial assurance.
- Sec. 207. Operation and reclamation.
- Sec. 208. State law and regulation.

TITLE III—ABANDONED HARDROCK MINE RECLAMATION

- Sec. 301. Establishment of Fund.
- Sec. 302. Contents of Fund.
- Sec. 303. Displaced material reclamation fee.
- Sec. 304. Use and objectives of the Fund.
- Sec. 305. Eligible lands and waters.
- Sec. 306. Authorization of appropriations.

TITLE IV—ADMINISTRATIVE PROVISIONS

- Sec. 401. Policy functions.
- Sec. 402. User fees and inflation adjustment.
- Sec. 403. Inspection and monitoring.
- Sec. 404. Citizens suits.
- Sec. 405. Administrative and judicial review.
- Sec. 406. Enforcement.
- Sec. 407. Regulations.
- Sec. 408. Oil shale claims.
- Sec. 409. Savings clause.
- Sec. 410. Availability of public records.
- Sec. 411. Miscellaneous powers.
- Sec. 412. Mineral materials.
- Sec. 413. Effective date.

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

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

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

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

8 (B) Any partner of such person.

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

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

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

20 (4) The term “casual use”—

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

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

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

3 (C) does not include—

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

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

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

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

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

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

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

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

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

10 (9) The term “exploration”—

11 (A) subject to subparagraphs (B) and (C),
12 means creating surface disturbance other than
13 casual use, to evaluate the type, extent, quan-
14 tity, or quality of minerals present;

15 (B) includes mineral activities associated
16 with sampling, drilling, and analyzing hardrock
17 mineral values; and

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

20 (10) The term “Federal land” means any land,
21 and any interest in land, that is owned by the
22 United States, except lands in the National Park
23 System, lands held in trust for an Indian or Indian
24 tribe, and lands on the Outer Continental Shelf.

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

3 (12) The term “Indian lands” means lands held
4 in trust for the benefit of an Indian tribe or indi-
5 vidual or held by an Indian tribe or individual sub-
6 ject to a restriction by the United States against
7 alienation.

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

17 (14) The term “hardrock mineral”—

18 (A) subject to subparagraph (B), means
19 any mineral that was subject to location under
20 the general mining laws as of the date of enact-
21 ment of this Act, and that is not subject to dis-
22 position under—

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

1 (ii) the Geothermal Steam Act of
2 1970 (30 U.S.C. 1001 et seq.);

3 (iii) the Act of July 31, 1947, com-
4 monly known as the Materials Act of 1947
5 (30 U.S.C. 601 et seq.); or

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

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

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

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

17 (15) The term “mineral activities” means any
18 activity on a mining claim, millsite claim, or tunnel
19 site claim, or a lease, license, or permit issued under
20 this Act, for, related to, or incidental to, mineral ex-
21 ploration, mining, beneficiation, processing, or rec-
22 lamation activities for any hardrock mineral.

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

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

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

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

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

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

23 (21) The term “Secretary concerned” means—

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

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

8 (22)(A) The term “small miner” means a per-
9 son (including all related parties thereto) that—

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

13 (ii) holds leases and permits under
14 this Act with respect to not more than 200
15 acres of Federal land;

16 (iii) certifies to the Secretary in writ-
17 ing that the person had annual gross in-
18 come in the preceding calendar year from
19 mineral production in an amount less than
20 \$50,000 (indexed for inflation); and

21 (iv) has performed assessment work
22 required under the Mining Law of 1872
23 (30 U.S.C. 28 et seq.) to maintain any
24 mining claims held by the person (includ-
25 ing such related parties) for the assess-

1 ment year ending on noon of September 1
2 of the calendar year in which payment of
3 the claim maintenance fee was due.

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

7 (i) the spouse and dependent children (as
8 defined in section 152 of the Internal Revenue
9 Code of 1986), of the person; or

10 (ii) a person affiliated with the person con-
11 cerned, including—

12 (I) another person controlled by, con-
13 trolling, or under common control with the
14 person concerned; or

15 (II) a subsidiary or parent company
16 or corporation of the person concerned.

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

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

4 (24) The term “ton” means 2,000 pounds av-
5 oirduois (.90718 metric ton).

6 (25) The term “undue degradation” means ir-
7 reparable harm to significant scientific, cultural, or
8 environmental resources on public lands.

9 (26) The term “valuable mineral deposit”
10 means a deposit of hardrock minerals that is of suf-
11 ficient value for a reasonable miner to economically
12 mine.

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

16 (b) REFERENCES TO OTHER LAWS.—

17 (1) GENERAL MINING LAWS.—Any reference in
18 this Act to the term “general mining laws” is a ref-
19 erence to those Acts that generally comprise chap-
20 ters 2, 12A, and 16, and sections 161 and 162, of
21 title 30, United States Code.

22 (2) ACT OF JULY 23, 1955.—Any reference in
23 this Act to the Act of July 23, 1955, is a reference
24 to the Act entitled “An Act to amend the Act of
25 July 31, 1947 (61 Stat. 681) and the mining laws

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

4 **SEC. 3. APPLICATION RULES.**

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

9 (b) APPLICATION OF ACT TO BENEFICIATION AND
10 PROCESSING OF NON-FEDERAL MINERALS ON FEDERAL
11 LANDS.—The provisions of this Act (including the envi-
12 ronmental protection requirements of title II) shall apply
13 in the same manner and to the same extent to mining
14 claims, millsite claims, tunnel site claims, and any land
15 included in a lease or license issued under this Act, used
16 for beneficiation or processing activities for any hardrock
17 mineral.

18 **TITLE I—MINERAL LEASING, EX-**
19 **PLOURATION, AND DEVELOP-**
20 **MENT**

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

22 (a) CLOSURE.—Except as otherwise provided in this
23 section, as of the effective date of this Act all Federal
24 lands are closed to entry and location under the general

1 mining laws, and no new rights under the general mining
2 laws may be acquired.

3 (b) EXISTING NONPRODUCING CLAIMS.—

4 (1) CLAIMS WITHOUT PLAN OF OPERATIONS.—

5 Any claim under the general mining laws existing on
6 the effective date of this Act for which a plan of op-
7 erations is not approved, or a notice of operations is
8 not filed, before such date shall be subject to the re-
9 quirements of this Act, and may remain in effect
10 until not later than the end of the 10-year period be-
11 ginning on the date of enactment of this Act if the
12 claimholder remains in compliance with section 109,
13 unless the claim holder—

14 (A) relinquishes the claim; or

15 (B) demonstrates eligibility for a lease and
16 requests conversion under the regulations
17 issued under subsection (d).

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

21 (A) the claim is for an area that is located
22 in an area withdrawn or temporarily segregated
23 from location under the general mining laws as
24 of the effective date of this Act; or

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

1 (3) CONVERSION.—Upon showing to the satis-
2 faction of the Secretary of a valuable mineral deposit
3 on lands subject to such a claim, the Secretary may
4 convert the claim to a non-competitive lease under
5 the regulations issued under subsection (d).

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

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

11 (1) IN GENERAL.—In the case of any claim
12 under the general mining laws for which a plan of
13 operations has been approved but for which oper-
14 ations have not commenced before the date of enact-
15 ment of this Act—

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

18 (i) mineral activities at lands subject
19 to such claim shall be subject to such plan
20 of operations; and

21 (ii) modification of such plan may be
22 made in accordance with the provisions of
23 law applicable before the date of the enact-
24 ment of this Act if such modifications are

1 considered minor by the Secretary con-
2 cerned; and

3 (B) the operator shall bring such mineral
4 activities into compliance with this Act by the
5 end of such 10-year period.

6 (2) ACTIVITIES PENDING DECISION ON MODI-
7 FICATION TO PLAN OF OPERATIONS.—If an applica-
8 tion for modification of a plan of operations referred
9 to in paragraph (1)(A)(ii) has been timely submitted
10 and an approved plan expires before Secretarial ac-
11 tion on the application, mineral activities and rec-
12 lamation may continue in accordance with the terms
13 of the expired plan until the Secretary makes an ad-
14 ministrative decision on the application.

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

21 (d) CONVERSION REGULATIONS.—

22 (1) IN GENERAL.—The Secretary shall issue
23 regulations no later than one year after the date of
24 the enactment of this Act to provide for the conver-

1 sion of mining claims to noncompetitive mining
2 leases.

3 (2) CONTENT.—The regulations issued under
4 paragraph (1) shall—

5 (A) prohibit the conversion of a mining
6 claim to a mining lease by a claimholder who is
7 in violation of this Act or other State or Fed-
8 eral environmental, health, or worker safety
9 law;

10 (B) allow the Secretary to exercise discre-
11 tion to include nonmineral lands within the
12 boundaries of any mill site associated with the
13 mining claim to be converted to a noncompeti-
14 tive lease;

15 (C) prohibit the area in any noncompetitive
16 mining lease issued under this subsection to ex-
17 ceed the maximum area authorized by this Act
18 to be leased to any person;

19 (D) require the consent of the surface
20 managing agency for conversion to a non-
21 competitive mining lease;

22 (E) require the fiscal terms of the con-
23 verted noncompetitive mining lease to be the
24 same as provided in this Act for other hardrock
25 mining leases;

1 (G) require compliance with all provisions
2 of this Act; and

3 (H) include any other terms the Secretary
4 considers appropriate.

5 (e) NEPA.—The Secretary is not required to conduct
6 an environmental analysis under the National Environ-
7 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for
8 the issuance of a noncompetitive lease under this section,
9 if the noncompetitive lease does not authorize any addi-
10 tional surface disturbance in addition to any surface dis-
11 turbance already authorized under a mine plan of oper-
12 ations covering the mining claim that is converted.

13 **SEC. 102. LIMITATION ON PATENTS.**

14 (a) MINING CLAIMS.—

15 (1) DETERMINATIONS REQUIRED.—After the
16 date of enactment of this Act, no patent shall be
17 issued by the United States for any mining claim lo-
18 cated under the general mining laws unless the Sec-
19 retary determines that, for the claim concerned—

20 (A) a patent application was filed with the
21 Secretary on or before September 30, 1994;
22 and

23 (B) all requirements established under sec-
24 tions 2325 and 2326 of the Revised Statutes
25 (30 U.S.C. 29 and 30), in the case of a vein or

1 lode claim, or sections 2329, 2330, 2331, and
2 2333 of the Revised Statutes (30 U.S.C. 35,
3 36, and 37), in the case of a placer claim, were
4 fully complied with by that date.

5 (2) RIGHT TO PATENT.—If the Secretary makes
6 the determinations referred to in subparagraphs (A)
7 and (B) of paragraph (1) for any mining claim, the
8 holder of the claim shall be entitled to the issuance
9 of a patent in the same manner and degree to which
10 such claim holder would have been entitled to prior
11 to the enactment of this Act, unless such determina-
12 tions are withdrawn or invalidated by the Secretary
13 or by a court of the United States.

14 (b) MILLSITE CLAIMS.—

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

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

23 (B) all requirements applicable to such
24 patent application were fully complied with be-
25 fore that date.

1 (2) RIGHT TO PATENT.—If the Secretary makes
2 the determinations referred to in subparagraphs (A)
3 and (B) of paragraph (1) for any millsite claim, the
4 holder of the claim shall be entitled to the issuance
5 of a patent in the same manner and degree to which
6 such claim holder would have been entitled to prior
7 to the enactment of this Act, unless such determina-
8 tions are withdrawn or invalidated by the Secretary
9 or by a court of the United States.

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

11 (a) IN GENERAL.—No person may conduct mineral
12 prospecting for commercial purposes for any hardrock
13 mineral on Federal lands without a prospecting license or
14 a small miners lease.

15 (b) PROSPECTING LICENSES.—

16 (1) IN GENERAL.—The Secretary may, under
17 such rules and regulations as the Secretary may pre-
18 scribe and with the concurrence of the relevant sur-
19 face management agency, grant an applicant a
20 prospecting license that shall give the exclusive right
21 to prospect for specified hardrock minerals on Fed-
22 eral lands for a period of not exceeding two years.
23 The area subject to such a license shall not exceed
24 2,560 acres of land, in reasonably compact form.
25 The Secretary shall charge a fee for each license ap-

1 plication to cover the costs of processing the license,
2 and the license shall be subject to annual rentals
3 equal to \$10 per acre per year.

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

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

24 (c) NONCOMPETITIVE LEASES.—

1 (1) IN GENERAL.—Upon a showing to the satis-
2 faction of the Secretary by a prospecting licensee
3 under subsection (a) that a valuable deposit of a
4 hardrock mineral has been discovered by the licensee
5 within an area covered by the prospecting license,
6 the licensee shall be entitled to a lease for any or all
7 of the land included in the prospecting license, as
8 well as any nonmineral lands necessary for proc-
9 essing or milling operations, at a royalty of no less
10 than 12.5 percent of the gross value of production
11 of hardrock minerals or mineral concentrates or
12 products derived from hardrock minerals under the
13 lease. Rentals for such lease shall be set by the Sec-
14 retary at no less than \$10 per acre per year, with
15 rentals paid in any one year credited against royal-
16 ties accruing for that year.

17 (2) LEASE PERIOD.—

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

23 (B) EXTENSION DURING NONPRODUC-
24 TION.—If hardrock minerals are not being pro-
25 duced in commercial quantities at the end of

1 the primary term or any subsequent term of
2 such a lease, the Secretary may issue a 10-year
3 extension of the lease in the interest of con-
4 servation or upon a successful showing by the
5 lessee that the lease cannot be successfully op-
6 erated at a profit or for other reasons. No more
7 than one extension under this subparagraph
8 may be issued.

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

14 (e) REDUCTION OF ROYALTY RATE.—The Sec-
15 retary—

16 (1) may reduce the royalty rate for a lease upon
17 a showing by clear and convincing evidence by the
18 person conducting mineral activities under the lease
19 that production would not occur without the reduc-
20 tion in royalty; and

21 (2) may reduce royalty and rental rates for a
22 lease to encourage exploration for and development
23 of hardrock minerals classified as strategic and crit-
24 ical by the Department of Energy.

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

9 **SEC. 104. COMPETITIVE LEASING.**

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

21 (b) TERMS AND REQUIREMENTS.—All terms and re-
22 quirements for competitive leases under this section shall
23 be the same as if the leases were issued noncompetitively
24 under section 103(c).

1 **SEC. 105. SMALL MINERS LEASES.**

2 (a) IN GENERAL.—The Secretary may issue small
3 miners leases to qualified small miners that apply, under
4 such rules and regulations as the Secretary may prescribe,
5 including conditions to require diligent development of the
6 lease and to ensure protection of surface resources and
7 groundwater. A small miners lease shall give the lease-
8 holder the exclusive right to prospect for hardrock min-
9 erals for 3 years on up to 200 acres of contiguous or non-
10 contiguous Federal land. The Secretary shall charge a rea-
11 sonable application fee for such a lease. Rentals for such
12 a lease shall be \$5 per acre per year for the first 3 years.
13 Such leases may be renewed for additional 3-year periods,
14 with no limit, with a \$10 per acre per year rental charged
15 for renewed leases. Any individual may file a challenge
16 with the Secretary that a leaseholder is in violation of the
17 diligence terms of a small miners lease or not qualified
18 as a small miner. A small miners lease that is under such
19 a challenge may not be renewed unless the Secretary has
20 determined that the leaseholder is a small miner and is
21 in compliance with all the terms of the lease. No royalties
22 shall be charged for commercial production under a small
23 miners lease.

24 (b) CONVERSION OF EXISTING CLAIMS.—An existing
25 claim, as of January 1, 2017, that belongs to an individual
26 that qualifies as a small miner may be converted to a small

1 miners lease under the same terms and conditions that
2 apply to other small miners leases, except that such
3 lease—

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

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

9 (3) shall be subject to a rental of \$10 per acre
10 per year for the second and subsequent 3-year re-
11 newals of the lease.

12 (c) LIMITATIONS.—A small miners lease—

13 (1) may only be held by the primary lease-
14 holder, a spouse thereof, or a direct descendent
15 thereof;

16 (2) may not be sold or transferred, other than
17 to a spouse or direct descendent of the primary
18 leaseholder; and

19 (3) is subject to all permitting requirements
20 under this Act.

21 (d) CONVERSION TO HARDROCK MINERAL LEASE.—

22 If the leaseholder no longer meets the definition of the
23 term “small miner” in section 3 at the time a renewal
24 is applied for because the leaseholder’s gross income ex-
25 ceeds the amount specified in the definition, the lease-

1 holder shall not be eligible to renew the small miners lease,
2 but shall be eligible for a noncompetitive hardrock mineral
3 lease issued under section 103(c). Notwithstanding section
4 103(c)(1), royalties under such a lease shall only be due
5 on the gross income that exceeds the amount of gross in-
6 come specified in such definition as of the time the
7 hardrock mineral lease is issued.

8 **SEC. 106. LANDS CONTAINING NONHARDROCK MINERALS;**
9 **OTHER USES.**

10 (a) IN GENERAL.—In issuing licenses and leases
11 under this Act for lands that contain deposits of coal or
12 other nonhardrock minerals, the Secretary shall reserve to
13 the United States such nonhardrock minerals for disposal
14 under applicable laws.

15 (b) OTHER USES OF LICENSED AND LEASED
16 LANDS.—

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

23 (2) PROSPECTING LICENSES.—The Secretary
24 shall include in such prospecting licenses such terms
25 and conditions as the Secretary finds necessary to

1 avoid unreasonable interference with other uses oc-
2 curring on, or other leases of, the licensed lands.

3 (3) LEASES.—The Secretary shall include in
4 leases under this Act stipulations to allow for simul-
5 taneous operations under other leases for the same
6 lands.

7 **SEC. 107. ROYALTY.**

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

23 (b) LIABILITY.—The claim or leaseholder, or any op-
24 erator to whom the claim or lease holder has assigned the
25 obligation to make royalty payments under the claim or

1 lease and any person who controls such claim or lease
2 holder or operator, shall be liable for payment of such roy-
3 alties.

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

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

11 (2) the remainder shall be deposited in the ac-
12 count established under section 301.

13 (d) DUTIES OF CLAIM OR LEASE HOLDERS, OPERA-
14 TORS, AND TRANSPORTERS.—(1) A person—

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

19 (B) shall notify the Secretary, in the time and
20 manner as may be specified by the Secretary, of any
21 assignment that such person may have made of the
22 obligation to make any royalty or other payment
23 under a mining claim or lease under this title.

24 (2) Any person paying royalties under this section
25 shall file a written instrument, together with the first roy-

1 alty payment, affirming that such person is responsible for
2 making proper payments for all amounts due for all time
3 periods for which such person has a payment responsi-
4 bility. Such responsibility for the periods referred to in the
5 preceding sentence shall include any and all additional
6 amounts billed by the Secretary and determined to be due
7 by final agency or judicial action. Any person liable for
8 royalty payments under this section who assigns any pay-
9 ment obligation shall remain jointly and severally liable
10 for all royalty payments due for the period.

11 (3) A person conducting mineral activities shall—

12 (A) develop and comply with the site security
13 provisions in the operations permit designed to pro-
14 tect from theft the hardrock minerals, concentrates,
15 or products derived therefrom that are produced or
16 stored on the area subject to a mining claim or
17 lease, and such provisions shall conform with such
18 minimum standards as the Secretary may prescribe
19 by rule, taking into account the variety of cir-
20 cumstances on areas subject to mining claims and
21 leases; and

22 (B) not later than the 5th business day after
23 production begins anywhere on an area subject to a
24 mining claim or lease, or production resumes after
25 more than 90 days after production was suspended,

1 notify the Secretary, in the manner prescribed by
2 the Secretary, of the date on which such production
3 has begun or resumed.

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

12 (e) RECORDKEEPING AND REPORTING REQUIRE-
13 MENTS.—(1) A claim or lease holder, operator, or other
14 person directly involved in developing, producing, proc-
15 essing, transporting, purchasing, or selling hardrock min-
16 erals, concentrates, or products derived therefrom, subject
17 to this Act, through the point of royalty computation shall
18 establish and maintain any records, make any reports, and
19 provide any information that the Secretary may reason-
20 ably require for the purposes of implementing this section
21 or determining compliance with rules or orders under this
22 section. Such records shall include, but not be limited to,
23 periodic reports, records, documents, and other data. Such
24 reports may also include, but not be limited to, pertinent
25 technical and financial data relating to the quantity, qual-

1 ity, composition volume, weight, and assay of all minerals
2 extracted from the mining claim or lease. Upon the re-
3 quest of any officer or employee duly designated by the
4 Secretary conducting an audit or investigation pursuant
5 to this section, the appropriate records, reports, or infor-
6 mation that may be required by this section shall be made
7 available for inspection and duplication by such officer or
8 employee. Failure by a claim or lease holder, operator, or
9 other person referred to in the first sentence to cooperate
10 with such an audit, provide data required by the Sec-
11 retary, or grant access to information may, at the discre-
12 tion of the Secretary, result in involuntary forfeiture of
13 the claim or lease.

14 (2) Records required by the Secretary under this sec-
15 tion shall be maintained for 7 years after release of finan-
16 cial assurance under section 206 unless the Secretary noti-
17 fies the operator that the Secretary has initiated an audit
18 or investigation involving such records and that such
19 records must be maintained for a longer period. In any
20 case when an audit or investigation is underway, records
21 shall be maintained until the Secretary releases the oper-
22 ator of the obligation to 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 sales 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.—(1) The Secretary
10 is authorized to enter into cooperative agreements with the
11 Secretary of Agriculture to share information concerning
12 the royalty management of hardrock minerals, con-
13 centrates, or products derived therefrom, to carry out in-
14 spection, auditing, investigation, or enforcement (not in-
15 cluding the collection of royalties, civil or criminal pen-
16 alties, or other payments) activities under this section in
17 cooperation with the Secretary, and to carry out any other
18 activity described in this section.

19 (2) Except as provided in paragraph (3)(A) of this
20 subsection (relating to trade secrets), and pursuant to a
21 cooperative agreement, the Secretary of Agriculture shall,
22 upon request, have access to all royalty accounting infor-
23 mation in the possession of the Secretary respecting the
24 production, removal, or sale of hardrock minerals, con-

1 centrates, or products derived therefrom from claims or
2 leases on lands open to location under this Act.

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

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

24 (2) If there is any underreporting of royalty owed on
25 production from a claim or lease for any production month

1 by any person liable for royalty payments under this sec-
2 tion, the Secretary shall assess a penalty of not greater
3 than 25 percent of the amount of that underreporting.

4 (3) For the purposes of this subsection, the term
5 “underreporting” means the difference between the roy-
6 alty on the value of the production that should have been
7 reported and the royalty on the value of the production
8 which was reported, if the value that should have been
9 reported is greater than the value that was reported.

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

17 (5) The Secretary shall waive any portion of an as-
18 sessment under paragraph (2) of this subsection attrib-
19 utable to that portion of the underreporting for which the
20 person responsible for paying the royalty demonstrates
21 that—

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

1 (B) such person had substantial authority for
2 reporting royalty on the value of the production on
3 the basis on which it was reported;

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

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

11 (6) All penalties collected under this subsection shall
12 be deposited in the Hardrock Mining Reclamation Fund
13 established by this Act.

14 (i) EXPANDED ROYALTY OBLIGATIONS.—Each per-
15 son liable for royalty payments under this section shall
16 be jointly and severally liable for royalty on all hardrock
17 minerals, concentrates, or products derived therefrom lost
18 or wasted from a mining claim or lease when such loss
19 or waste is due to negligence on the part of any person
20 or due to the failure to comply with any rule, regulation,
21 or order issued under this section.

22 (j) GROSS INCOME FROM MINING DEFINED.—For
23 the purposes of this section, for any hardrock mineral, the
24 term “gross income from mining” has the same meaning

1 as the term “gross income” in section 613(c) of the Inter-
2 nal Revenue Code of 1986.

3 (k) EFFECTIVE DATE.—Royalties under this Act
4 shall take effect with respect to the production of hardrock
5 minerals after the enactment of this Act, but any royalty
6 payments attributable to production during the first 12
7 calendar months after the enactment of this Act shall be
8 payable at the expiration of such 12-month period.

9 (l) FAILURE TO COMPLY WITH ROYALTY REQUIRE-
10 MENTS.—Any person who fails to comply with the require-
11 ments of this section or any regulation or order issued to
12 implement this section shall be liable for a civil penalty
13 under section 109 of the Federal Oil and Gas Royalty
14 Management Act (30 U.S.C. 1719) to the same extent as
15 if the claim or lease maintained in compliance with this
16 Act were a lease under that Act.

17 **SEC. 108. EXISTING PRODUCTION.**

18 The holder of a mining claim located or converted
19 under this Act for which mineral operations have already
20 commenced under an approved plan of operations as of
21 the date of enactment of this Act shall have the exclusive
22 right of possession and use of the claimed land for mineral
23 activities, including the right of ingress and egress to such
24 claimed lands for such activities, subject to the rights of
25 the United States under this Act and other applicable

1 Federal law. Such rights of the claim holder shall termi-
2 nate upon completion of mineral activities of lands to the
3 satisfaction of the Secretary.

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

5 (a) FEE.—

6 (1)(A) Except as provided in section 2511(e)(2)
7 of the Energy Policy Act of 1992 (relating to oil
8 shale claims), or otherwise provided in this Act for
9 each unpatented mining claim, mill, or tunnel site on
10 federally owned lands, whether located before or on
11 the date of enactment of this Act, each claimant
12 shall pay to the Secretary, on or before August 31
13 of each year, a claim maintenance fee of \$200 per
14 claim to hold such unpatented mining claim, mill or
15 tunnel site for the assessment year beginning at
16 noon on the next day, September 1. Such claim
17 maintenance fee shall be in lieu of the assessment
18 work requirement contained in the Mining Law of
19 1872 (30 U.S.C. 28 et seq.) and the related filing
20 requirements contained in section 314 (a) and (c) of
21 the Federal Land Policy and Management Act of
22 1976 (43 U.S.C. 1744 (a) and (c)).

23 (B) Subparagraph (A) and the assessment work
24 requirement contained in the Mining Law of 1872

1 (30 U.S.C. 28 et seq.) shall not apply with respect
2 to any claim held by a small miner.

3 (2)(A) The Secretary shall adjust the fees re-
4 quired by this subsection to reflect changes in the
5 Consumer Price Index published by the Bureau of
6 Labor Statistics of the Department of Labor every
7 3 years after the date of enactment of this Act, or
8 more frequently if the Secretary determines an ad-
9 justment to be reasonable.

10 (B) The Secretary shall provide claimants no-
11 tice of any adjustment made under this paragraph
12 not later than July 1 of any year in which the ad-
13 justment is made.

14 (C) A fee adjustment under this paragraph
15 shall begin to apply the calendar year following the
16 calendar year in which it is made.

17 (3) Moneys received under this subsection that
18 are not otherwise allocated for the administration of
19 the mining laws by the Department of the Interior
20 shall be deposited in the Hardrock Mining Reclama-
21 tion Fund established by this Act.

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

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

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

8 (d) **OTHER REQUIREMENTS.**—

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

16 (2) Section 2324 of the Revised Statutes of the
17 United States (30 U.S.C. 28) is amended by insert-
18 ing “or section 103(a) of the Hardrock Leasing and
19 Reclamation Act of 2018” after “Act of 1993”.

20 **SEC. 110. EFFECT OF PAYMENTS FOR USE AND OCCUPANCY**
21 **OF CLAIMS.**

22 Except as otherwise provided in section 101, timely
23 payment of the claim maintenance fee required by section
24 109 or any related law relating to the use of Federal land,
25 asserts the claimant’s authority to use and occupy the

1 Federal land concerned for prospecting and exploration,
2 consistent with the requirements of this Act and other ap-
3 plicable law.

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

5 (a) PROTECTION OF NATIONAL PARKS AND NA-
6 TIONAL MONUMENTS.—No permit shall be issued under
7 this Act that authorizes mineral activities that would im-
8 pair the land or resources of a National Park or a Na-
9 tional Monument. For purposes of this subsection, the
10 term “impair” includes any diminution of the affected
11 land including wildlife, scenic assets, water resources, air
12 quality, and acoustic qualities, or other changes that
13 would impair a citizen’s experience at the National Park
14 or National Monument.

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

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

1 (1) Wilderness study areas.

2 (2) Areas of critical environmental concern.

3 (3) Units of the National Conservation System.

4 (4) Areas designated for inclusion in the Na-
5 tional Wild and Scenic Rivers System pursuant to
6 the Wild and Scenic Rivers Act (16 U.S.C. 1271 et
7 seq.), areas designated for potential addition to such
8 system pursuant to section 5(a) of that Act (16
9 U.S.C. 1276(a)), and areas determined to be eligible
10 for inclusion in such system pursuant to section 5(d)
11 of such Act (16 U.S.C. 1276(d)).

12 (5) Any area identified in the set of inventoried
13 roadless areas maps contained in the Forest Service
14 Roadless Area Conservation Final Environmental
15 Impact Statement, Volume 2, dated November 2000.

16 **SEC. 112. SUITABILITY DETERMINATION.**

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

21 (b) SUITABILITY.—

22 (1) IN GENERAL.—The Secretary concerned
23 shall consider lands suitable for mineral activities if
24 the Secretary concerned finds that such activities
25 would not result in significant, permanent, and ir-

1 reparable damage to a special characteristic de-
2 scribed in paragraph (2) that cannot be prevented
3 by the imposition of conditions in the permit re-
4 quired for such activities under title II.

5 (2) SPECIAL CHARACTERISTICS.—For purposes
6 of paragraph (1) the Secretary concerned shall con-
7 sider each of the following to be a special char-
8 acteristic:

9 (A) The existence of a significant water re-
10 source or supply in or associated with such
11 lands, including any aquifer or aquifer recharge
12 area.

13 (B) The presence on such lands of a pub-
14 licly owned place that is listed on, or deter-
15 mined by the Secretary of the Interior to be eli-
16 gible for listing on, the National Register of
17 Historic Places.

18 (C) The designation of all or any portion
19 of such lands, or any adjacent lands, as a Na-
20 tional Conservation System unit.

21 (D) The designation of all or any portion
22 of such lands, or any adjacent lands, as critical
23 habitat under the Endangered Species Act of
24 1973 (16 U.S.C. 1531 et seq.).

1 (E) The designation of all or any portion
2 of such lands as a class I area under section
3 162 of the Clean Air Act (42 U.S.C. 7472).

4 (F) The presence of such other resource
5 values as the Secretary concerned may by rule
6 specify, determined based upon field testing
7 that verifies such values.

8 (G) The designation of such lands, or adja-
9 cent lands, as a Research Natural Area.

10 (H) The presence on such lands of a sa-
11 cred site of an Indian tribe, as those terms are
12 defined in Executive Order 13007, or other cul-
13 tural and religious values.

14 (3) A determination under this subsection of
15 suitability for mineral activities shall be made after
16 publication of notice and an opportunity for submis-
17 sion of public comment for a period of not less than
18 60 days.

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

1 (c) EXISTING OPERATIONS.—Nothing in this section
2 shall be construed as affecting lands on which mineral ac-
3 tivities were being conducted on the date of enactment of
4 this Act under an approved plan of operations or under
5 notice.

6 **TITLE II—ENVIRONMENTAL**
7 **CONSIDERATIONS OF MIN-**
8 **ERAL EXPLORATION AND DE-**
9 **VELOPMENT**

10 **SEC. 201. GENERAL STANDARD FOR HARDROCK MINING ON**
11 **FEDERAL LAND.**

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

1 **SEC. 202. PERMITS.**

2 (a) PERMITS REQUIRED.—No person may engage in
3 mineral activities on Federal land that may cause a dis-
4 turbance of surface resources, including but not limited
5 to land, air, ground water and surface water, and fish and
6 wildlife, unless a permit was issued to such person under
7 this title authorizing such activities.

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

12 (c) COORDINATION WITH NEPA PROCESS.—To the
13 extent practicable, the Secretary and the Secretary of Ag-
14 riculture shall conduct the permit processes under this Act
15 in coordination with the timing and other requirements
16 under section 102 of the National Environmental Policy
17 Act of 1969 (42 U.S.C. 4332).

18 **SEC. 203. EXPLORATION PERMIT.**

19 (a) AUTHORIZED EXPLORATION ACTIVITY.—Any ap-
20 plicant may apply for an exploration permit for any min-
21 ing claim, license, or lease authorizing the applicant to re-
22 move a reasonable amount of the hardrock minerals, as
23 defined in the license or lease or established in such regu-
24 lations as the Secretary shall promulgate, from the area
25 that is subject to the claim, license, or lease, respectively,
26 for analysis, study, and testing. Such permit shall not au-

1 thozize the applicant to remove any mineral for sale nor
2 to conduct any activities other than those required for ex-
3 ploration for hardrock minerals and reclamation.

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

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

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

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

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

1 (4) The applicant has demonstrated that the
2 exploration plan and reclamation plan will be in
3 compliance with the requirements of this Act and all
4 other applicable Federal requirements, and any
5 State requirements agreed to by the Secretary con-
6 cerned.

7 (5) The applicant has demonstrated that the re-
8 quirements of section 206 (relating to financial as-
9 surance) will be met.

10 (6) The applicant is eligible to receive a permit
11 under section 205.

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

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

1 ration permit based on whether such modifications are
2 deemed significant or minor.

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

4 (1) No transfer, assignment, or sale of rights granted by
5 a permit issued under this section shall be made without
6 the prior written approval of the Secretary concerned.

7 (2) Such Secretary shall allow a person holding a per-
8 mit to transfer, assign, or sell rights under the permit to
9 a successor, if the Secretary finds, in writing, that the suc-
10 cessor—

11 (A) is eligible to receive a permit in accordance
12 with section 204(d);

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

15 (C) meets any other requirements specified by
16 the Secretary.

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

23 (4) Each application for approval of a permit trans-
24 fer, assignment, or sale pursuant to this subsection shall
25 be accompanied by a fee payable to the Secretary of the

1 Interior in such amount as may be established by such
2 Secretary. Such amount shall be equal to the actual or
3 anticipated cost to the Secretary or the Secretary of Agri-
4 culture, as appropriate, of reviewing and approving or dis-
5 approving such transfer, assignment, or sale, as deter-
6 mined by the Secretary of the Interior.

7 **SEC. 204. OPERATIONS PERMIT.**

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

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

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

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

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

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

23 (A) The permit application, including the site
24 characterization data, operations plan, and reclama-
25 tion plan, are complete and accurate and sufficient

1 for developing a good understanding of the antici-
2 pated impacts of the mineral activities and the effec-
3 tiveness of proposed mitigation and control.

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

8 (C) The condition of the land, including the fish
9 and wildlife resources and habitat contained thereon,
10 after the completion of mineral activities and final
11 reclamation, will conform to the land use plan appli-
12 cable to the area subject to mineral activities and
13 are returned to a productive use.

14 (D) The area subject to the proposed plan is
15 not listed in section 111 or otherwise ineligible for
16 mineral activities.

17 (E) The proposed operation has been designed
18 to prevent material damage to the hydrologic bal-
19 ance outside the permit area.

20 (F) The applicant will fully comply with the re-
21 quirements of section 206 (relating to financial as-
22 surance) prior to the initiation of operations.

23 (G) Neither the applicant nor operator, nor any
24 subsidiary, affiliate, or person controlled by or under

1 common control with the applicant or operator, is in-
2 eligible to receive a permit under section 205.

3 (H) The reclamation plan demonstrates that 10
4 years following mine closure, no treatment of surface
5 or ground water for carcinogens or toxins will be re-
6 quired to meet water quality standards at the point
7 of discharge.

8 (2) With respect to any activities specified in the rec-
9 lamation plan referred to in subsection (b) that constitutes
10 a removal or remedial action under section 101 of the
11 Comprehensive Environmental Response, Compensation,
12 and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the
13 Secretary shall consult with the Administrator of the En-
14 vironmental Protection Agency prior to the issuance of an
15 operations permit. The Administrator shall ensure that
16 the reclamation plan does not require activities that would
17 increase the costs or likelihood of removal or remedial ac-
18 tions under the Comprehensive Environmental Response,
19 Compensation, and Liability Act of 1980 (42 U.S.C. 9601
20 et seq.) or corrective actions under the Solid Waste Dis-
21 posal Act (42 U.S.C. 6901 et seq.).

22 (d) TERM OF PERMIT; RENEWAL.—

23 (1) An operations permit—

24 (A) shall be for an initial term that is no
25 longer than the shorter of—

1 (i) the period necessary to accomplish
2 the proposed mineral activities subject to
3 the permit; and

4 (ii) the length of time remaining on
5 the applicant's hardrock mining lease; and

6 (B) shall be renewed for an additional 10-
7 year period if the operation is in compliance
8 with the requirements of this Act and other ap-
9 plicable law.

10 (2) Failure by the operator to commence min-
11 eral activities within 2 years of the date scheduled
12 in an operations permit shall require a modification
13 of the permit if the Secretary concerned determines
14 that modifications are necessary to comply with sec-
15 tion 111.

16 (e) PERMIT MODIFICATION.—

17 (1) During the term of an operations permit
18 the operator may submit an application to modify
19 the permit (including the operations plan or rec-
20 lamation plan, or both).

21 (2) The Secretary concerned may, at any time,
22 require reasonable modification to any operations
23 plan or reclamation plan upon a determination that
24 the requirements of this Act cannot be met if the
25 plan is followed as approved. Such determination

1 shall be based on a written finding and subject to
2 public notice and hearing requirements established
3 by the Secretary concerned.

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

8 (A) development of acid or toxic drainage;

9 (B) loss of springs or water supplies;

10 (C) water quantity, water quality, or other
11 resulting water impacts that are significantly
12 different than those predicted in the applica-
13 tion;

14 (D) the need for long-term water treat-
15 ment;

16 (E) significant reclamation difficulties or
17 reclamation failure;

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

21 (G) the discovery of hazards to public safe-
22 ty.

23 (f) TEMPORARY CESSATION OF OPERATIONS.—(1)

24 An operator conducting mineral activities under an oper-
25 ations permit in effect under this title may not temporarily

1 cease mineral activities for a period greater than 180 days
2 unless the Secretary concerned has approved such tem-
3 porary cessation or unless the temporary cessation is per-
4 mitted under the original permit. Any operator tempo-
5 rarily ceasing mineral activities for a period greater than
6 90 days under an operations permit issued before the date
7 of the enactment of this Act shall submit, before the expi-
8 ration of such 90-day period, a complete application for
9 temporary cessation of operations to the Secretary con-
10 cerned for approval unless the temporary cessation is per-
11 mitted under the original permit.

12 (2) An application for approval of temporary ces-
13 sation of operations shall include such information re-
14 quired under subsection (b) and any other provisions pre-
15 scribed by the Secretary concerned to minimize impacts
16 on the environment. After receipt of a complete applica-
17 tion for temporary cessation of operations such Secretary
18 shall conduct an inspection of the area for which tem-
19 porary cessation of operations has been requested.

20 (3) To approve an application for temporary ces-
21 sation of operations, the Secretary concerned shall make
22 each of the following determinations:

23 (A) A determination that the methods for se-
24 curing surface facilities and restricting access to the
25 permit area, or relevant portions thereof, will effec-

1 tively ensure against hazards to the health and safe-
2 ty of the public and fish and wildlife.

3 (B) A determination that reclamation is in com-
4 pliance with the approved reclamation plan, except
5 in those areas specifically designated in the applica-
6 tion for temporary cessation of operations for which
7 a delay in meeting such standards is necessary to fa-
8 cilitate the resumption of operations.

9 (C) A determination that the amount of finan-
10 cial assurance filed with the permit application is
11 sufficient to assure completion of the reclamation ac-
12 tivities identified in the approved reclamation plan in
13 the event of forfeiture.

14 (D) A determination that any outstanding no-
15 tices of violation and cessation orders incurred in
16 connection with the plan for which temporary ces-
17 sation is being requested are either stayed pursuant
18 to an administrative or judicial appeal proceeding or
19 are in the process of being abated to the satisfaction
20 of the Secretary concerned.

21 (g) PERMIT REVIEWS.—The Secretary concerned
22 shall review each permit issued under this section every
23 10 years during the term of such permit, shall provide
24 public notice of the permit review, and, based upon a writ-
25 ten finding, such Secretary shall require the operator to

1 take such actions as the Secretary deems necessary to as-
2 sure that mineral activities conform to the permit, includ-
3 ing adjustment of financial assurance requirements.

4 (h) TRANSFER, ASSIGNMENT, OR SALE OF
5 RIGHTS.—(1) No transfer, assignment, or sale of rights
6 granted by a permit under this section shall be made with-
7 out the prior written approval of the Secretary concerned.

8 (2) The Secretary concerned may allow a person hold-
9 ing a permit to transfer, assign, or sell rights under the
10 permit to a successor, if such Secretary finds, in writing,
11 that the successor—

12 (A) has submitted information required and is
13 eligible to receive a permit in accordance with sec-
14 tion 205;

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

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

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

1 (4) Each application for approval of a permit trans-
2 fer, assignment, or sale pursuant to this subsection shall
3 be accompanied by a fee payable to the Secretary con-
4 cerned in such amount as may be established by such Sec-
5 retary. Such amount shall be equal to the actual or antici-
6 pated cost of reviewing and approving or disapproving
7 such transfer, assignment, or sale, as determined by such
8 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. 205. 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.—(1) The Secretary concerned may
19 issue or reinstate a permit under this title if the applicant
20 submits proof that the violation referred to in subsection
21 (a) or (b) has been corrected or is in the process of being
22 corrected to the satisfaction of such Secretary and the reg-
23 ulatory authority involved or if the applicant submits proof
24 that the violator has filed and is presently pursuing, a di-
25 rect administrative or judicial appeal to contest the exist-

1 ence of the violation. For purposes of this section, an ap-
2 peal of any applicant's relationship to an affiliate shall not
3 constitute a direct administrative or judicial appeal to con-
4 test the existence of the violation.

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

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

18 **SEC. 206. FINANCIAL ASSURANCE.**

19 (a) **FINANCIAL ASSURANCE REQUIRED.**—(1) After a
20 permit is issued under this title and before any exploration
21 or operations begin under the permit, the operator shall
22 file with the Secretary concerned evidence of financial as-
23 surance payable to the United States. The financial assur-
24 ance shall be provided in the form of a surety bond, a
25 trust fund, letters of credits, government securities, cer-

1 tificates of deposit, cash, or an equivalent form approved
2 by such Secretary.

3 (2) The financial assurance shall cover all lands with-
4 in the initial permit area and all affected waters that may
5 require restoration, treatment, or other management as a
6 result of mineral activities, and shall be extended to cover
7 all lands and waters added pursuant to any permit modi-
8 fication made under section 203(e) (relating to exploration
9 permits) or section 204(e) (relating to operations per-
10 mits), or affected by mineral activities.

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

23 (c) DURATION.—The financial assurance required
24 under this section shall be held for the duration of the
25 mineral activities and for an additional period to cover the

1 operator's responsibility for reclamation, restoration, and
2 long-term maintenance, and effluent treatment as speci-
3 fied in subsection (g).

4 (d) ADJUSTMENTS.—The amount of the financial as-
5 surance and the terms of the acceptance of the assurance
6 may be adjusted by the Secretary concerned from time to
7 time as the area requiring coverage is increased or de-
8 creased, or where the costs of reclamation or treatment
9 change, or pursuant to section 204(f) (relating to tem-
10 porary cessation of operations), but the financial assur-
11 ance shall otherwise be in compliance with this section.
12 The Secretary concerned shall review the financial guar-
13 antee every 3 years and as part of the permit application
14 review under section 204(g).

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

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

1 (2) A determination that the terms and condi-
2 tions of any other applicable Federal requirements,
3 and State requirements applicable pursuant to coop-
4 erative agreements under section 208, have been ful-
5 filled.

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

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

21 (2) After the operator has completed success-
22 fully all remaining mineral activities and reclamation
23 activities and all requirements of the operations plan
24 and the reclamation plan, and all other requirements

1 of this Act have been fully met, the remaining por-
2 tion of the financial assurance may be released.

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

8 (g) EFFLUENT.—Notwithstanding section 207(b)(4),
9 where any discharge or other water-related condition re-
10 sulting from the mineral activities requires treatment in
11 order to meet the applicable effluent limitations and water
12 quality standards, the financial assurance shall include the
13 estimated cost of maintaining such treatment for the pro-
14 jected period that will be needed after the cessation of
15 mineral activities. The portion of the financial assurance
16 attributable to such estimated cost of treatment shall not
17 be released until the discharge has ceased for a period of
18 5 years, as determined by ongoing monitoring and testing,
19 or, if the discharge continues, until the operator has met
20 all applicable effluent limitations and water quality stand-
21 ards for 5 full years without treatment.

22 (h) ENVIRONMENTAL HAZARDS.—If the Secretary
23 concerned determines, after final release of financial as-
24 surance, that an environmental hazard resulting from the
25 mineral activities exists, or the terms and conditions of

1 the explorations or operations permit of this Act were not
2 fulfilled in fact at the time of release, such Secretary shall
3 issue an order under section 406 requiring the claim hold-
4 er or operator (or any person who controls the claim hold-
5 er or operator) to correct the condition such that applica-
6 ble laws and regulations and any conditions from the plan
7 of operations are met.

8 **SEC. 207. OPERATION AND RECLAMATION.**

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

13 (A) the uses which such lands were capable of
14 supporting prior to surface disturbance by the oper-
15 ator, or

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

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

24 (b) OPERATION AND RECLAMATION STANDARDS.—
25 The Secretary of the Interior and the Secretary of Agri-

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

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

10 (2) Maintenance of the stability of all surface
11 areas.

12 (3) Control of sediments to prevent erosion and
13 manage drainage.

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

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

20 (6) Establishment of a diverse, effective, and
21 permanent vegetative cover of the same seasonal va-
22 riety native to the area affected by mineral activities,
23 and equal in extent of cover to the natural vegeta-
24 tion of the area.

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

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

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

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

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

13 (c) SURFACE OR GROUNDWATER WITHDRAWALS.—

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

20 (d) SPECIAL RULE.—Reclamation activities for a
21 mining claim, license, or lease that has been forfeited, re-
22 linquished, or lapsed, or a plan that has expired or been
23 revoked or suspended, shall continue subject to review and
24 approval by the Secretary concerned.

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

2 (a) STATE LAW.—(1) Any reclamation, land use, en-
3 vironmental, or public health protection standard or re-
4 quirement in State law or regulation that meets or exceeds
5 the requirements of this Act shall not be construed to be
6 inconsistent with any such standard.

7 (2) Any bonding standard or requirement in State
8 law or regulation that meets or exceeds the requirements
9 of this Act shall not be construed to be inconsistent with
10 such requirements.

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

15 (b) APPLICABILITY OF OTHER STATE REQUIRE-
16 MENTS.—(1) Nothing in this Act shall be construed as af-
17 fecting any toxic substance, solid waste, or air or water
18 quality, standard or requirement of any State, county,
19 local, or tribal law or regulation, which may be applicable
20 to mineral activities on lands subject to this Act.

21 (2) Nothing in this Act shall be construed as affecting
22 in any way the right of any person to enforce or protect,
23 under applicable law, such person's interest in water re-
24 sources affected by mineral activities on lands subject to
25 this Act.

1 (c) COOPERATIVE AGREEMENTS.—(1) Any State
2 may enter into a cooperative agreement with the Secretary
3 concerned for the purposes of such Secretary applying
4 such standards and requirements referred to in subsection
5 (a) and subsection (b) to mineral activities or reclamation
6 on lands subject to this Act.

7 (2) In such instances where the proposed mineral ac-
8 tivities would affect lands not subject to this Act in addi-
9 tion to lands subject to this Act, in order to approve a
10 plan of operations the Secretary concerned shall enter into
11 a cooperative agreement with the State that sets forth a
12 common regulatory framework consistent with the require-
13 ments of this Act for the purposes of such plan of oper-
14 ations. Any such common regulatory framework shall not
15 negate the authority of the Federal Government to inde-
16 pendently inspect mines and operations and bring enforce-
17 ment actions for violations.

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

22 (d) PRIOR AGREEMENTS.—Any cooperative agree-
23 ment or such other understanding between the Secretary
24 concerned and any State, or political subdivision thereof,
25 relating to the management of mineral activities on lands

1 subject to this Act that was in existence on the date of
2 enactment of this Act may only continue in force until 1
3 year after the date of enactment of this Act. During such
4 1-year period, the State and the Secretary shall review the
5 terms of the agreement and make changes that are nec-
6 essary to be consistent with this Act.

7 **TITLE III—ABANDONED**
8 **HARDROCK MINE RECLAMATION**

9 **SEC. 301. ESTABLISHMENT OF FUND.**

10 (a) ESTABLISHMENT.—There is established on the
11 books of the Treasury a separate account to be known as
12 the Hardrock Minerals Reclamation Fund.

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

23 (c) ADMINISTRATION.—In addition to other uses au-
24 thorized by this title, the Secretary may use amounts in
25 the Fund as necessary for the administrative expenses of

1 the United States, Indian tribes, and the States to imple-
2 ment this title.

3 **SEC. 302. CONTENTS OF FUND.**

4 The following amounts shall be credited to the Fund:

5 (1) All moneys collected pursuant to section
6 406 and section 404.

7 (2) All fees received under section
8 204(a)(1)(B).

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

12 (4) All amounts deposited in the Fund under
13 title I.

14 (5) All income on investments under section
15 301(b).

16 (6) All amounts deposited in the Fund under
17 section 303.

18 **SEC. 303. 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 302, 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. 304. USE AND OBJECTIVES OF THE FUND.**

7 (a) AUTHORIZED USES.—

8 (1) IN GENERAL.—The Secretary may, subject
9 to appropriations, use moneys in the Fund for the
10 reclamation and restoration of land and water re-
11 sources adversely affected by past hardrock mineral
12 activities and related activities on lands described in
13 section 305, including any of the following:

14 (A) Protecting public health and safety.

15 (B) Preventing, abating, treating, and con-
16 trolling water pollution created by abandoned
17 mine drainage, including in river watershed
18 areas.

19 (C) Reclaiming and restoring abandoned
20 surface and underground mined areas.

21 (D) Reclaiming and restoring abandoned
22 milling and processing areas.

23 (E) Backfilling, sealing, or otherwise con-
24 trolling abandoned underground mine entries.

1 (F) Revegetating land adversely affected
2 by past mineral activities in order to prevent
3 erosion and sedimentation, to enhance wildlife
4 habitat, and for any other reclamation purpose.

5 (G) Controlling surface subsidence due to
6 abandoned underground mines.

7 (H) Enhancing fish and wildlife habitat.

8 (2) MANNER OF USE.—Amounts in the Fund
9 may—

10 (A) be expended by the Secretary for the
11 purposes described in paragraph (1);

12 (B) be transferred by the Secretary to the
13 Director of the Bureau of Land Management,
14 the Chief of the Forest Service, the Director of
15 the National Park Service, the Director of the
16 United States Fish and Wildlife Service, the
17 head of any other Federal agency, or any public
18 entity that volunteers to develop and imple-
19 ment, and that has the ability to carry out, all
20 or a significant portion of a reclamation pro-
21 gram under this subtitle; or

22 (C) be transferred by the Secretary to an
23 Indian tribe or a State to carry out a reclama-
24 tion program under this subtitle that meets the
25 purposes described in paragraph (1).

1 (b) ALLOCATION.—Of the amounts deposited into the
2 Fund—

3 (1) 25 percent shall be allocated by the Sec-
4 retary for expenditure in States or on tribal lands
5 within the boundaries of which occurs production of
6 hardrock minerals or mineral concentrates or prod-
7 ucts derived from hardrock minerals, based on a for-
8 mula reflecting existing production in each such
9 State or on the land of the Indian tribe;

10 (2) 25 percent shall be allocated for expenditure
11 by the Secretary in States or on tribal lands based
12 on a formula reflecting the quantity of hardrock
13 minerals, or mineral concentrates or products de-
14 rived from hardrock minerals, historically produced
15 in each such State or from the land of the Indian
16 tribe before the date of enactment of this Act; and

17 (3) 50 percent shall be allocated for expenditure
18 by the Secretary to address high-priority needs ac-
19 cording to the priorities in subsection (c).

20 (c) PRIORITIES.—Expenditures of moneys from the
21 Account shall reflect the following priorities in the order
22 stated:

23 (1) The protection of public health and safety
24 from extreme danger from the adverse effects of

1 past mineral activities, especially as relates to sur-
2 face water and ground water contaminants.

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

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

9 (d) HABITAT.—Reclamation and restoration activi-
10 ties under this subtitle shall include appropriate mitiga-
11 tion measures to provide for the continuation of any estab-
12 lished habitat for wildlife in existence before the com-
13 mencement of such activities.

14 (e) RESPONSE OR REMOVAL ACTIONS.—Reclamation
15 and restoration activities under this subtitle that con-
16 stitute a removal or remedial action under section 101 of
17 the Comprehensive Environmental Response, Compensation,
18 and Liability Act of 1980 (42 U.S.C. 9601), shall
19 be conducted with the concurrence of the Administrator
20 of the Environmental Protection Agency. The Secretary
21 and the Administrator shall enter into a memorandum of
22 understanding to establish procedures for consultation,
23 concurrence, training, exchange of technical expertise, and
24 joint activities under the appropriate circumstances, that
25 provide assurances that reclamation or restoration activi-

1 ties under this subtitle shall not be conducted in a manner
2 that increases the costs or likelihood of removal or reme-
3 dial actions under the Comprehensive Environmental Re-
4 sponse, Compensation, and Liability Act of 1980 (42
5 U.S.C. 9601 et seq.), and that avoid oversight by multiple
6 agencies to the maximum extent practicable.

7 **SEC. 305. ELIGIBLE LANDS AND WATERS.**

8 (a) **ELIGIBILITY.**—Reclamation expenditures under
9 this subtitle may only be made with respect to Federal,
10 State, Indian, local, and private lands that have been af-
11 fected by past mineral activities, and water resources that
12 traverse or are contiguous to such lands, including any
13 of the following:

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

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

24 (b) **INVENTORY.**—The Secretary shall prepare and
25 maintain a publicly available inventory of abandoned

1 hardrock minerals mines on public lands and any aban-
2 doned mine on Indian lands that may be eligible for ex-
3 penditures under this subtitle, and shall submit an annual
4 report to the Congress on the progress in cleanup of such
5 sites.

6 **SEC. 306. AUTHORIZATION OF APPROPRIATIONS.**

7 Amounts credited to the Fund are authorized to be
8 appropriated for the purpose of this subtitle without fiscal
9 year limitation.

10 **TITLE IV—ADMINISTRATIVE**
11 **PROVISIONS**

12 **SEC. 401. POLICY FUNCTIONS.**

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

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

21 (2) by adding at the end thereof the following:
22 “It shall also be the responsibility of the Secretary
23 of Agriculture to carry out the policy provisions of
24 clauses (1) and (2) of the first paragraph of this
25 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. 402. USER FEES AND INFLATION ADJUSTMENT.**

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

20 (b) ADJUSTMENT.—(1) The Secretary shall adjust
21 the fees required by this section, and all claim mainte-
22 nance fees, rental rates, penalty amounts, and other dollar
23 amounts established in this Act, to reflect changes in the
24 Consumer Price Index published by the Bureau of Labor
25 Statistics of the Department of Labor every 3 years after

1 the date of enactment of this Act, or more frequently if
2 the Secretary determines an adjustment to be reasonable.

3 (2) The Secretary shall provide claimants, license
4 holders, and lease holders notice of any adjustment made
5 under this subsection not later than July 1 of any year
6 in which the adjustment is made.

7 (3) A fee adjustment under this subsection shall
8 begin to apply the calendar year following the calendar
9 year in which it is made.

10 **SEC. 403. INSPECTION AND MONITORING.**

11 (a) INSPECTIONS.—(1) The Secretary concerned
12 shall make inspections of mineral activities so as to ensure
13 compliance with the requirements of this Act.

14 (2) The Secretary concerned shall establish a fre-
15 quency of inspections for mineral activities conducted
16 under a permit issued under title II, but in no event shall
17 such inspection frequency be less than one complete in-
18 spection per calendar quarter or, two per calendar quarter
19 in the case of a permit for which the Secretary concerned
20 approves an application under section 204(f) (relating to
21 temporary cessation of operations). After revegetation has
22 been established in accordance with a reclamation plan,
23 such Secretary shall conduct annually 2 complete inspec-
24 tions. Such Secretary shall have the discretion to modify
25 the inspection frequency for mineral activities that are

1 conducted on a seasonal basis. Inspections shall continue
2 under this subsection until final release of financial assur-
3 ance.

4 (3)(A) Any person who has reason to believe he or
5 she is or may be adversely affected by mineral activities
6 due to any violation of the requirements of a permit ap-
7 proved under this Act may request an inspection. The Sec-
8 retary concerned shall determine within 10 working days
9 of receipt of the request whether the request states a rea-
10 son to believe that a violation exists. If the person alleges
11 and provides reason to believe that an imminent threat
12 to the environment or danger to the health or safety of
13 the public exists, the 10-day period shall be waived and
14 the inspection shall be conducted immediately. When an
15 inspection is conducted under this paragraph, the Sec-
16 retary concerned shall notify the person requesting the in-
17 spection, and such person shall be allowed to accompany
18 the Secretary concerned or the Secretary's authorized rep-
19 resentative during the inspection. The Secretary shall not
20 incur any liability for allowing such person to accompany
21 an authorized representative. The identity of the person
22 supplying information to the Secretary relating to a pos-
23 sible violation or imminent danger or harm shall remain
24 confidential with the Secretary if so requested by that per-

1 son, unless that person elects to accompany an authorized
2 representative on the inspection.

3 (B) The Secretaries shall, by joint rule, establish pro-
4 cedures for the review of (i) any decision by an authorized
5 representative not to inspect; or (ii) any refusal by such
6 representative to ensure that remedial actions are taken
7 with respect to any alleged violation. The Secretary con-
8 cerned shall furnish such persons requesting the review
9 a written statement of the reasons for the Secretary's final
10 disposition of the case.

11 (b) MONITORING.—(1) The Secretary concerned shall
12 require all operators to develop and maintain a monitoring
13 and evaluation system that shall identify compliance with
14 all requirements of a permit approved under this Act. The
15 Secretary concerned may require additional monitoring to
16 be conducted as necessary to assure compliance with the
17 reclamation and other environmental standards of this
18 Act. Such plan must be reviewed and approved by the Sec-
19 retary and shall become a part of the explorations or oper-
20 ations permit.

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

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

8 (3) The Secretary concerned shall determine what in-
9 formation shall be reported by the operator pursuant to
10 paragraph (3). A failure to report as required by the Sec-
11 retary concerned shall constitute a violation of this Act
12 and subject the operator to enforcement action pursuant
13 to section 406.

14 **SEC. 404. CITIZENS SUITS.**

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

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

24 (2) against the Secretary or the Secretary of
25 Agriculture where there is alleged a failure of such

1 Secretary to perform any act or duty under this Act,
2 or to promulgate any regulation under this Act,
3 which is not within the discretion of the Secretary
4 concerned.

5 The United States district courts shall have jurisdiction
6 over actions brought under this section, without regard to
7 the amount in controversy or the citizenship of the parties,
8 including actions brought to apply any civil penalty under
9 this Act. The district courts of the United States shall
10 have jurisdiction to compel agency action unreasonably de-
11 layed, except that an action to compel agency action re-
12 viewable under section 405 may only be filed in a United
13 States district court within the circuit in which such action
14 would be reviewable under section 405.

15 (b) EXCEPTIONS.—(1) No action may be commenced
16 under subsection (a) before the end of the 60-day period
17 beginning on the date the plaintiff has given notice in writ-
18 ing of such alleged violation to the alleged violator and
19 the Secretary concerned, except that any such action may
20 be brought immediately after such notification if the viola-
21 tion complained of constitutes an imminent threat to the
22 environment or to the health or safety of the public.

23 (2) No action may be brought against any person
24 other than the Secretary or the Secretary of Agriculture
25 under subsection (a)(1) if such Secretary has commenced

1 and is diligently prosecuting a civil or criminal action in
2 a court of the United States to require compliance.

3 (3) No action may be commenced under paragraph
4 (2) of subsection (a) against either Secretary to review any
5 rule promulgated by, or to any permit issued or denied
6 by such Secretary if such rule or permit issuance or denial
7 is judicially reviewable under section 405 or under any
8 other provision of law at any time after such promulga-
9 tion, issuance, or denial is final.

10 (c) VENUE.—Venue of all actions brought under this
11 section shall be determined in accordance with section
12 1391 of title 28, United States Code.

13 (d) COSTS.—The court, in issuing any final order in
14 any action brought pursuant to this section may award
15 costs of litigation (including attorney and expert witness
16 fees) to any party whenever the court determines such
17 award is appropriate. The court may, if a temporary re-
18 straining order or preliminary injunction is sought, require
19 the filing of a bond or equivalent security in accordance
20 with the Federal Rules of Civil Procedure.

21 (e) SAVINGS CLAUSE.—Nothing in this section shall
22 restrict any right which any person (or class of persons)
23 may have under chapter 7 of title 5, United States Code,
24 under this section, or under any other statute or common
25 law to bring an action to seek any relief against the Sec-

1 retary or the Secretary of Agriculture or against any other
2 person, including any action for any violation of this Act
3 or of any regulation or permit issued under this Act or
4 for any failure to act as required by law. Nothing in this
5 section shall affect the jurisdiction of any court under any
6 provision of title 28, United States Code, including any
7 action for any violation of this Act or of any regulation
8 or permit issued under this Act or for any failure to act
9 as required by law.

10 **SEC. 405. ADMINISTRATIVE AND JUDICIAL REVIEW.**

11 (a) REVIEW BY SECRETARY.—(1)(A) Any person
12 issued a notice of violation or cessation order under sec-
13 tion 406, or any person having an interest which is or
14 may be adversely affected by such notice or order, may
15 apply to the Secretary concerned for review of the notice
16 or order within 30 days after receipt thereof, or as the
17 case may be, within 30 days after such notice or order
18 is modified, vacated, or terminated.

19 (B) Any person who is subject to a penalty assessed
20 under section 406 may apply to the Secretary concerned
21 for review of the assessment within 45 days of notification
22 of such penalty.

23 (C) Any person may apply to such Secretary for re-
24 view of the decision within 30 days after it is made.

1 (D) Pending a review by the Secretary or resolution
2 of an administrative appeal, final decisions (except en-
3 forcement actions under section 406) shall be stayed.

4 (2) The Secretary concerned shall provide an oppor-
5 tunity for a public hearing at the request of any party
6 to the proceeding as specified in paragraph (1). The filing
7 of an application for review under this subsection shall not
8 operate as a stay of any order or notice issued under sec-
9 tion 406.

10 (3) For any review proceeding under this subsection,
11 the Secretary concerned shall make findings of fact and
12 shall issue a written decision incorporating therein an
13 order vacating, affirming, modifying, or terminating the
14 notice, order, or decision, or with respect to an assess-
15 ment, the amount of penalty that is warranted. Where the
16 application for review concerns a cessation order issued
17 under section 406 the Secretary concerned shall issue the
18 written decision within 30 days of the receipt of the appli-
19 cation for review or within 30 days after the conclusion
20 of any hearing referred to in paragraph (2), whichever is
21 later, unless temporary relief has been granted by the Sec-
22 retary concerned under paragraph (4).

23 (4) Pending completion of any review proceedings
24 under this subsection, the applicant may file with the Sec-
25 retary concerned a written request that the Secretary

1 grant temporary relief from any order issued under section
2 406 together with a detailed statement giving reasons for
3 such relief. The Secretary concerned shall expeditiously
4 issue an order or decision granting or denying such relief.
5 The Secretary concerned may grant such relief under such
6 conditions as he or she may prescribe only if such relief
7 shall not adversely affect the health or safety of the public
8 or cause imminent environmental harm to land, air, or
9 water resources.

10 (5) The availability of review under this subsection
11 shall not be construed to limit the operation of rights
12 under section 404 (relating to citizen suits).

13 (b) JUDICIAL REVIEW.—(1) Any final action by the
14 Secretaries of the Interior and Agriculture in promul-
15 gating regulations to implement this Act, or any other
16 final actions constituting rulemaking to implement this
17 Act, shall be subject to judicial review only in the United
18 States Court of Appeals for the District of Columbia. Any
19 action subject to judicial review under this subsection shall
20 be affirmed unless the court concludes that such action
21 is arbitrary, capricious, or otherwise inconsistent with law.
22 A petition for review of any action subject to judicial re-
23 view under this subsection shall be filed within 60 days
24 from the date of such action, or after such date if the
25 petition is based solely on grounds arising after the 60th

1 day. Any such petition may be made by any person who
2 commented or otherwise participated in the rulemaking or
3 any person who may be adversely affected by the action
4 of the Secretaries.

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

14 (3) The availability of judicial review established in
15 this subsection shall not be construed to limit the oper-
16 ations of rights under section 404 (relating to citizens
17 suits).

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

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

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

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

18 **SEC. 406. ENFORCEMENT.**

19 (a) ORDERS.—(1) If the Secretary concerned, or an
20 authorized representative of such Secretary, determines
21 that any person is in violation of any environmental pro-
22 tection requirement or any regulation issued by the Secre-
23 taries to implement this Act, such Secretary or authorized
24 representative shall issue to such person a notice of viola-
25 tion describing the violation and the corrective measures

1 to be taken. The Secretary concerned, or the authorized
2 representative of such Secretary, shall provide such person
3 with a period of time not to exceed 30 days to abate the
4 violation. Such period of time may be extended by the Sec-
5 retary concerned upon a showing of good cause by such
6 person. If, upon the expiration of time provided for such
7 abatement, the Secretary concerned, or the authorized
8 representative of such Secretary, finds that the violation
9 has not been abated he or she shall immediately order a
10 cessation of all mineral activities or the portion thereof
11 relevant to the violation.

12 (2) If the Secretary concerned, or the authorized rep-
13 resentative of the Secretary concerned, determines that
14 any condition or practice exists, or that any person is in
15 violation of any requirement under a permit approved
16 under this Act, and such condition, practice or violation
17 is causing, or can reasonably be expected to cause—

18 (A) an imminent danger to the health or safety
19 of the public; or

20 (B) significant, imminent environmental harm
21 to land, air, water, or fish or wildlife resources,

22 such Secretary or authorized representative shall imme-
23 diately order a cessation of mineral activities or the por-
24 tion thereof relevant to the condition, practice, or viola-
25 tion.

1 (3)(A) A cessation order pursuant to paragraph (1)
2 or (2) shall remain in effect until such Secretary, or au-
3 thorized representative, determines that the condition,
4 practice, or violation has been abated, or until modified,
5 vacated or terminated by the Secretary or authorized rep-
6 resentative. In any such order, the Secretary or authorized
7 representative shall determine the steps necessary to abate
8 the violation in the most expeditious manner possible and
9 shall include the necessary measures in the order. The
10 Secretary concerned shall require appropriate financial as-
11 surances to ensure that the abatement obligations are met.

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

17 (4) If, after 30 days of the date of the order referred
18 to in paragraph (3)(A) the required abatement has not
19 occurred, the Secretary concerned shall take such alter-
20 native enforcement action against the claim holder, license
21 holder, lease holder, or operator (or any person who con-
22 trols the claim holder, license holder, lease holder, or oper-
23 ator) as will most likely bring about abatement in the most
24 expeditious manner possible. Such alternative enforcement
25 action may include, but is not necessarily limited to, seek-

1 ing appropriate injunctive relief to bring about abatement.
2 Nothing in this paragraph shall preclude the Secretary
3 concerned from taking alternative enforcement action
4 prior to the expiration of 30 days.

5 (5) If a claim holder, license holder, lease holder, or
6 operator (or any person who controls the claim holder, li-
7 cense holder, lease holder, or operator) fails to abate a
8 violation or defaults on the terms of the permit, the Sec-
9 retary concerned shall forfeit the financial assurance for
10 the plan as necessary to ensure abatement and reclama-
11 tion under this Act. The Secretary concerned may pre-
12 scribe conditions under which a surety may perform rec-
13 lamation in accordance with the approved plan in lieu of
14 forfeiture.

15 (6) The Secretary concerned shall not cause for-
16 feiture of the financial assurance while administrative or
17 judicial review is pending.

18 (7) In the event of forfeiture, the claim holder, license
19 holder, lease holder, operator, or any affiliate thereof, as
20 appropriate as determined by the Secretary by rule, shall
21 be jointly and severally liable for any remaining reclama-
22 tion obligations under this Act.

23 (b) COMPLIANCE.—The Secretary concerned may re-
24 quest the Attorney General to institute a civil action for
25 relief, including a permanent or temporary injunction or

1 restraining order, or any other appropriate enforcement
2 order, including the imposition of civil penalties, in the dis-
3 trict court of the United States for the district in which
4 the mineral activities are located whenever a person—

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

8 (2) interferes with, hinders, or delays the Sec-
9 retary concerned in carrying out an inspection under
10 section 403.

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

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

21 (d) PENALTIES.—(1) Any person who fails to comply
22 with any requirement of a permit approved under this Act
23 or any regulation issued by the Secretaries to implement
24 this Act shall be liable for a penalty of not more than
25 \$25,000 per violation. Each day of violation may be

1 deemed a separate violation for purposes of penalty assess-
2 ments.

3 (2) A person who fails to correct a violation for which
4 a cessation order has been issued under subsection (a)
5 within the period permitted for its correction shall be as-
6 sessed a civil penalty of not less than \$1,000 per violation
7 for each day during which such failure continues.

8 (3) Whenever a corporation is in violation of a re-
9 quirement of a permit approved under this Act or any reg-
10 ulation issued by the Secretaries to implement this Act
11 or fails or refuses to comply with an order issued under
12 subsection (a), any director, officer, or agent of such cor-
13 poration who knowingly authorized, ordered, or carried
14 out such violation, failure, or refusal shall be subject to
15 the same penalties as may be imposed upon the person
16 referred to in paragraph (1).

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

20 (1) knowingly made or knowingly makes any
21 false, inaccurate, or misleading material statement
22 in any mining claim, notice of location, application,
23 record, report, plan, or other document filed or re-
24 quired to be maintained under this Act;

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

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

5 (4) refuses to permit an audit pursuant to this
6 Act;

7 (5) fails to maintain an adequate financial as-
8 surance under section 206;

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

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

16 (f) FALSE STATEMENTS; TAMPERING.—Any person
17 who knowingly—

18 (1) makes any false material statement, rep-
19 resentation, or certification in, or omits or conceals
20 material information from, or unlawfully alters, any
21 mining claim, notice of location, application, record,
22 report, plan, or other documents filed or required to
23 be maintained under this Act; or

1 (2) falsifies, tampers with, renders inaccurate,
2 or fails to install any monitoring device or method
3 required to be maintained under this Act,
4 shall upon conviction, be punished by a fine of not more
5 than \$10,000, or by imprisonment for not more than 2
6 years, or by both. If a conviction of a person is for a viola-
7 tion committed after a first conviction of such person
8 under this subsection, punishment shall be by a fine of
9 not more than \$20,000 per day of violation, or by impris-
10 onment of not more than 4 years, or both. Each day of
11 continuing violation may be deemed a separate violation
12 for purposes of penalty assessments.

13 (g) KNOWING VIOLATIONS.—Any person who know-
14 ingly—

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

17 (2) violates any other requirement of a permit
18 issued under this Act, or any condition or limitation
19 thereof,

20 shall upon conviction be punished by a fine of not less
21 than \$5,000 nor more than \$50,000 per day of violation,
22 or by imprisonment for not more than 3 years, or both.
23 If a conviction of a person is for a violation committed
24 after the first conviction of such person under this sub-
25 section, punishment shall be a fine of not less than

1 \$10,000 per day of violation, or by imprisonment of not
2 more than 6 years, or both.

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

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

12 **SEC. 407. REGULATIONS.**

13 The Secretary and the Secretary of Agriculture shall
14 issue such regulations as are necessary to implement this
15 Act. The regulations implementing titles II and III and
16 this title that affect the Forest Service shall be joint regu-
17 lations issued by both Secretaries, and shall be issued no
18 later than 180 days after the date of enactment of this
19 Act.

20 **SEC. 408. OIL SHALE CLAIMS.**

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

23 (1) by striking “as prescribed by the Sec-
24 retary”; and

1 (2) by inserting before the period the following:
2 “in the same manner as required by title II of the
3 Hardrock Leasing and Reclamation Act of 2018”.

4 **SEC. 409. SAVINGS CLAUSE.**

5 (a) SPECIAL APPLICATION OF MINING LAWS.—Noth-
6 ing in this Act shall be construed as repealing or modi-
7 fying any Federal law, regulation, order, or land use plan,
8 in effect prior to the date of enactment of this Act that
9 prohibits or restricts the application of the general mining
10 laws, including laws that provide for special management
11 criteria for operations under the general mining laws as
12 in effect prior to the date of enactment of this Act, to
13 the extent such laws provide for protection of natural and
14 cultural resources and the environment greater than re-
15 quired under this Act, and any such prior law shall remain
16 in force and effect with respect to claims converted to
17 leases under this Act. Nothing in this Act shall be con-
18 strued as applying to or limiting mineral investigations,
19 studies, or other mineral activities conducted by any Fed-
20 eral or State agency acting in its governmental capacity
21 pursuant to other authority. Nothing in this Act shall af-
22 fect or limit any assessment, investigation, evaluation, or
23 listing pursuant to the Comprehensive Environmental Re-
24 sponse, Compensation, and Liability Act of 1980 (42

1 U.S.C. 9601 et seq.), or the Solid Waste Disposal Act (42
2 U.S.C. 3251 et seq.).

3 (b) EFFECT ON OTHER FEDERAL LAWS.—The provi-
4 sions of this Act shall supersede the general mining laws.
5 Except for the general mining laws, nothing in this Act
6 shall be construed as superseding, modifying, amending,
7 or repealing any provision of Federal law not expressly
8 superseded, modified, amended, or repealed by this Act.
9 Nothing in this Act shall be construed as altering, affect-
10 ing, amending, modifying, or changing, directly or indi-
11 rectly, any law which refers to and provides authorities
12 or responsibilities for, or is administered by, the Environ-
13 mental Protection Agency or the Administrator of the En-
14 vironmental Protection Agency, including the Federal
15 Water Pollution Control Act, title XIV of the Public
16 Health Service Act (the Safe Drinking Water Act), the
17 Clean Air Act, the Pollution Prevention Act of 1990, the
18 Toxic Substances Control Act, the Federal Insecticide,
19 Fungicide, and Rodenticide Act, the Federal Food, Drug,
20 and Cosmetic Act, the Motor Vehicle Information and
21 Cost Savings Act, the Federal Hazardous Substances Act,
22 the Endangered Species Act of 1973, the Atomic Energy
23 Act, the Noise Control Act of 1972, the Solid Waste Dis-
24 posal Act, the Comprehensive Environmental Response,
25 Compensation, and Liability Act of 1980, the Superfund

1 Amendments and Reauthorization Act of 1986, the Ocean
2 Dumping Act, the Environmental Research, Development,
3 and Demonstration Authorization Act, the Pollution Pro-
4 tection Act of 1990, and the Federal Facilities Compli-
5 ance Act of 1992, or any statute containing an amend-
6 ment to any of such Acts. Nothing in this Act shall be
7 construed as modifying or affecting any provision of the
8 Native American Graves Protection and Repatriation Act
9 (Public Law 101–601) or any provision of the American
10 Indian Religious Freedom Act (42 U.S.C. 1996), the Na-
11 tional Historic Preservation Act (16 U.S.C. 470 et seq.),
12 and the Religious Freedom Restoration Act of 1993 (42
13 U.S.C. 2000bb et seq.).

14 (c) SOVEREIGN IMMUNITY OF INDIAN TRIBES.—
15 Nothing in this section shall be construed so as to waive
16 the sovereign immunity of any Indian tribe.

17 **SEC. 410. AVAILABILITY OF PUBLIC RECORDS.**

18 Copies of records, reports, inspection materials, or in-
19 formation obtained by the Secretary or the Secretary of
20 Agriculture under this Act shall be made immediately
21 available to the public, consistent with section 552 of title
22 5, United States Code, in central and sufficient locations
23 in the county, multicounty, and State area of mineral ac-
24 tivity or reclamation so that such items are conveniently

1 available to residents in the area proposed or approved for
2 mineral activities and on the Internet.

3 **SEC. 411. MISCELLANEOUS POWERS.**

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

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

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

21 (2) Administer oaths.

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

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

7 (5) Pay witnesses the same fees and mileage as
8 are paid in like circumstances in the courts of the
9 United States.

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

21 (d) ENTRY AND ACCESS.—Without advance notice
22 and upon presentation of appropriate credentials, the Sec-
23 retary concerned or any authorized representative there-
24 of—

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

5 (2) may at reasonable times, and without delay,
6 have access to records, inspect any monitoring
7 equipment, or review any method of operation re-
8 quired under this Act;

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

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

23 (5) may, if accompanied by any appropriate law
24 enforcement officer, or an appropriate law enforce-
25 ment officer alone, stop and inspect any motorized

1 form of transportation which is not on a claim site
2 if he or she has probable cause to believe such vehi-
3 cle is carrying hardrock minerals, concentrates, or
4 products derived therefrom from a claim site, li-
5 cense, or lease on Federal lands or allocated to such
6 claim site, license, or lease. Such inspection shall be
7 for the purpose of determining whether the operator
8 of such vehicle has the documentation required by
9 law, if such documentation is required under this
10 Act.

11 **SEC. 412. MINERAL MATERIALS.**

12 (a) DETERMINATIONS.—Section 3 of the Act of July
13 23, 1955 (30 U.S.C. 611), is amended—

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

15 (2) by inserting “mineral materials, including
16 but not limited to” after “varieties of” in the first
17 sentence;

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

20 (4) by adding the following new subsection at
21 the end thereof:

22 “(b)(1) Subject to valid existing rights, after the date
23 of enactment of the Hardrock Leasing and Reclamation
24 Act of 2018, notwithstanding the reference to common va-
25 rieties in subsection (a) and to the exception to such term

1 relating to a deposit of materials with some property giv-
2 ing it distinct and special value, all deposits of mineral
3 materials referred to in such subsection, including the
4 block pumice referred to in such subsection, shall be sub-
5 ject to disposal only under the terms and conditions of
6 the Materials Act of 1947.

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

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

14 “(B) was properly located and maintained
15 under the general mining laws prior to the date of
16 enactment of the Hardrock Leasing and Reclama-
17 tion Act of 2018;

18 “(C) was supported by a discovery of a valuable
19 mineral deposit within the meaning of the general
20 mining laws as in effect immediately prior to the
21 date of enactment of the Hardrock Leasing and Rec-
22 lamation Act of 2018.”.

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

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

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

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

10 (d) SHORT TITLES.—

11 (1) SURFACE RESOURCES.—The Act of July
12 23, 1955, is amended by inserting after section 7
13 the following new section:

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

16 (2) MINERAL MATERIALS.—The Act of July 31,
17 1947, entitled “An Act to provide for the disposal of
18 materials on the public lands of the United States”
19 (30 U.S.C. 601 et seq.) is amended by inserting
20 after section 4 the following new section:

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

23 (e) REPEALS.—(1) Subject to valid existing rights,
24 the Act of August 4, 1892 (chapter 375; 27 Stat. 348;

1 30 U.S.C. 161), commonly known as the Building Stone
2 Act, is hereby repealed.

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

7 **SEC. 413. EFFECTIVE DATE.**

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