

113TH CONGRESS
1ST SESSION

H. R. 2467

To provide that production of all locatable minerals from mining claims located under the general mining laws, or mineral concentrates or products derived from locatable minerals from such mining claims, shall be subject to a royalty of 12.5 percent of the gross income from mining, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 20, 2013

Mr. MARKEY (for himself, Mr. HOLT, and Mr. GRIJALVA) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To provide that production of all locatable minerals from mining claims located under the general mining laws, or mineral concentrates or products derived from locatable minerals from such mining claims, shall be subject to a royalty of 12.5 percent of the gross income from mining, and for other purposes.

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Abandoned Mine Lands Cleanup and Taxpayer Fairness
6 Act”.

1 (b) TABLE OF CONTENTS.—The table of contents of
2 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—HARDROCK MINING REFORM

Sec. 101. Short title.

Sec. 102. Definitions and references.

Sec. 103. Application rules.

Subtitle A—Mineral Exploration and Development

Sec. 111. Royalty.

Sec. 112. Hardrock mining claim maintenance fee.

Sec. 113. Effect of payments for use and occupancy of claims.

Sec. 114. Limitation on patents.

Subtitle B—Protection of Special Places

Sec. 121. Lands open to location.

Sec. 122. Withdrawal petitions by States, political subdivisions, and Indian tribes.

Subtitle C—Environmental Considerations of Mineral Exploration and Development

Sec. 131. General standard for hardrock mining on Federal land.

Sec. 132. Permits.

Sec. 133. Exploration permit.

Sec. 134. Operations permit.

Sec. 135. Persons ineligible for permits.

Sec. 136. Financial assurance.

Sec. 137. Operation and reclamation.

Sec. 138. State law and regulation.

Sec. 139. Limitation on the issuance of permits.

Subtitle D—Administrative and Miscellaneous Provisions

Sec. 141. Policy functions.

Sec. 142. User fees.

Sec. 143. Inspection and monitoring.

Sec. 144. Citizens suits.

Sec. 145. Administrative and judicial review.

Sec. 146. Enforcement.

Sec. 147. Regulations.

Sec. 148. Effective date.

Sec. 149. Savings clause.

Sec. 150. Availability of public records.

Sec. 151. Miscellaneous powers.

Sec. 152. Multiple mineral development and surface resources.

Sec. 153. Mineral materials.

TITLE II—ABANDONED MINE RECLAMATION

Sec. 201. Short title.

Sec. 202. Definitions and references.

Subtitle A—Hardrock Mining Reclamation

- Sec. 211. Displaced material reclamation fee.
 Sec. 212. Fees adjustments.

Subtitle B—Abandoned Mine Cleanup Fund

- Sec. 221. Establishment of fund.
 Sec. 222. Use and objectives of the fund.
 Sec. 223. Eligible lands and waters.

Subtitle C—Administrative Provisions

- Sec. 231. Effective date.
 Sec. 232. Fees adjustments.
 Sec. 233. Inspection and monitoring.
 Sec. 234. Regulations.
 Sec. 235. Availability of public records.

1 **TITLE I—HARDROCK MINING**
 2 **REFORM**

3 **SEC. 101. SHORT TITLE.**

4 This title may be cited as the “Mining Reform and
 5 Deficit Reduction Act of 2013”.

6 **SEC. 102. DEFINITIONS AND REFERENCES.**

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

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

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

13 (B) Any partner of such person.

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

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

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

9 (4) The term “casual use”—

10 (A) subject to subparagraphs (B) and (C),
11 means mineral activities that do not ordinarily
12 result in any disturbance of public lands and re-
13 sources;

14 (B) includes collection of geochemical,
15 rock, soil, or mineral specimens using
16 handtools, hand panning, or nonmotorized sluic-
17 ing; and

18 (C) does not include—

19 (i) the use of mechanized earth-mov-
20 ing equipment, suction dredging, or explo-
21 sives;

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

24 (iii) the construction of roads or drill
25 pads; and

1 (iv) the use of toxic or hazardous ma-
2 terials.

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

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

18 (7) The term “exploration”—

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

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

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

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

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

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

22 (11) The term “locatable mineral”—

23 (A) subject to subparagraph (B), means
24 any mineral, the legal and beneficial title to

1 which remains in the United States and that is
2 not subject to disposition under any of—

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

5 (ii) the Geothermal Steam Act of
6 1970 (30 U.S.C. 1001 et seq.);

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

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

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

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

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

21 (12) The term “mineral activities” means any
22 activity on a mining claim, millsite claim, or tunnel
23 site claim for, related to, or incidental to, mineral
24 exploration, mining, beneficiation, processing, or rec-
25 lamation activities for any locatable mineral.

1 (13) The term “mining claim”—

2 (A) subject to subparagraph (B), means a
3 claim located under the Mining Law of 1872
4 within the boundaries of which exist locatable
5 minerals the claimant intends to extract;

6 (B) does not include a claim located for
7 the purpose of securing Federal lands for a
8 waste rock dump, tailings pile, or other pur-
9 poses incident to processing locatable minerals
10 extracted elsewhere.

11 (14) The term “National Conservation System
12 unit” means any unit of the National Park System,
13 National Wildlife Refuge System, National Wild and
14 Scenic Rivers System, or National Trails System, or
15 a National Conservation Area, a National Recreation
16 Area, a National Monument, or any unit of the Na-
17 tional Wilderness Preservation System.

18 (15) The term “operator” means any person
19 proposing or authorized by a permit issued under
20 this title to conduct mineral activities and any agent
21 of such person.

22 (16) The term “person” means an individual,
23 Indian tribe, partnership, association, society, joint
24 venture, joint stock company, firm, company, cor-
25 poration, cooperative, or other organization and any

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

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

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

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

13 (20) The term “undue degradation” means,
14 based on consideration of other resource values that
15 may be affected, the operation or proposed operation
16 fails to comply with the performance standards in
17 this title or can reasonably be expected to cause sig-
18 nificant environmental harm to wildlife; land, air, or
19 water resources; or scientific or cultural resources.

20 (21) The term “valid existing rights” means a
21 mining claim or millsite claim located on lands de-
22 scribed in section 121(b), that—

23 (A) was properly located and maintained
24 under the general mining laws prior to the date
25 of enactment of this Act;

1 (B) was supported by a discovery of a val-
2 uable mineral deposit within the meaning of the
3 general mining laws on the date of enactment
4 of this Act, and, for millsite claims, does not in-
5 volve more than one mill site for every mining
6 claim located for that operation; and

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

8 (b) REFERENCES TO OTHER LAWS.—

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

13 (2) Any reference in this title to the Act of July
14 23, 1955, is a reference to the Act entitled “An Act
15 to amend the Act of July 31, 1947 (61 Stat. 681)
16 and the mining laws to provide for multiple use of
17 the surface of the same tracts of the public lands,
18 and for other purposes” (30 U.S.C. 601 et seq.).

19 **SEC. 103. APPLICATION RULES.**

20 (a) IN GENERAL.—This title applies to any mining
21 claim, millsite claim, or tunnel site claim located under
22 the general mining laws, before, on, or after the date of
23 enactment of this Act, except as provided in subsection
24 (b).

25 (b) PREEXISTING CLAIMS.—

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

9 (2)(A) If a plan of operations is approved for
10 mineral activities on any claim or site referred to in
11 paragraph (1) prior to the date of enactment of this
12 Act but such operations have not commenced prior
13 to the date of enactment of this Act—

14 (i) during the 5-year period beginning
15 on the date of enactment of this Act, min-
16 eral activities at such claim or site shall be
17 subject to such plan of operations;

18 (ii) during such 5-year period, modi-
19 fications of any such plan may be made in
20 accordance with the provisions of law ap-
21 plicable prior to the enactment of this Act
22 if such modifications are deemed minor by
23 the Secretary concerned; and

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

4 (B) Where an application for modification
5 of a plan of operations referred to in subpara-
6 graph (A)(ii) has been timely submitted and an
7 approved plan expires prior to Secretarial ac-
8 tion on the application, mineral activities and
9 reclamation may continue in accordance with
10 the terms of the expired plan until the Sec-
11 retary makes an administrative decision on the
12 application.

13 (c) FEDERAL LANDS SUBJECT TO EXISTING PER-
14 MIT.—

15 (1) Any Federal land shall be subject to the re-
16 quirements of section 112(a)(2) if the land is—

17 (A) subject to an operations permit; and

18 (B) producing valuable locatable minerals
19 in commercial quantities prior to the date of en-
20 actment of this Act.

21 (2) Any Federal land added through a plan
22 modification to an operations permit on Federal land
23 that is submitted after the date of enactment of this
24 Act shall be subject to the terms of section
25 112(a)(3).

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

15 **Subtitle A—Mineral Exploration**
16 **and Development**

17 **SEC. 111. ROYALTY.**

18 (a) RESERVATION OF ROYALTY.—

19 (1) IN GENERAL.—Subject to paragraph (2),
20 production of all locatable minerals from any mining
21 claim located under the general mining laws and
22 maintained in compliance with this title, or mineral
23 concentrates or products derived from locatable min-
24 erals from any such mining claim, as the case may
25 be, shall be subject to a royalty of 12.5 percent of

1 the gross income from mining. The claim holder or
2 any operator to whom the claim holder has assigned
3 the obligation to make royalty payments under the
4 claim and any person who controls such claim holder
5 or operator shall be liable for payment of such royal-
6 ties.

7 (2) FEDERAL LAND ADDED TO EXISTING OPER-
8 ATIONS PERMIT.—Any Federal land added through
9 a plan modification to an operations permit that is
10 submitted after the date of enactment of this Act
11 shall be subject to the royalty that applies to Fed-
12 eral land under paragraph (1).

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

16 (b) DUTIES OF CLAIM HOLDERS, OPERATORS, AND
17 TRANSPORTERS.—

18 (1) A person—

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

24 (B) shall notify the Secretary, in the time
25 and manner as may be specified by the Sec-

1 retary, of any assignment that such person may
2 have made of the obligation to make any roy-
3 alty or other payment under a mining claim.

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

18 (3) A person conducting mineral activities
19 shall—

20 (A) develop and comply with the site secu-
21 rity provisions in the operations permit de-
22 signed to protect from theft the locatable min-
23 erals, concentrates or products derived there-
24 from which are produced or stored on a mining
25 claim, and such provisions shall conform with

1 such minimum standards as the Secretary may
2 prescribe by rule, taking into account the vari-
3 ety of circumstances on mining claims; and

4 (B) not later than the 5th business day
5 after production begins anywhere on a mining
6 claim, or production resumes after more than
7 90 days after production was suspended, notify
8 the Secretary, in the manner prescribed by the
9 Secretary, of the date on which such production
10 has begun or resumed.

11 (4) The Secretary may by rule require any per-
12 son engaged in transporting a locatable mineral,
13 concentrate, or product derived there from to carry
14 on his or her person, in his or her vehicle, or in his
15 or her immediate control, documentation showing, at
16 a minimum, the amount, origin, and intended des-
17 tination of the locatable mineral, concentrate, or
18 product derived there from in such circumstances as
19 the Secretary determines is appropriate.

20 (c) RECORDKEEPING AND REPORTING REQUIRE-
21 MENTS.—

22 (1) A claim holder, operator, or other person di-
23 rectly involved in developing, producing, processing,
24 transporting, purchasing, or selling locatable min-
25 erals, concentrates, or products derived therefrom,

1 subject to this title, through the point of royalty
2 computation shall establish and maintain any
3 records, make any reports, and provide any informa-
4 tion that the Secretary may reasonably require for
5 the purposes of implementing this section or deter-
6 mining compliance with rules or orders under this
7 section. Such records shall include, but not be lim-
8 ited to, periodic reports, records, documents, and
9 other data. Such reports may also include, but not
10 be limited to, pertinent technical and financial data
11 relating to the quantity, quality, composition volume,
12 weight, and assay of all minerals extracted from the
13 mining claim. Upon the request of any officer or em-
14 ployee duly designated by the Secretary conducting
15 an audit or investigation pursuant to this section,
16 the appropriate records, reports, or information that
17 may be required by this section shall be made avail-
18 able for inspection and duplication by such officer or
19 employee. Failure by a claim holder, operator, or
20 other person referred to in the first sentence to co-
21 operate with such an audit, provide data required by
22 the Secretary, or grant access to information may,
23 at the discretion of the Secretary, result in involun-
24 tary forfeiture of the claim.

1 (2) Records required by the Secretary under
2 this section shall be maintained for 7 years after re-
3 lease of financial assurance under section 136 unless
4 the Secretary notifies the operator that the Sec-
5 retary has initiated an audit or investigation involv-
6 ing such records and that such records must be
7 maintained for a longer period. In any case when an
8 audit or investigation is underway, records shall be
9 maintained until the Secretary releases the operator
10 of the obligation to maintain such records.

11 (d) AUDITS.—The Secretary is authorized to conduct
12 such audits of all claim holders, operators, transporters,
13 purchasers, processors, or other persons directly or indi-
14 rectly involved in the production or sales of minerals cov-
15 ered by this title, as the Secretary deems necessary for
16 the purposes of ensuring compliance with the require-
17 ments of this section. For purposes of performing such
18 audits, the Secretary shall, at reasonable times and upon
19 request, have access to, and may copy, all books, papers
20 and other documents that relate to compliance with any
21 provision of this section by any person.

22 (e) COOPERATIVE AGREEMENTS.—

23 (1) The Secretary is authorized to enter into
24 cooperative agreements with the Secretary of Agri-
25 culture to share information concerning the royalty

1 management of locatable minerals, concentrates, or
2 products derived therefrom, to carry out inspection,
3 auditing, investigation, or enforcement (not includ-
4 ing the collection of royalties, civil or criminal pen-
5 alties, or other payments) activities under this sec-
6 tion in cooperation with the Secretary, and to carry
7 out any other activity described in this section.

8 (2) Except as provided in paragraph (3)(A) of
9 this subsection (relating to trade secrets), and pur-
10 suant to a cooperative agreement, the Secretary of
11 Agriculture shall, upon request, have access to all
12 royalty accounting information in the possession of
13 the Secretary respecting the production, removal, or
14 sale of locatable minerals, concentrates, or products
15 derived therefrom from claims on lands open to loca-
16 tion under this title.

17 (3) Trade secrets, proprietary, and other con-
18 fidential information protected from disclosure under
19 section 552 of title 5, United States Code, popularly
20 known as the Freedom of Information Act, shall be
21 made available by the Secretary to other Federal
22 agencies as necessary to assure compliance with this
23 title and other Federal laws. The Secretary, the Sec-
24 retary of Agriculture, the Administrator of the Envi-
25 ronmental Protection Agency, and other Federal of-

1 officials shall ensure that such information is provided
2 protection in accordance with the requirements of
3 that section.

4 (f) INTEREST AND SUBSTANTIAL UNDERREPORTING
5 ASSESSMENTS.—

6 (1) In the case of mining claims where royalty
7 payments are not received by the Secretary on the
8 date that such payments are due, the Secretary shall
9 charge interest on such underpayments at the same
10 interest rate as the rate applicable under section
11 6621(a)(2) of the Internal Revenue Code of 1986.
12 In the case of an underpayment, interest shall be
13 computed and charged only on the amount of the de-
14 ficiency and not on the total amount.

15 (2) If there is any underreporting of royalty
16 owed on production from a claim for any production
17 month by any person liable for royalty payments
18 under this section, the Secretary shall assess a pen-
19 alty of not greater than 25 percent of the amount
20 of that underreporting.

21 (3) For the purposes of this subsection, the
22 term “underreporting” means the difference between
23 the royalty on the value of the production that
24 should have been reported and the royalty on the
25 value of the production which was reported, if the

1 value that should have been reported is greater than
2 the value that was reported.

3 (4) The Secretary may waive or reduce the as-
4 sessment provided in paragraph (2) of this sub-
5 section if the person liable for royalty payments
6 under this section corrects the underreporting before
7 the date such person receives notice from the Sec-
8 retary that an underreporting may have occurred, or
9 before 90 days after the date of the enactment of
10 this section, whichever is later.

11 (5) The Secretary shall waive any portion of an
12 assessment under paragraph (2) of this subsection
13 attributable to that portion of the underreporting for
14 which the person responsible for paying the royalty
15 demonstrates that—

16 (A) such person had written authorization
17 from the Secretary to report royalty on the
18 value of the production on basis on which it was
19 reported;

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

23 (C) such person previously had notified the
24 Secretary, in such manner as the Secretary may
25 by rule prescribe, of relevant reasons or facts

1 affecting the royalty treatment of specific pro-
2 duction which led to the underreporting; or

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

5 (g) EXPANDED ROYALTY OBLIGATIONS.—Each per-
6 son liable for royalty payments under this section shall
7 be jointly and severally liable for royalty on all locatable
8 minerals, concentrates, or products derived therefrom lost
9 or wasted from a mining claim located under the general
10 mining laws and maintained in compliance with this title
11 when such loss or waste is due to negligence on the part
12 of any person or due to the failure to comply with any
13 rule, regulation, or order issued under this section.

14 (h) GROSS INCOME FROM MINING DEFINED.—For
15 the purposes of this section, for any locatable mineral, the
16 term “gross income from mining” has the same meaning
17 as the term “gross income” in section 613(c) of the Inter-
18 nal Revenue Code of 1986.

19 (i) EFFECTIVE DATE.—The royalty under this sec-
20 tion shall take effect with respect to the production of
21 locatable minerals after the enactment of this Act, but any
22 royalty payments attributable to production during the
23 first 12 calendar months after the enactment of this Act
24 shall be payable at the expiration of such 12-month period.

1 (j) FAILURE TO COMPLY WITH ROYALTY REQUIRE-
2 MENTS.—Any person who fails to comply with the require-
3 ments of this section or any regulation or order issued to
4 implement this section shall be liable for a civil penalty
5 under section 109 of the Federal Oil and Gas Royalty
6 Management Act (30 U.S.C. 1719) to the same extent as
7 if the claim located under the general mining laws and
8 maintained in compliance with this title were a lease under
9 that Act.

10 (k) USE OF AMOUNTS FOR DEFICIT REDUCTION.—
11 Notwithstanding any other provision of law, any amounts
12 received by the United States as royalties under this sec-
13 tion shall be deposited in the Treasury and used for Fed-
14 eral budget deficit reduction or, if there is no Federal
15 budget deficit, for reducing the Federal debt in such man-
16 ner as the Secretary of the Treasury considers appro-
17 priate.

18 **SEC. 112. HARDROCK MINING CLAIM MAINTENANCE FEE.**

19 (a) FEE.—

20 (1) Except as provided in section 2511(e)(2) of
21 the Energy Policy Act of 1992 (relating to oil shale
22 claims), for each unpatented mining claim, mill or
23 tunnel site on federally owned lands, whether located
24 before, on, or after enactment of this Act, each
25 claimant shall pay to the Secretary, on or before Au-

1 gust 31 of each year, a claim maintenance fee of
2 \$200 per claim to hold such unpatented mining
3 claim, mill or tunnel site for the assessment year be-
4 ginning at noon on the next day, September 1. Such
5 claim maintenance fee shall be in lieu of the assess-
6 ment work requirement contained in the Mining Law
7 of 1872 (30 U.S.C. 28 et seq.) and the related filing
8 requirements contained in section 314(a) and (c) of
9 the Federal Land Policy and Management Act of
10 1976 (43 U.S.C. 1744(a) and (c)).

11 (2)(A) The Secretary shall adjust the fees re-
12 quired by this section to reflect changes in the Con-
13 sumer Price Index published by the Bureau of Labor
14 Statistics of the Department of Labor every 5 years
15 after the date of enactment of this Act, or more fre-
16 quently if the Secretary determines an adjustment to
17 be reasonable. The Secretary shall employ the Con-
18 sumer Price Index for All-Urban Consumers pub-
19 lished by the Department of Labor as the basis for
20 adjustment, and rounding according to the adjust-
21 ment process of conditions of the Federal Civil Pen-
22 alties Inflation Adjustment Act of 1990 (104 Stat.
23 890).

24 (B) The Secretary shall provide claimants no-
25 tice of any adjustment made under this paragraph

1 not later than July 1 of any year in which the ad-
2 justment is made.

3 (C) A fee adjustment under this paragraph
4 shall begin to apply the calendar year following the
5 calendar year in which it is made.

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

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

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

23 (e) OTHER REQUIREMENTS.—

24 (1) Nothing in this section shall change or mod-
25 ify the requirements of section 314(b) of the Federal

1 Land Policy and Management Act of 1976 (43
2 U.S.C. 1744(b)), or the requirements of section
3 314(c) of the Federal Land Policy and Management
4 Act of 1976 (43 U.S.C. 1744(c)) related to filings
5 required by section 314(b), which remain in effect.

6 (2) Section 2324 of the Revised Statutes of the
7 United States (30 U.S.C. 28) is amended by insert-
8 ing “or section 103(a) of the Mining Reform and
9 Deficit Reduction Act of 2013” after “Act of
10 1993,”.

11 **SEC. 113. EFFECT OF PAYMENTS FOR USE AND OCCUPANCY**
12 **OF CLAIMS.**

13 Timely payment of the claim maintenance fee re-
14 quired by section 112 of this title or any related law relat-
15 ing to the use of Federal land, preserves the claimant’s
16 ability to use and occupy the Federal land concerned for
17 prospecting and exploration, consistent with and subject
18 to the requirements of this title and other applicable law.

19 **SEC. 114. LIMITATION ON PATENTS.**

20 (a) MINING CLAIMS.—

21 (1) DETERMINATIONS REQUIRED.—After the
22 date of enactment of this Act, no patent shall be
23 issued by the United States for any mining claim lo-
24 cated under the general mining laws unless the Sec-
25 retary determines that, for the claim concerned—

1 (A) a patent application was filed with the
2 Secretary on or before September 30, 1994;
3 and

4 (B) all requirements established under sec-
5 tions 2325 and 2326 of the Revised Statutes
6 (30 U.S.C. 29 and 30) for vein or lode claims
7 and sections 2329, 2330, 2331, and 2333 of
8 the Revised Statutes (30 U.S.C. 35, 36, and
9 37) for placer claims were fully complied with
10 by that date.

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

20 (b) MILLSITE CLAIMS.—

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

1 (A) a patent application for such land was
2 filed with the Secretary on or before September
3 30, 1994; and

4 (B) all requirements applicable to such
5 patent application were fully complied with by
6 that date.

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

16 **Subtitle B—Protection of Special** 17 **Places**

18 **SEC. 121. LANDS OPEN TO LOCATION.**

19 (a) LANDS OPEN TO LOCATION.—Except as provided
20 in subsection (b), mining claims may be located under the
21 general mining laws only on such lands and interests as
22 were open to the location of mining claims under the gen-
23 eral mining laws immediately before the enactment of this
24 Act.

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

6 (1) Wilderness study areas.

7 (2) Areas of critical environmental concern.

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

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

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

1 **SEC. 122. WITHDRAWAL PETITIONS BY STATES, POLITICAL**
2 **SUBDIVISIONS, AND INDIAN TRIBES.**

3 (a) IN GENERAL.—Subject to valid existing rights,
4 any State or political subdivision of a State or an Indian
5 tribe may submit a petition to the Secretary for the with-
6 drawal of a specific tract of Federal land from the oper-
7 ation of the general mining laws, in order to protect spe-
8 cific values identified in the petition that are important
9 to the State or political subdivision or Indian tribe. Such
10 values may include the value of a watershed to supply
11 drinking water, wildlife habitat value, cultural or historic
12 resources, or value for scenic vistas important to the local
13 economy, and other similar values. In the case of an In-
14 dian tribe, the petition may also identify religious or cul-
15 tural values that are important to the Indian tribe. The
16 petition shall contain the information required by section
17 204 of the Federal Land Policy and Management Act of
18 1976 (43 U.S.C. 1714).

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

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

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

23 (3) shall grant the petition subject to valid ex-
24 isting rights, unless the Secretary makes and pub-
25 lishes in the Federal Register specific findings why

1 a decision to grant the petition would be against the
2 national interest.

3 **Subtitle C—Environmental Considerations of Mineral Exploration**
4 **and Development**

6 **SEC. 131. GENERAL STANDARD FOR HARDROCK MINING ON**
7 **FEDERAL LAND.**

8 Notwithstanding section 302(b) of the Federal Land
9 Policy and Management Act of 1976 (43 U.S.C. 1732(b)),
10 the first section of the Act of June 4, 1897 (chapter 2;
11 30 Stat. 36 16 U.S.C. 478), and the National Forest Man-
12 agement Act of 1976 (16 U.S.C. 1600 et seq.), and in
13 accordance with this subtitle and applicable law, unless ex-
14 pressly stated otherwise in this title, the Secretary—

15 (1) shall ensure that mineral activities on any
16 Federal land that is subject to a mining claim, mill-
17 site claim, or tunnel site claim is carefully controlled
18 to prevent undue degradation of public lands and re-
19 sources; and

20 (2) shall not grant permission to engage in min-
21 eral activities if the Secretary, after considering the
22 evidence, determines that undue degradation would
23 result from such activities.

1 **SEC. 132. 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 land, air, ground
5 water and surface water, and fish and wildlife, unless—

6 (1) the claim was properly located under the
7 general mining laws and maintained in compliance
8 with such laws and this title; and

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

11 (b) NEGLIGIBLE DISTURBANCE.—Notwithstanding
12 subsection (a)(2), a permit under this subtitle shall not
13 be required for mineral activities that are a casual use of
14 the Federal land.

15 (c) COORDINATION WITH NEPA PROCESS.—The
16 Secretary and the Secretary of Agriculture shall conduct
17 the permit processes under this title in coordination with
18 the timing and other requirements under section 102 of
19 the National Environmental Policy Act of 1969 (42 U.S.C.
20 4332).

21 **SEC. 133. EXPLORATION PERMIT.**

22 (a) AUTHORIZED EXPLORATION ACTIVITY.—Any
23 claim holder may apply for an exploration permit for any
24 mining claim authorizing the claim holder to remove a rea-
25 sonable amount of the locatable minerals from the claim
26 for analysis, study and testing. Such permit shall not au-

1 thorize the claim holder to remove any mineral for sale
2 nor to conduct any activities other than those required for
3 exploration for locatable 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 or, for National Forest System lands, the Secretary of Ag-
8 riculture, and shall contain an exploration plan, a reclama-
9 tion plan for the proposed exploration, and such docu-
10 mentation as necessary to ensure compliance with applica-
11 ble Federal and State environmental laws and regulations.

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

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

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

24 (2) The applicant has not demonstrated that
25 proposed reclamation can be accomplished.

1 (3) The proposed exploration activities and con-
2 dition of the land after the completion of exploration
3 activities and final reclamation would not conform
4 with the land use plan applicable to the area subject
5 to mineral activities.

6 (4) The area subject to the proposed permit is
7 included within an area not open to location under
8 section 121.

9 (5) The applicant has not demonstrated that
10 the exploration plan and reclamation plan will be in
11 compliance with the requirements of this title and all
12 other applicable Federal requirements, and any
13 State requirements agreed to by the Secretary of the
14 Interior (or Secretary of Agriculture, as appro-
15 priate).

16 (6) The applicant has not demonstrated that
17 the requirements of section 136 (relating to financial
18 assurance) will be met.

19 (7) The applicant is ineligible to receive a per-
20 mit as determined under section 135.

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

1 (f) PERMIT MODIFICATION.—During the term of an
2 exploration permit, the permit holder may submit an ap-
3 plication to modify the permit. To approve a proposed
4 modification to the permit, the Secretary concerned shall
5 make the same determinations as are required in the case
6 of an original permit, except that the Secretary and the
7 Secretary of Agriculture may specify by joint rule the ex-
8 tent to which requirements for initial exploration permits
9 under this section shall apply to applications to modify
10 an exploration permit based on whether such modifications
11 are deemed significant or minor.

12 (g) TRANSFER, ASSIGNMENT, OR SALE OF
13 RIGHTS.—

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

19 (2) Such Secretary shall allow a person holding
20 a permit to transfer, assign, or sell rights under the
21 permit to a successor, if the Secretary finds, in writ-
22 ing, that the successor—

23 (A) is eligible to receive a permit in ac-
24 cordance with section 134(d);

1 (B) has submitted evidence of financial as-
2 surance satisfactory under section 136; and

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

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

11 (4) Each application for approval of a permit
12 transfer, assignment, or sale pursuant to this sub-
13 section shall be accompanied by a fee payable to the
14 Secretary of the Interior in such amount as may be
15 established by such Secretary. Such amount shall be
16 equal to the actual or anticipated cost to the Sec-
17 retary or the Secretary of Agriculture, as appro-
18 priate, of reviewing and approving or disapproving
19 such transfer, assignment, or sale, as determined by
20 the Secretary of the Interior.

21 **SEC. 134. OPERATIONS PERMIT.**

22 (a) OPERATIONS PERMIT.—

23 (1) Any claim holder that is in compliance with
24 the general mining laws and section 113 of this title
25 may apply to the Secretary, or for National Forest

1 System lands, the Secretary of Agriculture, for an
2 operations permit authorizing the claim holder to
3 carry out mineral activities, other than casual use,
4 on—

5 (A) any valid mining claim, valid millsite
6 claim, or valid tunnel site claim; and

7 (B) such additional Federal land as the
8 Secretary may determine is necessary to con-
9 duct the proposed mineral activities, if the oper-
10 ator obtains a right-of-way permit for use of
11 such additional lands under title V of the Fed-
12 eral Land Policy and Management Act of 1976
13 (43 U.S.C. 1761 et seq.) and agrees to pay all
14 fees required under that title for the permit
15 under that title.

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

19 (b) PERMIT APPLICATION REQUIREMENTS.—An ap-
20 plication for an operations permit under this section shall
21 be submitted in a manner satisfactory to the Secretary
22 concerned and shall contain site characterization data, an
23 operations plan, a reclamation plan, monitoring plans,
24 long-term maintenance plans, to the extent necessary, and
25 such documentation as necessary to ensure compliance

1 with applicable Federal and State environmental laws and
2 regulations. If the proposed mineral activities will be car-
3 ried out in conjunction with mineral activities on adjacent
4 non-Federal lands, information on the location and nature
5 of such operations may be required by the Secretary.

6 (c) PERMIT ISSUANCE OR DENIAL.—

7 (1) After providing for public participation pur-
8 suant to subsection (i), the Secretary, or for Na-
9 tional Forest System lands the Secretary of Agri-
10 culture, shall issue an operations permit if such Sec-
11 retary makes each of the following determinations in
12 writing, and shall deny a permit if such Secretary
13 finds that the application and applicant do not fully
14 meet the following requirements:

15 (A) The permit application, including the
16 site characterization data, operations plan, and
17 reclamation plan, are complete and accurate
18 and sufficient for developing a good under-
19 standing of the anticipated impacts of the min-
20 eral activities and the effectiveness of proposed
21 mitigation and control.

22 (B) The applicant has demonstrated that
23 the proposed reclamation in the operation and
24 reclamation plan can be and is likely to be ac-

1 accomplished by the applicant and will not cause
2 undue degradation.

3 (C) The condition of the land, including
4 the fish and wildlife resources and habitat con-
5 tained thereon, after the completion of mineral
6 activities and final reclamation, will conform to
7 the land use plan applicable to the area subject
8 to mineral activities and are returned to a pro-
9 ductive use.

10 (D) The area subject to the proposed plan
11 is open to location for the types of mineral ac-
12 tivities proposed.

13 (E) The proposed operation has been de-
14 signed to prevent material damage to the hy-
15 drologic balance.

16 (F) The applicant will fully comply with
17 the requirements of section 136 (relating to fi-
18 nancial assurance) prior to the initiation of op-
19 erations.

20 (G) Neither the applicant nor operator, nor
21 any subsidiary, affiliate, or person controlled by
22 or under common control with the applicant or
23 operator, is ineligible to receive a permit under
24 section 135.

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

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

22 (d) TERM OF PERMIT; RENEWAL.—

23 (1) An operations permit—

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

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

4 (ii) 20 years; and

5 (B) shall be renewed for an additional 20-
6 year period if the operation is in compliance
7 with the requirements of this title and other ap-
8 plicable law.

9 (2) Failure by the operator to commence min-
10 eral activities within 2 years of the date scheduled
11 in an operations permit shall require a modification
12 of the permit if the Secretary concerned determines
13 that modifications are necessary to comply with sec-
14 tion 121.

15 (e) PERMIT MODIFICATION.—

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

20 (2) The Secretary, or for National Forest Sys-
21 tem lands the Secretary of Agriculture, may, at any
22 time, require reasonable modification to any oper-
23 ations plan or reclamation plan upon a determina-
24 tion that the requirements of this title cannot be met
25 if the plan is followed as approved. Such determina-

1 tion shall be based on a written finding and subject
2 to public notice and hearing requirements estab-
3 lished 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.—

24 (1) An operator conducting mineral activities
25 under an operations permit in effect under this sub-

1 title may not temporarily cease mineral activities for
2 a period greater than 180 days unless the Secretary
3 concerned has approved such temporary cessation or
4 unless the temporary cessation is permitted under
5 the original permit. Any operator temporarily ceas-
6 ing mineral activities for a period greater than 90
7 days under an operations permit issued before the
8 date of the enactment of this Act shall submit, be-
9 fore the expiration of such 90-day period, a complete
10 application for temporary cessation of operations to
11 the Secretary concerned for approval unless the tem-
12 porary cessation is permitted under the original per-
13 mit.

14 (2) An application for approval of temporary
15 cessation of operations shall include such informa-
16 tion required under subsection (b) and any other
17 provisions prescribed by the Secretary concerned to
18 minimize impacts on the environment. After receipt
19 of a complete application for temporary cessation of
20 operations such Secretary shall conduct an inspec-
21 tion of the area for which temporary cessation of op-
22 erations has been requested.

23 (3) To approve an application for temporary
24 cessation of operations, the Secretary concerned
25 shall make each of the following determinations:

1 (A) A determination that the methods for
2 securing surface facilities and restricting access
3 to the permit area, or relevant portions thereof,
4 will effectively ensure against hazards to the
5 health and safety of the public and fish and
6 wildlife.

7 (B) A determination that reclamation is in
8 compliance with the approved reclamation plan,
9 except in those areas specifically designated in
10 the application for temporary cessation of oper-
11 ations for which a delay in meeting such stand-
12 ards is necessary to facilitate the resumption of
13 operations.

14 (C) A determination that the amount of fi-
15 nancial assurance filed with the permit applica-
16 tion is sufficient to assure completion of the
17 reclamation activities identified in the approved
18 reclamation plan in the event of forfeiture.

19 (D) A determination that any outstanding
20 notices of violation and cessation orders in-
21 curred in connection with the plan for which
22 temporary cessation is being requested are ei-
23 ther stayed pursuant to an administrative or ju-
24 dicial appeal proceeding or are in the process of

1 being abated to the satisfaction of the Secretary
2 concerned.

3 (g) PERMIT REVIEWS.—The Secretary, or for Na-
4 tional Forest System lands the Secretary of Agriculture,
5 shall review each permit issued under this section every
6 10 years during the term of such permit, shall provide
7 public notice of the permit review, and, based upon a writ-
8 ten finding, such Secretary shall require the operator to
9 take such actions as the Secretary deems necessary to as-
10 sure that mineral activities conform to the permit, includ-
11 ing adjustment of financial assurance requirements.

12 (h) TRANSFER, ASSIGNMENT, OR SALE OF
13 RIGHTS.—

14 (1) No transfer, assignment, or sale of rights
15 granted by a permit under this section shall be made
16 without the prior written approval of the Secretary,
17 or for National Forest System lands the Secretary
18 of Agriculture.

19 (2) The Secretary, or for National Forest Sys-
20 tem lands, the Secretary of Agriculture, may allow
21 a person holding a permit to transfer, assign, or sell
22 rights under the permit to a successor, if such Sec-
23 retary finds, in writing, that the successor—

1 (A) has submitted information required
2 and is eligible to receive a permit in accordance
3 with section 135;

4 (B) has submitted evidence of financial as-
5 surance satisfactory under section 136; and

6 (C) meets any other requirements specified
7 by such Secretary.

8 (3) The successor in interest shall assume rec-
9 lamation and other responsibilities established by the
10 existing permit and shall conduct the mineral activi-
11 ties in full compliance with this title, and the terms
12 and conditions of the permit as in effect at the time
13 of transfer, assignment, or sale.

14 (4) Each application for approval of a permit
15 transfer, assignment, or sale pursuant to this sub-
16 section shall be accompanied by a fee payable to the
17 Secretary of the Interior, or for National Forest
18 System lands, the Secretary of Agriculture, in such
19 amount as may be established by such Secretary, or
20 for National Forest System lands, by the Secretary
21 of Agriculture. Such amount shall be equal to the
22 actual or anticipated cost to the Secretary or, for
23 National Forest System lands, to the Secretary of
24 Agriculture, of reviewing and approving or dis-

1 approving such transfer, assignment, or sale, as de-
2 termined by such Secretary.

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

10 **SEC. 135. PERSONS INELIGIBLE FOR PERMITS.**

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

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

22 (2) An applicable State or Federal toxic sub-
23 stance, solid waste, air, water quality, or fish and
24 wildlife conservation law or regulation at any site

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

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

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

14 (c) CORRECTION.—

15 (1) The Secretary, or for National Forest Sys-
16 tem lands the Secretary of Agriculture, may issue or
17 reinstate a permit under this subtitle if the applicant
18 submits proof that the violation referred to in sub-
19 section (a) or (b) has been corrected or is in the
20 process of being corrected to the satisfaction of such
21 Secretary and the regulatory authority involved or if
22 the applicant submits proof that the violator has
23 filed and is presently pursuing, a direct administra-
24 tive or judicial appeal to contest the existence of the
25 violation. For purposes of this section, an appeal of

1 any applicant's relationship to an affiliate shall not
2 constitute a direct administrative or judicial appeal
3 to contest the existence of the violation.

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

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

16 **SEC. 136. FINANCIAL ASSURANCE.**

17 (a) FINANCIAL ASSURANCE REQUIRED.—

18 (1) Subject to public notice and comment, and
19 after a permit is issued under this subtitle and be-
20 fore any exploration or operations begin under the
21 permit, the operator shall file with the Secretary, or
22 for National Forest System lands the Secretary of
23 Agriculture, evidence of financial assurance payable
24 to the United States. The financial assurance shall
25 be provided in the form of a surety bond, a trust

1 fund, letters of credits, government securities, cer-
2 tificates of deposit, cash, or an equivalent form ap-
3 proved by such Secretary.

4 (2) The financial assurance shall cover all lands
5 within the initial permit area and all affected waters
6 that may require restoration, treatment, or other
7 management as a result of mineral activities, and
8 shall be extended to cover all lands and waters
9 added pursuant to any permit modification made
10 under section 133(f) (relating to exploration per-
11 mits) or section 134(e) (relating to operations per-
12 mits), or affected by mineral activities.

13 (b) AMOUNT.—The amount of the financial assur-
14 ance required under this section shall be sufficient to as-
15 sure the completion of reclamation and restoration satis-
16 fying the requirements of this title if the work were to
17 be performed by the Secretary concerned in the event of
18 forfeiture, including the construction and maintenance
19 costs for any treatment facilities necessary to meet Fed-
20 eral and State environmental requirements. The calcula-
21 tion of such amount shall take into account the maximum
22 level of financial exposure which shall arise during the
23 mineral activity and administrative costs associated with
24 a government agency reclaiming the site.

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

7 (d) ADJUSTMENTS.—The amount of the financial as-
8 surance and the terms of the acceptance of the assurance
9 may be adjusted by the Secretary concerned from time to
10 time as the area requiring coverage is increased or de-
11 creased, or where the costs of reclamation or treatment
12 change, or pursuant to section 134(f) (relating to tem-
13 porary cessation of operations), but the financial assur-
14 ance shall otherwise be in compliance with this section.
15 The Secretary concerned shall review the financial guar-
16 antee every 3 years and as part of the permit application
17 review under section 134(c).

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

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

4 (2) A determination that the terms and condi-
5 tions of any other applicable Federal requirements,
6 and State requirements applicable pursuant to coop-
7 erative agreements under section 138, have been ful-
8 filled.

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

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

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

1 activities and all requirements of the operations plan
2 and the reclamation plan, and all other requirements
3 of this title have been fully met, including the re-
4 quirements of subsection (g) of this section, the re-
5 maining portion of the financial assurance may be
6 released.

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

12 (g) EFFLUENT.—Notwithstanding section 137(b)(4),
13 where any discharge or other water-related condition re-
14 sulting from the mineral activities requires treatment in
15 order to meet the applicable effluent limitations and water
16 quality standards, the financial assurance shall include the
17 estimated cost of maintaining such treatment for the pro-
18 jected period that will be needed after the cessation of
19 mineral activities. The portion of the financial assurance
20 attributable to such estimated cost of treatment shall not
21 be released until the discharge has ceased for a period of
22 5 years, as determined by ongoing monitoring and testing,
23 or, if the discharge continues, until the operator has met
24 all applicable effluent limitations and water quality stand-
25 ards for 5 full years without treatment.

1 (h) ENVIRONMENTAL HAZARDS.—If the Secretary,
2 or for National Forest System lands, the Secretary of Ag-
3 riculture, determines, after final release of financial assur-
4 ance, that an environmental hazard resulting from the
5 mineral activities exists, or the terms and conditions of
6 the explorations or operations permit of this title were not
7 fulfilled in fact at the time of release, such Secretary shall
8 issue an order under section 146 requiring the claim hold-
9 er or operator (or any person who controls the claim hold-
10 er or operator) to correct the condition such that applica-
11 ble laws and regulations and any conditions from the plan
12 of operations are met.

13 **SEC. 137. OPERATION AND RECLAMATION.**

14 (a) GENERAL RULE.—

15 (1) The operator shall restore lands subject to
16 mineral activities carried out under a permit issued
17 under this subtitle to a condition capable of sup-
18 porting—

19 (A) the uses which such lands were capable
20 of supporting prior to surface disturbance by
21 the operator, or

22 (B) other beneficial uses which conform to
23 applicable land use plans as determined by the
24 Secretary, or for National Forest System lands,
25 the Secretary of Agriculture.

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

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

15 (1) Segregation, protection, and replacement of
16 topsoil or other suitable growth medium, and the
17 prevention, where possible, of soil contamination.

18 (2) Maintenance of the stability of all surface
19 areas.

20 (3) Control of sediments to prevent erosion and
21 manage drainage.

22 (4) Minimization of the formation and migra-
23 tion of acidic, alkaline, metal-bearing, or other dele-
24 terious leachate.

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

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

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

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

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

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

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

21 (c) SURFACE OR GROUNDWATER WITHDRAWALS.—

22 The Secretary shall work with State and local govern-
23 ments with authority over the allocation and use of surface
24 and groundwater in the area around the mine site as nec-
25 essary to ensure that any surface or groundwater with-

1 drawals made as a result of mining activities approved
2 under this section do not cause undue degradation or re-
3 sults in material alteration of the hydrologic balance.

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

10 **SEC. 138. STATE LAW AND REGULATION.**

11 (a) STATE LAW.—

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

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

23 (3) Any inspection standard or requirement in
24 State, county, local, or tribal law or regulation that
25 meets or exceeds the requirements of this title shall

1 not be construed to be inconsistent with such re-
2 quirements.

3 (b) APPLICABILITY OF OTHER STATE REQUIRE-
4 MENTS.—

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

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

16 (c) COOPERATIVE AGREEMENTS.—

17 (1) Any State may enter into a cooperative
18 agreement with the Secretary, or for National For-
19 est System lands the Secretary of Agriculture, for
20 the purposes of such Secretary applying such stand-
21 ards and requirements referred to in subsection (a)
22 and subsection (b) to mineral activities or reclama-
23 tion on lands subject to this title.

24 (2) In such instances where the proposed min-
25 eral activities would affect lands not subject to this

1 title in addition to lands subject to this title, in
2 order to approve a plan of operations the Secretary
3 concerned shall enter into a cooperative agreement
4 with the State that sets forth a common regulatory
5 framework consistent with the requirements of this
6 title for the purposes of such plan of operations. Any
7 such common regulatory framework shall not negate
8 the authority of the Federal Government to inde-
9 pendently inspect mines and operations and bring
10 enforcement actions for violations.

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

15 (d) PRIOR AGREEMENTS.—Any cooperative agree-
16 ment or such other understanding between the Secretary
17 concerned and any State, or political subdivision thereof,
18 relating to the management of mineral activities on lands
19 subject to this title that was in existence on the date of
20 enactment of this Act may only continue in force until 1
21 year after the date of enactment of this Act. During such
22 1-year period, the State and the Secretary shall review the
23 terms of the agreement and make changes that are nec-
24 essary to be consistent with this title.

1 **SEC. 139. LIMITATION ON THE ISSUANCE OF PERMITS.**

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

10 **Subtitle D—Administrative and**
11 **Miscellaneous Provisions**

12 **SEC. 141. 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 paragraphs (1) and (2) of this section.”.

25 (b) MINERAL DATA.—Section 5(e)(3) of the National
26 Materials and Minerals Policy, Research and Development

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

7 **SEC. 142. USER FEES.**

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

18 (b) ADJUSTMENT.—

19 (1) The Secretary shall adjust the fees required
20 by this section to reflect changes in the Consumer
21 Price Index published by the Bureau of Labor Sta-
22 tistics of the Department of Labor every 5 years
23 after the date of enactment of this Act, or more fre-
24 quently if the Secretary determines an adjustment to
25 be reasonable.

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

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

8 **SEC. 143. INSPECTION AND MONITORING.**

9 (a) INSPECTIONS.—

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

14 (2) The Secretary concerned shall establish a
15 frequency of inspections for mineral activities con-
16 ducted under a permit issued under subtitle C, but
17 in no event shall such inspection frequency be less
18 than one complete inspection per calendar quarter
19 or, two per calendar quarter in the case of a permit
20 for which the Secretary concerned approves an appli-
21 cation under section 134(f) (relating to temporary
22 cessation of operations). After revegetation has been
23 established in accordance with a reclamation plan,
24 such Secretary shall conduct annually two complete
25 inspections. Such Secretary shall have the discretion

1 to modify the inspection frequency for mineral ac-
2 tivities that are conducted on a seasonal basis. In-
3 spections shall continue under this subsection until
4 final release of financial assurance.

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

22 (B) The Secretaries shall, by joint rule, estab-
23 lish procedures for the review of (i) any decision by
24 an authorized representative not to inspect; or (ii)
25 any refusal by such representative to ensure that re-

1 medial actions are taken with respect to any alleged
2 violation. The Secretary concerned shall furnish such
3 persons requesting the review a written statement of
4 the reasons for the Secretary's final disposition of
5 the case.

6 (b) MONITORING.—

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

19 (2) The operator shall file reports with the Sec-
20 retary, or for National Forest System lands the Sec-
21 retary of Agriculture, on a frequency determined by
22 the Secretary concerned, on the results of the moni-
23 toring and evaluation process, except that if the
24 monitoring and evaluation show a violation of the re-
25 quirements of a permit approved under this title, it

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

9 (3) The Secretary, or for National Forest Sys-
10 tem lands the Secretary of Agriculture, shall deter-
11 mine what information shall be reported by the oper-
12 ator pursuant to paragraph (2). A failure to report
13 as required by the Secretary concerned shall con-
14 stitute a violation of this title and subject the oper-
15 ator to enforcement action pursuant to section 146.

16 **SEC. 144. CITIZENS SUITS.**

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

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

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

7 The United States district courts shall have jurisdiction
8 over actions brought under this section, without regard to
9 the amount in controversy or the citizenship of the parties,
10 including actions brought to apply any civil penalty under
11 this title. The district courts of the United States shall
12 have jurisdiction to compel agency action unreasonably de-
13 layed.

14 (b) EXCEPTIONS.—

15 (1) No action may be commenced under sub-
16 section (a) before the end of the 60-day period be-
17 ginning on the date the plaintiff has given notice in
18 writing of such alleged violation to the alleged viola-
19 tor and the Secretary, or for National Forest Sys-
20 tem lands the Secretary of Agriculture, except that
21 any such action may be brought immediately after
22 such notification if the violation complained of con-
23 stitutes an imminent threat to the environment or to
24 the health or safety of the public.

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

7 (3) No action may be commenced under para-
8 graph (2) of subsection (a) against either Secretary
9 to review any rule promulgated by, or to any permit
10 issued or denied by such Secretary if such rule or
11 permit issuance or denial is judicially reviewable
12 under any provision of law at any time after such
13 promulgation, issuance, or denial is final.

14 (c) VENUE.—Venue of all actions brought under this
15 section shall be determined in accordance with section
16 1391 of title 28, United States Code.

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

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

15 **SEC. 145. ADMINISTRATIVE AND JUDICIAL REVIEW.**

16 (a) REVIEW BY SECRETARY.—

17 (1)(A) Any person issued a notice of violation
18 or cessation order under section 146, or any person
19 having an interest which is or may be adversely af-
20 fected by such notice or order, may apply to the Sec-
21 retary, or for National Forest System lands the Sec-
22 retary of Agriculture, for review of the notice or
23 order.

1 (B) Any person who is subject to a penalty as-
2 sessed under section 146 may apply to the Secretary
3 concerned for review of the assessment.

4 (C) Any person may apply to such Secretary for
5 review of the decision.

6 (D) Pending a review by the Secretary or reso-
7 lution of an administrative appeal, final decisions
8 (except enforcement actions under section 146) shall
9 be stayed.

10 (2) The Secretary concerned shall provide an
11 opportunity for a public hearing at the request of
12 any party to the proceeding as specified in para-
13 graph (1). The filing of an application for review
14 under this subsection shall not operate as a stay of
15 any order or notice issued under section 146.

16 (3) For any review proceeding under this sub-
17 section, the Secretary concerned shall make findings
18 of fact and shall issue a written decision incor-
19 porating therein an order vacating, affirming, modi-
20 fying, or terminating the notice, order, or decision,
21 or with respect to an assessment, the amount of
22 penalty that is warranted.

23 (4) Pending completion of any review pro-
24 ceedings under this subsection, the applicant may
25 file with the Secretary, or for National Forest Sys-

1 tem lands the Secretary of Agriculture, a written re-
2 quest that the Secretary grant temporary relief from
3 any order issued under section 146 together with a
4 detailed statement giving reasons for such relief.
5 The Secretary concerned shall expeditiously issue an
6 order or decision granting or denying such relief.
7 The Secretary concerned may grant such relief
8 under such conditions as he or she may prescribe
9 only if such relief shall not adversely affect the
10 health or safety of the public or cause imminent en-
11 vironmental harm to land, air, or water resources.

12 (5) The availability of review under this sub-
13 section shall not be construed to limit the operation
14 of rights under section 144 (relating to citizen
15 suits).

16 (b) COSTS.—Whenever a proceeding occurs under
17 subsection (a), at the request of any person, a sum equal
18 to the aggregate amount of all costs and expenses (includ-
19 ing attorney fees) as determined by the Secretary or Sec-
20 retaries concerned or the court to have been reasonably
21 incurred by such person for or in connection with partici-
22 pation in such proceedings, including any judicial review
23 of the proceeding, may be assessed against either party
24 as the court, in the case of judicial review, or the Secretary
25 or Secretaries concerned in the case of administrative pro-

1 ceedings, deems proper if it is determined that such party
2 prevailed in whole or in part, achieving some success on
3 the merits, and that such party made a substantial con-
4 tribution to a full and fair determination of the issues.

5 **SEC. 146. ENFORCEMENT.**

6 (a) ORDERS.—

7 (1) If the Secretary, or for National Forest
8 System lands the Secretary of Agriculture, or an au-
9 thorized representative of such Secretary, determines
10 that any person is in violation of any environmental
11 protection requirement under subtitle C or any regu-
12 lation issued by the Secretaries to implement this
13 title, such Secretary or authorized representative
14 shall issue to such person a notice of violation de-
15 scribing the violation and the corrective measures to
16 be taken. The Secretary concerned, or the author-
17 ized representative of such Secretary, shall provide
18 such person with a period of time not to exceed 30
19 days to abate the violation. Such period of time may
20 be extended by the Secretary concerned upon a
21 showing of good cause by such person. If, upon the
22 expiration of time provided for such abatement, the
23 Secretary concerned, or the authorized representa-
24 tive of such Secretary, finds that the violation has
25 not been abated he or she shall immediately order a

1 cessation of all mineral activities or the portion
2 thereof relevant to the violation.

3 (2) If the Secretary concerned, or the author-
4 ized representative of the Secretary concerned, de-
5 termines that any condition or practice exists, or
6 that any person is in violation of any requirement
7 under a permit approved under this title, and such
8 condition, practice or violation is causing, or can
9 reasonably be expected to cause—

10 (A) an imminent danger to the health or
11 safety of the public; or

12 (B) significant, imminent environmental
13 harm to land, air, water, or fish or wildlife re-
14 sources,

15 such Secretary or authorized representative shall im-
16 mediately order a cessation of mineral activities or
17 the portion thereof relevant to the condition, prac-
18 tice, or violation.

19 (3)(A) A cessation order pursuant to para-
20 graphs (1) or (2) shall remain in effect until such
21 Secretary, or authorized representative, determines
22 that the condition, practice, or violation has been
23 abated, or until modified, vacated or terminated by
24 the Secretary or authorized representative. In any
25 such order, the Secretary or authorized representa-

1 tive shall determine the steps necessary to abate the
2 violation in the most expeditious manner possible
3 and shall include the necessary measures in the
4 order. The Secretary concerned shall require appro-
5 priate financial assurances to ensure that the abate-
6 ment obligations are met.

7 (B) Any notice or order issued pursuant to
8 paragraphs (1) or (2) may be modified, vacated, or
9 terminated by the Secretary concerned or an author-
10 ized representative of such Secretary. Any person to
11 whom any such notice or order is issued shall be en-
12 titled to a hearing on the record.

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

1 enforcement action prior to the expiration of 30
2 days.

3 (5) If a claim holder or operator (or any person
4 who controls the claim holder or operator) fails to
5 abate a violation or defaults on the terms of the per-
6 mit, the Secretary, or for National Forest System
7 lands the Secretary of Agriculture, shall forfeit the
8 financial assurance for the plan as necessary to en-
9 sure abatement and reclamation under this title. The
10 Secretary concerned may prescribe conditions under
11 which a surety may perform reclamation in accord-
12 ance with the approved plan in lieu of forfeiture.

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

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

22 (b) COMPLIANCE.—The Secretary, or for National
23 Forest System lands the Secretary of Agriculture, 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 143.

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 title.

21 (d) PENALTIES.—

22 (1) Any person who fails to comply with any re-
23 quirement of a permit approved under this title or
24 any regulation issued by the Secretaries to imple-
25 ment this title shall be liable for a penalty of not

1 more than \$25,000 per violation. Each day of viola-
2 tion may be deemed a separate violation for pur-
3 poses of penalty assessments.

4 (2) A person who fails to correct a violation for
5 which a cessation order has been issued under sub-
6 section (a) within the period permitted for its correc-
7 tion shall be assessed a civil penalty of not less than
8 \$1,000 per violation for each day during which such
9 failure continues.

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

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

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

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

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

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

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

10 (5) fails to maintain an adequate financial as-
11 surance under section 136;

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

14 (7) with regard to plans conditionally approved
15 under section 135(c)(2), fails to abate a violation to
16 the satisfaction of the Secretary concerned, or if the
17 validity of the violation is upheld on the appeal
18 which formed the basis for the conditional approval.

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

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

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

3 (2) falsifies, tampers with, renders inaccurate,
4 or fails to install any monitoring device or method
5 required to be maintained under this title,

6 shall upon conviction, be punished by a fine of not more
7 than \$10,000. If a conviction of a person is for a violation
8 committed after a first conviction of such person under
9 this subsection, punishment shall be by a fine of not more
10 than \$20,000 per day of violation. Each day of continuing
11 violation may be deemed a separate violation for purposes
12 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 subtitle C; or

17 (2) violates any other requirement of a permit
18 issued under this title, 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 If a conviction of a person is for a violation committed
23 after the first conviction of such person under this sub-
24 section, punishment shall be a fine of not less than
25 \$10,000 per day of violation.

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

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

9 (j) ADJUSTMENT OF PENALTIES.—The Secretary
10 may adjust the penalties described in this section as nec-
11 essary.

12 **SEC. 147. REGULATIONS.**

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

20 **SEC. 148. EFFECTIVE DATE.**

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

23 **SEC. 149. SAVINGS CLAUSE.**

24 (a) SPECIAL APPLICATION OF MINING LAWS.—Noth-
25 ing in this title shall be construed as repealing or modi-

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

21 (b) EFFECT ON OTHER FEDERAL LAWS.—The provi-
22 sions of this title shall supersede the general mining laws,
23 except for those parts of the general mining laws respect-
24 ing location of mining claims that are not expressly modi-
25 fied by this title. Except for the general mining laws, noth-

1 ing in this title shall be construed as superseding, modi-
2 fying, amending, or repealing any provision of Federal law
3 not expressly superseded, modified, amended, or repealed
4 by this title. Nothing in this title shall be construed as
5 altering, affecting, amending, modifying, or changing, di-
6 rectly or indirectly, any law which refers to and provides
7 authorities or responsibilities for, or is administered by,
8 the Environmental Protection Agency or the Adminis-
9 trator of the Environmental Protection Agency, including
10 the Federal Water Pollution Control Act, title XIV of the
11 Public Health Service Act (the Safe Drinking Water Act),
12 the Clean Air Act, the Pollution Prevention Act of 1990,
13 the Toxic Substances Control Act, the Federal Insecticide,
14 Fungicide, and Rodenticide Act, the Federal Food, Drug,
15 and Cosmetic Act, the Motor Vehicle Information and
16 Cost Savings Act, the Federal Hazardous Substances Act,
17 the Endangered Species Act of 1973, the Atomic Energy
18 Act, the Noise Control Act of 1972, the Solid Waste Dis-
19 posal Act, the Comprehensive Environmental Response,
20 Compensation, and Liability Act of 1980, the Superfund
21 Amendments and Reauthorization Act of 1986, the Ocean
22 Dumping Act, the Environmental Research, Development,
23 and Demonstration Authorization Act, the Pollution Pros-
24 ection Act of 1990, and the Federal Facilities Compli-
25 ance Act of 1992, or any statute containing an amend-

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

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

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

19 **SEC. 150. AVAILABILITY OF PUBLIC RECORDS.**

20 Copies of records, reports, inspection materials, or in-
21 formation obtained by the Secretary or the Secretary of
22 Agriculture under this title shall be made available to the
23 public, consistent with section 552 of title 5, United States
24 Code, in central and sufficient locations in the county,
25 multicounty, and State area of mineral activity or rec-

1 lamation so that such items are conveniently available to
2 residents in the area proposed or approved for mineral ac-
3 tivities and on the Internet.

4 **SEC. 151. MISCELLANEOUS POWERS.**

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

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

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

23 (2) Administer oaths.

24 (3) Require by subpoena the attendance and
25 testimony of witnesses and the production of all

1 books, papers, records, documents, matter, and ma-
2 terials, as such Secretary may request.

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

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

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

23 (d) ENTRY AND ACCESS.—Without advance notice
24 and upon presentation of appropriate credentials, the Sec-

1 retary, or for National Forest System lands the Secretary
2 of Agriculture, or any authorized representative thereof—

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

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

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

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

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

13 **SEC. 152. MULTIPLE MINERAL DEVELOPMENT AND SUR-**
14 **FACE RESOURCES.**

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

22 **SEC. 153. MINERAL MATERIALS.**

23 (a) DETERMINATIONS.—Section 3 of the Act of July
24 23, 1955 (30 U.S.C. 611), is amended—

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

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

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

5 (4) by adding the following new subsection at
6 the end thereof:

7 “(b)(1) Subject to valid existing rights, after the date
8 of enactment of the Mining Reform and Deficit Reduction
9 Act of 2013, notwithstanding the reference to common va-
10 rieties in subsection (a) and to the exception to such term
11 relating to a deposit of materials with some property giv-
12 ing it distinct and special value, all deposits of mineral
13 materials referred to in such subsection, including the
14 block pumice referred to in such subsection, shall be sub-
15 ject to disposal only under the terms and conditions of
16 the Materials Act of 1947.

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

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

24 “(B) was properly located and maintained
25 under the general mining laws prior to the date of

1 enactment of the Mining Reform and Deficit Reduc-
2 tion Act of 2013;

3 “(C) was supported by a discovery of a valuable
4 mineral deposit within the meaning of the general
5 mining laws as in effect immediately prior to the
6 date of enactment of the Mining Reform and Deficit
7 Reduction Act of 2013; and

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

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

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

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

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

22 (d) SHORT TITLES.—

23 (1) SURFACE RESOURCES.—The Act of July
24 23, 1955, is amended by inserting after section 7
25 the following new section:

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

3 (2) MINERAL MATERIALS.—The Act of July 31,
4 1947, entitled “An Act to provide for the disposal of
5 materials on the public lands of the United States”
6 (30 U.S.C. 601 et seq.) is amended by inserting
7 after section 4 the following new section:

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

10 (e) REPEALS.—

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

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

18 **TITLE II—ABANDONED MINE**

19 **RECLAMATION**

20 **SEC. 201. SHORT TITLE.**

21 This title may be cited as the “Abandoned Mine Rec-
22 lamation and Deficit Reduction Act of 2013”.

23 **SEC. 202. DEFINITIONS AND REFERENCES.**

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

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

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

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

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

24 (5) The term “displaced material” means any
25 crude ore and waste dislodged from its location at

1 the time hardrock mining begins at surface, under-
2 ground, or in-situ mines.

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

7 (7) The term “Federal land” means any land,
8 including mineral interests, owned by the United
9 States without regard to how the United States ac-
10 quired ownership of the land and without regard to
11 the agency having responsibility for management
12 thereof, except Indian lands.

13 (8) The term “hardrock” means any mineral
14 mined under the Mining Law of 1872 (30 U.S.C.
15 22–54), and with respect to State, Indian, and pri-
16 vate lands, any minerals on those lands that would
17 be considered hardrock minerals if such minerals
18 had been mined under the Mining Law of 1872.

19 (9) The term “hardrock mining operation”
20 means any activities or operations conducted to mine
21 minerals under the Mining Law of 1872 (30 U.S.C.
22 22–54), and, with respect to State, Indian, and pri-
23 vate lands, any activities or operations conducted on
24 such lands to mine minerals that would be consid-
25 ered hardrock minerals if such minerals had been

1 mined under the Mining Law of 1872: *Provided,*
2 *however,* That if subsequent to the date of enact-
3 ment of this Act, any minerals mined under the
4 Mining Law of 1872 are transferred from the re-
5 quirements of the Mining Law of 1872 to different
6 statutory requirements, those activities or operations
7 conducted on lands to mine those minerals so trans-
8 ferred will continue to be subject to the provisions
9 of this title.

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

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

24 (12) The term “mineral activities” means any
25 activity on a mining claim, millsite claim, or tunnel

1 site claim for, related to, or incidental to, mineral
2 exploration, mining, beneficiation, processing, or rec-
3 lamation activities for any hardrock mineral.

4 (13) The term “operator” means any person
5 that conducts mineral activities and any agent of
6 such person.

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

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

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

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

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

1 (b) REFERENCES TO OTHER LAWS.—(1) Any ref-
2 erence in this title to the term “general mining laws” is
3 a reference to those Acts that generally comprise chapters
4 2, 12A, and 16, and sections 161 and 162, of title 30,
5 United States Code.

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

12 **Subtitle A—Hardrock Mining** 13 **Reclamation**

14 **SEC. 211. DISPLACED MATERIAL RECLAMATION FEE.**

15 (a) IMPOSITION OF FEE.—Except as provided in
16 paragraph (2), each operator of a hardrock mining oper-
17 ation shall pay to the Secretary, for deposit in the Aban-
18 doned Mine Cleanup Fund established by section 221(a),
19 a displaced material reclamation fee of 7 cents per ton
20 of displaced material.

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

1 (c) SUBMISSION OF STATEMENT.—Together with
2 such reclamation fee, all operators of hardrock mining op-
3 erations shall submit a statement of the amount of dis-
4 placed materials produced during mineral activities during
5 the previous calendar year, the accuracy of which shall be
6 sworn to by the operator and notarized.

7 (d) PENALTY.—Any person, corporate officer, agent
8 or director, on behalf of a hardrock mining operation, who
9 knowingly makes any false statement, representation or
10 certification, or knowingly fails to make any statement,
11 representation or certification required in this section
12 shall, upon conviction, be punished by a fine of not more
13 than \$10,000.

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

20 (f) DEPOSIT OF REVENUES.—Amounts received by
21 the Secretary under subsection (a)(1) shall be deposited
22 in the Abandoned Mine Cleanup Fund established by sec-
23 tion 221(a).

1 (g) 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 **SEC. 212. FEES ADJUSTMENTS.**

5 (a) IN GENERAL.—The Secretary of the Interior shall
6 adjust the fees required by section 211 to reflect changes
7 in the Consumer Price Index published by the Bureau of
8 Labor Statistics of the Department of Labor every 5 years
9 after the date of enactment of this Act, or more frequently
10 if the Secretary determines an adjustment to be reason-
11 able.

12 (b) NOTICE.—The Secretary shall provide claimants
13 notice of any adjustment made under this section not later
14 than July 1 of any year in which the adjustment is made.

15 (c) APPLICATION.—A fee adjustment under this sec-
16 tion shall begin to apply in the calendar year following
17 the calendar year in which it is made.

18 **Subtitle B—Abandoned Mine**
19 **Cleanup Fund**

20 **SEC. 221. ESTABLISHMENT OF FUND.**

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

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

4 (2) All amounts deposited in the Fund under
5 section 211.

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

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

18 (c) ADMINISTRATION.—

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

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

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

5 (d) EXPENDITURES.—Subject to section 222,
6 amounts in the Fund may, without fiscal year limitation
7 and without further appropriation—

8 (1) be expended by the Secretary for the pur-
9 poses described in section 222;

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

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

22 (e) STATE AND TRIBAL RECLAMATION PROGRAMS.—

23 (1) Each State having within the borders of the
24 State, or tribe having within the borders of the res-
25 ervation of the tribe, mined land that is eligible for

1 reclamation under this title may submit to the Sec-
2 retary a reclamation program for the land.

3 (2) If the Secretary determines that a State or
4 tribe has developed and submitted a program for
5 reclamation of abandoned mines consistent with the
6 priorities established under section 222(c) and has
7 the ability and necessary State or tribal legislation
8 to implement this subtitle, the Secretary shall—

9 (A) approve the program; and

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

13 (3) The Secretary shall withdraw the approval
14 and authorization if the Secretary determines that
15 the State or tribal program is not in compliance with
16 procedures, guidelines, and requirements established
17 by the Secretary.

18 (4) Subject to paragraph (3), any State pro-
19 gram in an abandoned hardrock mine State or tribal
20 program for reclamation of abandoned mines ap-
21 proved under title IV of the Surface Mining Control
22 and Reclamation Act of 1977 (30 U.S.C. 1231 et
23 seq.) before the date of enactment of this Act and
24 in good standing with the Secretary as of that date
25 shall be considered approved under this subtitle.

1 **SEC. 222. USE AND OBJECTIVES OF THE FUND.**

2 (a) USE.—

3 (1) The Secretary may, subject to the avail-
4 ability of appropriations, use amounts in the Fund
5 for the reclamation and restoration of land and
6 water resources adversely affected by past hardrock
7 minerals and mining and related activities in aban-
8 doned hardrock mine States and on Indian land lo-
9 cated within the exterior boundaries of abandoned
10 hardrock mine States, including the conduct of ac-
11 tivities—

12 (A) to protect public health and safety;

13 (B) to prevent, abate, treat, and control
14 water pollution created by abandoned mine
15 drainage, including activities conducted in wa-
16 tersheds;

17 (C) to reclaim and restore abandoned sur-
18 face and underground mined areas;

19 (D) to reclaim and restore abandoned mill-
20 ing and processing areas;

21 (E) to backfill, seal, or otherwise control
22 abandoned underground mine entries;

23 (F) to revegetate land adversely affected
24 by past mining activities—

25 (i) to prevent erosion and sedimenta-
26 tion; and

1 (ii) for any other reclamation purpose;

2 (G) to control surface subsidence due to
3 abandoned underground mines; and

4 (H) to enhance fish and wildlife habitat.

5 (2) Before expending amounts in the Fund for
6 the purposes described in paragraph (1), the Sec-
7 retary shall make a determination that no claim
8 holder, operator, or other person who is legally re-
9 sponsible under Federal or State law for the rec-
10 lamation of the mine site can be located before rec-
11 lamation under this title of the abandoned hardrock
12 mine site begins.

13 (b) ALLOCATION.—Of the amounts deposited in the
14 Fund each fiscal year—

15 (1) 30 percent shall be allocated by the Sec-
16 retary for expenditure by the Secretary or, if a State
17 or Indian tribe has a program approved under sec-
18 tion 221(e), by the State or Indian tribe, in the
19 States in which, or on Indian land on which,
20 hardrock minerals are produced, based on a formula
21 reflecting existing production in the State or on the
22 land of the Indian tribe;

23 (2) 30 percent shall be allocated by the Sec-
24 retary for expenditure by the Secretary or, if a State
25 or Indian tribe has a program approved under sec-

1 tion 221(e), by the State or Indian tribe, in the
2 States and on Indian land using a formula based on
3 the quantity of hardrock minerals historically pro-
4 duced in the State or from the Indian land before
5 the date of enactment of this Act;

6 (3) 30 percent shall be allocated by the Sec-
7 retary for expenditures on high priority abandoned
8 mine sites on Federal and non-Federal land based
9 on the priorities established in subsection (c); and

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

12 (c) PRIORITIES.—Expenditures of moneys from the
13 Fund shall reflect the following priorities in the order stat-
14 ed:

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

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

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

1 (4) For the years 2013 through 2018, the Sec-
2 retary shall give first priority to and fully fund
3 projects to cleanup and reclaim abandoned hardrock
4 mines—

5 (A) in States and tribal lands that have
6 previously been certified for completing their
7 reclamation obligations under the Surface Min-
8 ing Control and Reclamation Act of 1977 (30
9 U.S.C. 1201 et seq.); and

10 (B) that are currently utilizing funds avail-
11 able under section 411 of the Surface Mining
12 Control and Reclamation Act of 1977 (30
13 U.S.C. 1201 et seq.) to fund the cleanup of
14 abandoned hardrock mines. The Secretary shall
15 fund, to the extent that funds are available in
16 the Abandoned Mine Cleanup Fund, such clean-
17 ups to the same level as established by the for-
18 mula established in the Surface Mining Control
19 and Reclamation Act of 1977 (30 U.S.C. 1201
20 et seq.) notwithstanding the changes made
21 under subtitle C of this title.

22 (d) GRANTS TO PUBLIC ENTITIES AND NONPROFIT
23 ORGANIZATIONS.—The Secretary shall use amounts made
24 available under subsection (b)(4) to make grants to public
25 entities (including State fish and game agencies and local

1 governments) and nonprofit organizations (based on cri-
2 teria established by the Secretary by regulation) to carry
3 out activities that support collaborative restoration
4 projects to improve fish and wildlife habitat affected by
5 past hardrock minerals and mining activities, including ac-
6 tivities that—

7 (1) improve water quality and quantity;

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

10 (3) restore instream habitat conditions nec-
11 essary to support aquatic species;

12 (4) restore vegetative cover and streamside
13 areas to control erosion and improve conditions for
14 fish and wildlife;

15 (5) control and remove noxious weeds and
16 invasive species associated with historic mining dis-
17 turbances that affect fish and wildlife;

18 (6) restore fish and wildlife habitat in cases in
19 which previous hardrock minerals and mining activ-
20 ity limits fish and wildlife productivity;

21 (7) protect and restore fish and wildlife habitat
22 in areas affected by historic minerals and mining ac-
23 tivity; and

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

1 (e) HABITAT.—Reclamation and restoration activities
2 under this subtitle shall include appropriate mitigation
3 measures to provide for the continuation of any estab-
4 lished habitat for wildlife in existence prior to the com-
5 mencement of such activities.

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

1 **SEC. 223. ELIGIBLE LANDS AND WATERS.**

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

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

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

19 (b) **SPECIFIC SITES AND AREAS NOT ELIGIBLE.**—
20 Sites and areas designated for remedial action pursuant
21 to the Uranium Mill Tailings Radiation Control Act of
22 1978 (42 U.S.C. 7901 et seq.) or that have been listed
23 for remedial action pursuant to the Comprehensive Envi-
24 ronmental Response Compensation and Liability Act of
25 1980 (42 U.S.C. 9601 et seq.) shall not be eligible for
26 expenditures from the Fund under this section.

1 (c) INVENTORY.—

2 (1) The Secretary shall prepare and maintain a
3 publicly available inventory of abandoned hardrock
4 minerals mines on public lands and any abandoned
5 hardrock mineral mines on Indian lands that may be
6 eligible for expenditures under this subtitle, and
7 shall deliver a yearly report to the Congress on the
8 progress in cleanup of such sites.

9 (2) Not later than 5 years after the date of en-
10 actment of this Act, and every 5 years thereafter,
11 the Secretary shall update the inventory described in
12 paragraph (1).

13 **Subtitle C—Administrative** 14 **Provisions**

15 **SEC. 231. EFFECTIVE DATE.**

16 This title shall take effect on the date of enactment
17 of this Act.

18 **SEC. 232. FEES ADJUSTMENTS.**

19 (a) IN GENERAL.—The Secretary of the Interior shall
20 adjust the fees required by section 211 to reflect changes
21 in the Consumer Price Index published by the Bureau of
22 Labor Statistics of the Department of Labor every 5 years
23 after the date of enactment of this Act, or more frequently
24 if the Secretary determines an adjustment to be reason-
25 able.

1 (b) NOTICE.—The Secretary shall provide claimants
2 notice of any adjustment made under this section not later
3 than July 1 of any year in which the adjustment is made.

4 (c) APPLICATION.—A fee adjustment under this sec-
5 tion shall begin to apply in the calendar year following
6 the calendar year in which it is made.

7 **SEC. 233. INSPECTION AND MONITORING.**

8 (a) INSPECTIONS.—The Secretary of the Interior
9 shall make inspections of mineral activities so as to ensure
10 compliance with the requirements of this title.

11 (b) ANCILLARY POWERS.—In connection with any
12 hearing, inquiry, investigation, or audit under this title,
13 the Secretary may take any of the following actions:

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

20 (2) Administer oaths.

21 (3) Require by subpoena the attendance and
22 testimony of witnesses and the production of all
23 books, papers, records, documents, matter, and ma-
24 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 or any authorized representative thereof—

24 (1) shall have the right of entry to, upon, or
25 through the site of any claim, mineral activities, or

1 any premises in which any records required to be
2 maintained under this title are located;

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

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

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

22 **SEC. 234. REGULATIONS.**

23 The Secretary of the Interior and the Secretary of
24 Agriculture shall issue such regulations as are necessary
25 to implement this Act. The regulations implementing sub-

1 title B, subtitle C, subtitle D, and subtitle E that affect
2 the Forest Service shall be joint regulations issued by both
3 Secretaries, and shall be issued no later than 180 days
4 after the date of enactment of this Act.

5 **SEC. 235. AVAILABILITY OF PUBLIC RECORDS.**

6 Copies of records, reports, inspection materials, or in-
7 formation obtained by the Secretary of the Interior or the
8 Secretary of Agriculture under this title shall be made im-
9 mediately available to the public, consistent with section
10 552 of title 5, United States Code, in central and suffi-
11 cient locations in the county, multicounty, and State area
12 of mineral activity or reclamation so that such items are
13 conveniently available to residents in the area proposed or
14 approved for mineral activities and on the Internet.

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