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(Original Signature of Member)

112TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To direct the Secretary of the Interior to establish an annual production incentive fee with respect to Federal onshore and offshore lands that are subject to a lease for production of oil or natural gas under which production is not occurring, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. MARKEY introduced the following bill; which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To direct the Secretary of the Interior to establish an annual production incentive fee with respect to Federal onshore and offshore lands that are subject to a lease for production of oil or natural gas under which production is not occurring, 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.**

4 This Act may be cited as the “Fair Payment for En-  
5 ergy and Mineral Production on Public Lands Act”.

**1 SEC. 2. TABLE OF CONTENTS.**

2 The table of contents for this Act is the following:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—USE IT ACT

- Sec. 101. Short title.
- Sec. 102. Production incentive fee.

TITLE II—DEFICIT REDUCTION THROUGH FAIR OIL ROYALTIES

- Sec. 201. Short title.
- Sec. 202. Eligibility for new leases and the transfer of leases.
- Sec. 203. Price thresholds for royalty suspension provisions.
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TITLE III—OCS FACILITY INSPECTIONS

- Sec. 301. Short title.
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- Sec. 511. Royalty.
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- Sec. 531. General standard for hardrock mining on Federal land.
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- Sec. 621. Establishment of fund.
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- Sec. 631. Amendments to the Surface Mining Control and Reclamation Act.

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- Sec. 641. Effective date.
- Sec. 642. Fees adjustments.
- Sec. 643. Inspection and monitoring.
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- Sec. 701. Short title.
- Sec. 702. Making permanent net receipts sharing for energy minerals.

1                   **TITLE I—USE IT ACT**

2   **SEC. 101. SHORT TITLE.**

3           This title may be cited as the “United States Explo-  
4 ration on Idle Tracts Act” or the “USE IT Act”.

5   **SEC. 102. PRODUCTION INCENTIVE FEE.**

6           (a) **ESTABLISHMENT.**—The Secretary of the Interior  
7 shall, within 180 days after the date of enactment of this  
8 Act, issue regulations to establish an annual production  
9 incentive fee with respect to Federal onshore and offshore  
10 lands that are subject to a lease for production of oil or  
11 natural gas under which production is not occurring. Such  
12 fee shall apply with respect to lands that are subject to  
13 such a lease that is in effect on the date final regulations  
14 are promulgated under this subsection or that is issued  
15 thereafter.

16           (b) **AMOUNT.**—The amount of the fee shall be, for  
17 each acre of land from which oil or natural gas is produced  
18 for less than 90 days in a calendar year—

19                   (1) in the case of onshore land—

20                           (A) for each of the first 3 years of the  
21 lease, \$4 per acre in 2011 dollars;

22                           (B) for the fourth year of the lease, \$6 per  
23 acre in 2011 dollars; and

1 (C) for the fifth year of the lease and each  
2 year thereafter for which the lease is otherwise  
3 in effect, \$8 per acre in 2011 dollars; and

4 (2) in the case of offshore land—

5 (A) for each of the third, fourth, and fifth  
6 years of the lease, \$4 per acre in 2011 dollars;

7 (B) for the sixth year of the lease, \$6 per  
8 acre in 2011 dollars; and

9 (C) for the seventh year of the lease and  
10 each year thereafter for which the lease is oth-  
11 erwise in effect, \$8 per acre in 2011 dollars.

12 (c) ASSESSMENT AND COLLECTION.—The Secretary  
13 shall assess and collect the fee established under this sec-  
14 tion.

15 (d) DEPOSIT.—Amounts received by the United  
16 States as the fee under this section shall be deposited in  
17 the general fund of the Treasury.

18 (e) REGULATIONS.—The Secretary of the Interior  
19 may issue regulations to prevent evasion of the fee under  
20 this section.

## 21 **TITLE II—DEFICIT REDUCTION** 22 **THROUGH FAIR OIL ROYALTIES**

### 23 **SEC. 201. SHORT TITLE.**

24 This title may be cited as the “Deficit Reduction  
25 Through Fair Oil Royalties Act”.

1 **SEC. 202. ELIGIBILITY FOR NEW LEASES AND THE TRANS-**  
2 **FER OF LEASES.**

3 (a) ISSUANCE OF NEW LEASES.—

4 (1) IN GENERAL.—The Secretary shall not  
5 issue any new lease that authorizes the production  
6 of oil or natural gas under the Outer Continental  
7 Shelf Lands Act (43 U.S.C. 1331 et seq.) to a per-  
8 son described in paragraph (2) unless the person has  
9 renegotiated each covered lease with respect to which  
10 the person is a lessee, to modify the payment re-  
11 sponsibilities of the person to require the payment of  
12 royalties if the price of oil and natural gas is greater  
13 than or equal to the price thresholds described in  
14 clauses (v) through (vii) of section 8(a)(3)(C) of the  
15 Outer Continental Shelf Lands Act (43 U.S.C.  
16 1337(a)(3)(C)).

17 (2) PERSONS DESCRIBED.—A person referred  
18 to in paragraph (1) is a person that—

19 (A) is a lessee that—

20 (i) holds a covered lease on the date  
21 on which the Secretary considers the  
22 issuance of the new lease; or

23 (ii) was issued a covered lease before  
24 the date of enactment of this Act, but  
25 transferred the covered lease to another  
26 person or entity (including a subsidiary or

1           affiliate of the lessee) after the date of en-  
2           actment of this Act; or

3           (B) any other person that has any direct  
4           or indirect interest in, or that derives any ben-  
5           efit from, a covered lease.

6           (3) MULTIPLE LESSEES.—

7           (A) IN GENERAL.—For purposes of para-  
8           graph (1), if there are multiple lessees that own  
9           a share of a covered lease, the Secretary may  
10          implement separate agreements with any lessee  
11          with a share of the covered lease that modifies  
12          the payment responsibilities with respect to the  
13          share of the lessee to include price thresholds  
14          that are equal to or less than the price thresh-  
15          olds described in clauses (v) through (vii) of  
16          section 8(a)(3)(C) of the Outer Continental  
17          Shelf Lands Act (43 U.S.C. 1337(a)(3)(C)).

18          (B) TREATMENT OF SHARE AS COVERED  
19          LEASE.—Beginning on the effective date of an  
20          agreement under subparagraph (A), any share  
21          subject to the agreement shall not constitute a  
22          covered lease with respect to any lessees that  
23          entered into the agreement.

24          (b) TRANSFERS.—A lessee or any other person who  
25          has any direct or indirect interest in, or who derives a

1 benefit from, a lease shall not be eligible to obtain by sale  
2 or other transfer (including through a swap, spinoff, serv-  
3 icing, or other agreement) any covered lease, the economic  
4 benefit of any covered lease, or any other lease for the  
5 production of oil or natural gas in the Gulf of Mexico  
6 under the Outer Continental Shelf Lands Act (43 U.S.C.  
7 1331 et seq.), unless the lessee or other person has—

8           (1) renegotiated each covered lease with respect  
9           to which the lessee or person is a lessee, to modify  
10           the payment responsibilities of the lessee or person  
11           to include price thresholds that are equal to or less  
12           than the price thresholds described in clauses (v)  
13           through (vii) of section 8(a)(3)(C) of the Outer Con-  
14           tinental Shelf Lands Act (43 U.S.C. 1337(a)(3)(C));  
15           or

16           (2) entered into an agreement with the Sec-  
17           retary to modify the terms of all covered leases of  
18           the lessee or other person to include limitations on  
19           royalty relief based on market prices that are equal  
20           to or less than the price thresholds described in  
21           clauses (v) through (vii) of section 8(a)(3)(C) of the  
22           Outer Continental Shelf Lands Act (43 U.S.C.  
23           1337(a)(3)(C)).

24           (c) USE OF AMOUNTS FOR DEFICIT REDUCTION.—  
25 Notwithstanding any other provision of law, any amounts

1 received by the United States as rentals or royalties under  
2 covered leases shall be deposited in the Treasury and used  
3 for Federal budget deficit reduction or, if there is no Fed-  
4 eral budget deficit, for reducing the Federal debt in such  
5 manner as the Secretary of the Treasury considers appro-  
6 priate.

7 (d) DEFINITIONS.—In this section—

8 (1) COVERED LEASE.—The term “covered  
9 lease” means a lease for oil or gas production in the  
10 Gulf of Mexico that is—

11 (A) in existence on the date of enactment  
12 of this Act;

13 (B) issued by the Department of the Inte-  
14 rior under section 304 of the Outer Continental  
15 Shelf Deep Water Royalty Relief Act (43  
16 U.S.C. 1337 note; Public Law 104–58); and

17 (C) not subject to limitations on royalty re-  
18 lief based on market price that are equal to or  
19 less than the price thresholds described in  
20 clauses (v) through (vii) of section 8(a)(3)(C) of  
21 the Outer Continental Shelf Lands Act (43  
22 U.S.C. 1337(a)(3)(C)).

23 (2) LESSEE.—The term “lessee” includes any  
24 person or other entity that controls, is controlled by,  
25 or is in or under common control with, a lessee.

1           (3) SECRETARY.—The term “Secretary” means  
2           the Secretary of the Interior.

3   **SEC. 203. PRICE THRESHOLDS FOR ROYALTY SUSPENSION**  
4                                   **PROVISIONS.**

5           The Secretary of the Interior shall agree to a request  
6 by any lessee to amend any lease issued for any Central  
7 and Western Gulf of Mexico tract in the period of January  
8 1, 1996, through November 28, 2000, to incorporate price  
9 thresholds applicable to royalty suspension provisions, that  
10 are equal to or less than the price thresholds described  
11 in clauses (v) through (vii) of section 8(a)(3)(C) of the  
12 Outer Continental Shelf Lands Act (43 U.S.C.  
13 1337(a)(3)(C)). Any amended lease shall impose the new  
14 or revised price thresholds effective October 1, 2012. Ex-  
15 isting lease provisions shall prevail through September 30,  
16 2012.

17   **SEC. 204. REPEAL OF ROYALTY RELIEF PROVISIONS.**

18           (a) REPEAL OF PROVISIONS OF ENERGY POLICY ACT  
19 OF 2005.—The following provisions of the Energy Policy  
20 Act of 2005 (Public Law 109-58) are repealed:

21           (1) Section 344 (42 U.S.C. 15904; relating to  
22           incentives for natural gas production from deep wells  
23           in shallow waters of the Gulf of Mexico).

1           (2) Section 345 (42 U.S.C. 15905; relating to  
2           royalty relief for deep water production in the Gulf  
3           of Mexico).

4           (b) REPEAL OF PROVISIONS RELATING TO PLAN-  
5           NING AREAS OFFSHORE ALASKA.—Section 8(a)(3)(B) of  
6           the Outer Continental Shelf Lands Act (43 U.S.C.  
7           1337(a)(3)(B)) is amended by striking “and in the Plan-  
8           ning Areas offshore Alaska”.

9                           **TITLE III—OCS FACILITY**  
10                           **INSPECTIONS**

11           **SEC. 301. SHORT TITLE.**

12           This title may be cited as the “No Free Inspections  
13           for Oil Companies Act”.

14           **SEC. 302. OCS FACILITY INSPECTION FEES.**

15           Section 22 of the Outer Continental Shelf Lands Act  
16           (43 U.S.C. 1348) is amended by adding at the end of the  
17           section the following:

18           “(g) INSPECTION FEES.—

19                       “(1) ESTABLISHMENT.—The Secretary of the  
20           Interior shall establish, by rule, and collect from the  
21           operators of facilities subject to inspection under  
22           subsection (c) nonrefundable fees for such inspec-  
23           tions—

24                       “(A) at an aggregate level equal to the  
25           amount necessary to offset the annual expenses

1 of inspections of outer Continental Shelf facili-  
2 ties (including mobile offshore drilling units) by  
3 the Department of the Interior; and

4 “(B) using a schedule that reflects the dif-  
5 ferences in complexity among the classes of fa-  
6 cilities to be inspected.

7 “(2) OCEAN ENERGY ENFORCEMENT FUND.—  
8 There is established in the Treasury a fund, to be  
9 known as the ‘Ocean Energy Enforcement Fund’  
10 (referred to in this subsection as the ‘Fund’), into  
11 which shall be deposited amounts collected as fees  
12 under paragraph (1) and which shall be available as  
13 provided under paragraph (3).

14 “(3) AVAILABILITY OF FEES.—Notwithstanding  
15 section 3302 of title 31, United States Code, all  
16 amounts collected by the Secretary under this sec-  
17 tion—

18 “(A) shall be credited as offsetting collec-  
19 tions;

20 “(B) shall be available for expenditure only  
21 for purposes of carrying out inspections of  
22 outer Continental Shelf facilities (including mo-  
23 bile offshore drilling units) and the administra-  
24 tion of the inspection program under this sec-  
25 tion;

1           “(C) shall be available only to the extent  
2           provided for in advance in an appropriations  
3           Act; and

4           “(D) shall remain available until expended.

5           “(4) ANNUAL REPORTS.—

6           “(A) IN GENERAL.—Not later than 60  
7           days after the end of each fiscal year beginning  
8           with fiscal year 2011, the Secretary shall sub-  
9           mit to the Committee on Energy and Natural  
10          Resources of the Senate and the Committee on  
11          Natural Resources of the House of Representa-  
12          tives a report on the operation of the Fund dur-  
13          ing the fiscal year.

14          “(B) CONTENTS.—Each report shall in-  
15          clude, for the fiscal year covered by the report,  
16          the following:

17                  “(i) A statement of the amounts de-  
18                  posited into the Fund.

19                  “(ii) A description of the expenditures  
20                  made from the Fund for the fiscal year, in-  
21                  cluding the purpose of the expenditures.

22                  “(iii) Recommendations for additional  
23                  authorities to fulfill the purpose of the  
24                  Fund.

1                   “(iv) A statement of the balance re-  
2                   maining in the Fund at the end of the fis-  
3                   cal year.”.

4 **TITLE IV—GULF COAST OIL AND**  
5 **GAS ROYALTY GIVEAWAY RE-**  
6 **PEAL**

7 **SEC. 401. SHORT TITLE.**

8           This title may be cited as the “Gulf Coast Oil and  
9 Gas Royalty Giveaway Repeal and Deficit Reduction Act”.

10 **SEC. 402. DISPOSITION OF QUALIFIED OUTER CONTI-**  
11 **NENTAL SHELF REVENUES FROM 181 AREA,**  
12 **181 SOUTH AREA, AND 2002–2007 PLANNING**  
13 **AREAS OF GULF OF MEXICO.**

14           Section 105 of the Gulf of Mexico Energy Security  
15 Act of 2006 (43 U.S.C. 1331 note) is amended to read  
16 as follows:

17 **“SEC. 105. DISPOSITION OF QUALIFIED OUTER CONTI-**  
18 **NENTAL SHELF REVENUES FROM 181 AREA,**  
19 **181 SOUTH AREA, AND 2002–2007 PLANNING**  
20 **AREAS OF GULF OF MEXICO.**

21           “(a) IN GENERAL.—Notwithstanding section 9 of the  
22 Outer Continental Shelf Lands Act (43 U.S.C. 1338) and  
23 subject to the other provisions of this section, for each ap-  
24 plicable fiscal year, the Secretary of the Treasury shall  
25 deposit—



1 **SEC. 502. DEFINITIONS AND REFERENCES.**

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

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

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

8 (B) Any partner of such person.

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

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

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

19 (4) The term “casual use”—

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

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

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

3           (C) does not include—

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

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

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

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

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

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

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

3 (7) The term “exploration”—

4 (A) subject to subparagraphs (B) and (C),  
5 means creating surface disturbance other than  
6 casual use, to evaluate the type, extent, quan-  
7 tity, or quality of minerals present;

8 (B) includes mineral activities associated  
9 with sampling, drilling, and analyzing locatable  
10 mineral values; and

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

13 (8) The term “Federal land” means any land,  
14 and any interest in land, that is owned by the  
15 United States and open to location of mining claims  
16 under the general mining laws and subtitle B of this  
17 title.

18 (9) The term “Indian lands” means lands held  
19 in trust for the benefit of an Indian tribe or indi-  
20 vidual or held by an Indian tribe or individual sub-  
21 ject to a restriction by the United States against  
22 alienation.

23 (10) The term “Indian tribe” means any Indian  
24 tribe, band, nation, pueblo, or other organized group  
25 or community, including any Alaska Native village

1 or regional corporation as defined in or established  
2 pursuant to the Alaska Native Claims Settlement  
3 Act (43 U.S.C. 1601 et seq.), that is recognized as  
4 eligible for the special programs and services pro-  
5 vided by the United States to Indians because of  
6 their status as Indians.

7 (11) The term “locatable mineral”—

8 (A) subject to subparagraph (B), means  
9 any mineral, the legal and beneficial title to  
10 which remains in the United States and that is  
11 not subject to disposition under any of—

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

14 (ii) the Geothermal Steam Act of  
15 1970 (30 U.S.C. 1001 et seq.);

16 (iii) the Act of July 31, 1947, com-  
17 monly known as the Materials Act of 1947  
18 (30 U.S.C. 601 et seq.); or

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

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

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

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

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

5 (12) The term “mineral activities” means any  
6 activity on a mining claim, millsite claim, or tunnel  
7 site claim for, related to, or incidental to, mineral  
8 exploration, mining, beneficiation, processing, or rec-  
9 lamation activities for any locatable mineral.

10 (13) The term “mining claim”—

11 (A) subject to subparagraph (B), means a  
12 claim located under the Mining Law of 1872  
13 within the boundaries of which exist locatable  
14 minerals the claimant intends to extract;

15 (B) does not include a claim located for  
16 the purpose of securing Federal lands for a  
17 waste rock dump, tailings pile, or other pur-  
18 poses incident to processing locatable minerals  
19 extracted elsewhere.

20 (14) The term “National Conservation System  
21 unit” means any unit of the National Park System,  
22 National Wildlife Refuge System, National Wild and  
23 Scenic Rivers System, or National Trails System, or  
24 a National Conservation Area, a National Recreation

1 Area, a National Monument, or any unit of the Na-  
2 tional Wilderness Preservation System.

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

7 (16) 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 (17) The term “processing” means processes  
15 downstream of beneficiation employed to prepare  
16 locatable mineral ore into the final marketable prod-  
17 uct, including smelting and electrolytic refining.

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

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

23 (20) The term “undue degradation” means,  
24 based on consideration of other resource values that  
25 may be affected, the operation or proposed operation

1 fails to comply with the performance standards in  
2 this title or can reasonably be expected to cause sig-  
3 nificant environmental harm to wildlife; land, air, or  
4 water resources; or scientific or cultural resources.

5 (21) The term “valid existing rights” means a  
6 mining claim or millsite claim located on lands de-  
7 scribed in section 521(b), that—

8 (A) was properly located and maintained  
9 under the general mining laws prior to the date  
10 of enactment of this Act;

11 (B) was supported by a discovery of a val-  
12 uable mineral deposit within the meaning of the  
13 general mining laws on the date of enactment  
14 of this Act, and, for millsite claims, does not in-  
15 volve more than one mill site for every mining  
16 claim located for that operation; and

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

18 (b) REFERENCES TO OTHER LAWS.—

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

23 (2) Any reference in this title to the Act of July  
24 23, 1955, is a reference to the Act entitled “An Act  
25 to amend the Act of July 31, 1947 (61 Stat. 681)

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

4 **SEC. 503. APPLICATION RULES.**

5 (a) IN GENERAL.—This title applies to any mining  
6 claim, millsite claim, or tunnel site claim located under  
7 the general mining laws, before, on, or after the date of  
8 enactment of this Act, except as provided in subsection  
9 (b).

10 (b) PREEXISTING CLAIMS.—

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

19 (2)(A) If a plan of operations is approved for  
20 mineral activities on any claim or site referred to in  
21 paragraph (1) prior to the date of enactment of this  
22 Act but such operations have not commenced prior  
23 to the date of enactment of this Act—

24 (i) during the 5-year period beginning  
25 on the date of enactment of this Act, min-

1                   eral activities at such claim or site shall be  
2                   subject to such plan of operations;

3                   (ii) during such 5-year period, modi-  
4                   fications of any such plan may be made in  
5                   accordance with the provisions of law ap-  
6                   plicable prior to the enactment of this Act  
7                   if such modifications are deemed minor by  
8                   the Secretary concerned; and

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

12                  (B) Where an application for modification  
13                  of a plan of operations referred to in subpara-  
14                  graph (A)(ii) has been timely submitted and an  
15                  approved plan expires prior to Secretarial ac-  
16                  tion on the application, mineral activities and  
17                  reclamation may continue in accordance with  
18                  the terms of the expired plan until the Sec-  
19                  retary makes an administrative decision on the  
20                  application.

21                  (c) FEDERAL LANDS SUBJECT TO EXISTING PER-  
22                  MIT.—

23                  (1) Any Federal land shall be subject to the re-  
24                  quirements of section 512(a)(2) if the land is—

25                  (A) subject to an operations permit; and

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

4 (2) Any Federal land added through a plan  
5 modification to an operations permit on Federal land  
6 that is submitted after the date of enactment of this  
7 Act shall be subject to the terms of section  
8 512(a)(3).

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

1     **Subtitle A—Mineral Exploration**  
2                     **and Development**

3     **SEC. 511. ROYALTY.**

4         (a) RESERVATION OF ROYALTY.—

5             (1) IN GENERAL.—Subject to paragraph (2)  
6             production of all locatable minerals from any mining  
7             claim located under the general mining laws and  
8             maintained in compliance with this title, or mineral  
9             concentrates or products derived from locatable min-  
10            erals from any such mining claim, as the case may  
11            be, shall be subject to a royalty of 12.5 percent of  
12            the gross income from mining. The claim holder or  
13            any operator to whom the claim holder has assigned  
14            the obligation to make royalty payments under the  
15            claim and any person who controls such claim holder  
16            or operator shall be liable for payment of such royal-  
17            ties.

18            (2) FEDERAL LAND ADDED TO EXISTING OPER-  
19            ATIONS PERMIT.—Any Federal land added through  
20            a plan modification to an operations permit that is  
21            submitted after the date of enactment of this Act  
22            shall be subject to the royalty that applies to Fed-  
23            eral land under paragraph (1).

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

4           (b) DUTIES OF CLAIM HOLDERS, OPERATORS, AND  
5 TRANSPORTERS.—

6           (1) A person—

7               (A) who is required to make any royalty  
8 payment under this section shall make such  
9 payments to the United States at such times  
10 and in such manner as the Secretary may by  
11 rule prescribe; and

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

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

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

6 (3) A person conducting mineral activities  
7 shall—

8 (A) develop and comply with the site secu-  
9 rity provisions in the operations permit de-  
10 signed to protect from theft the locatable min-  
11 erals, concentrates or products derived there-  
12 from which are produced or stored on a mining  
13 claim, and such provisions shall conform with  
14 such minimum standards as the Secretary may  
15 prescribe by rule, taking into account the vari-  
16 ety of circumstances on mining claims; and

17 (B) not later than the 5th business day  
18 after production begins anywhere on a mining  
19 claim, or production resumes after more than  
20 90 days after production was suspended, notify  
21 the Secretary, in the manner prescribed by the  
22 Secretary, of the date on which such production  
23 has begun or resumed.

24 (4) The Secretary may by rule require any per-  
25 son engaged in transporting a locatable mineral,

1 concentrate, or product derived there from to carry  
2 on his or her person, in his or her vehicle, or in his  
3 or her immediate control, documentation showing, at  
4 a minimum, the amount, origin, and intended des-  
5 tination of the locatable mineral, concentrate, or  
6 product derived there from in such circumstances as  
7 the Secretary determines is appropriate.

8 (c) RECORDKEEPING AND REPORTING REQUIRE-  
9 MENTS.—

10 (1) A claim holder, operator, or other person di-  
11 rectly involved in developing, producing, processing,  
12 transporting, purchasing, or selling locatable min-  
13 erals, concentrates, or products derived therefrom,  
14 subject to this title, through the point of royalty  
15 computation shall establish and maintain any  
16 records, make any reports, and provide any informa-  
17 tion that the Secretary may reasonably require for  
18 the purposes of implementing this section or deter-  
19 mining compliance with rules or orders under this  
20 section. Such records shall include, but not be lim-  
21 ited to, periodic reports, records, documents, and  
22 other data. Such reports may also include, but not  
23 be limited to, pertinent technical and financial data  
24 relating to the quantity, quality, composition volume,  
25 weight, and assay of all minerals extracted from the

1 mining claim. Upon the request of any officer or em-  
2 ployee duly designated by the Secretary conducting  
3 an audit or investigation pursuant to this section,  
4 the appropriate records, reports, or information that  
5 may be required by this section shall be made avail-  
6 able for inspection and duplication by such officer or  
7 employee. Failure by a claim holder, operator, or  
8 other person referred to in the first sentence to co-  
9 operate with such an audit, provide data required by  
10 the Secretary, or grant access to information may,  
11 at the discretion of the Secretary, result in involun-  
12 tary forfeiture of the claim.

13 (2) Records required by the Secretary under  
14 this section shall be maintained for 7 years after re-  
15 lease of financial assurance under section 536 unless  
16 the Secretary notifies the operator that the Sec-  
17 retary has initiated an audit or investigation involv-  
18 ing such records and that such records must be  
19 maintained for a longer period. In any case when an  
20 audit or investigation is underway, records shall be  
21 maintained until the Secretary releases the operator  
22 of the obligation to maintain such records.

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

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

9 (e) COOPERATIVE AGREEMENTS.—

10 (1) The Secretary is authorized to enter into  
11 cooperative agreements with the Secretary of Agri-  
12 culture to share information concerning the royalty  
13 management of locatable minerals, concentrates, or  
14 products derived therefrom, to carry out inspection,  
15 auditing, investigation, or enforcement (not includ-  
16 ing the collection of royalties, civil or criminal pen-  
17 alties, or other payments) activities under this sec-  
18 tion in cooperation with the Secretary, and to carry  
19 out any other activity described in this section.

20 (2) Except as provided in paragraph (3)(A) of  
21 this subsection (relating to trade secrets), and pur-  
22 suant to a cooperative agreement, the Secretary of  
23 Agriculture shall, upon request, have access to all  
24 royalty accounting information in the possession of  
25 the Secretary respecting the production, removal, or

1 sale of locatable minerals, concentrates, or products  
2 derived therefrom from claims on lands open to loca-  
3 tion under this title.

4 (3) Trade secrets, proprietary, and other con-  
5 fidential information protected from disclosure under  
6 section 552 of title 5, United States Code, popularly  
7 known as the Freedom of Information Act, shall be  
8 made available by the Secretary to other Federal  
9 agencies as necessary to assure compliance with this  
10 title and other Federal laws. The Secretary, the Sec-  
11 retary of Agriculture, the Administrator of the Envi-  
12 ronmental Protection Agency, and other Federal of-  
13 ficials shall ensure that such information is provided  
14 protection in accordance with the requirements of  
15 that section.

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

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

1       computed and charged only on the amount of the de-  
2       ficiency and not on the total amount.

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

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

16          (4) The Secretary may waive or reduce the as-  
17      sessment provided in paragraph (2) of this sub-  
18      section if the person liable for royalty payments  
19      under this section corrects the underreporting before  
20      the date such person receives notice from the Sec-  
21      retary that an underreporting may have occurred, or  
22      before 90 days after the date of the enactment of  
23      this section, whichever is later.

24          (5) The Secretary shall waive any portion of an  
25      assessment under paragraph (2) of this subsection

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

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

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

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

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

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

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

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

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

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

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

1 **SEC. 512. HARDROCK MINING CLAIM MAINTENANCE FEE.**

2 (a) FEE.—

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

19 (2)(A) The Secretary shall adjust the fees re-  
20 quired by this section to reflect changes in the Con-  
21 sumer Price Index published by the Bureau of Labor  
22 Statistics 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. The Secretary shall employ the Con-  
26 sumer Price Index for All-Urban Consumers pub-

1 lished by the Department of Labor as the basis for  
2 adjustment, and rounding according to the adjust-  
3 ment process of conditions of the Federal Civil Pen-  
4 alties Inflation Adjustment Act of 1990 (104 Stat.  
5 890)

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

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

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

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

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

6 (e) OTHER REQUIREMENTS.—

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

14 (2) Section 2324 of the Revised Statutes of the  
15 United States (30 U.S.C. 28) is amended by insert-  
16 ing “or section 103(a) of the Hardrock Mining Re-  
17 form and Deficit Reduction Act of 2011” after “Act  
18 of 1993,”.

19 **SEC. 513. EFFECT OF PAYMENTS FOR USE AND OCCUPANCY**  
20 **OF CLAIMS.**

21 Timely payment of the claim maintenance fee re-  
22 quired by section 512 of this title or any related law relat-  
23 ing to the use of Federal land, preserves the claimant’s  
24 ability to use and occupy the Federal land concerned for

1 prospecting and exploration, consistent with and subject  
2 to the requirements of this title and other applicable law.

3 **SEC. 514. LIMITATION ON PATENTS.**

4 (a) MINING CLAIMS.—

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

10 (A) a patent application was filed with the  
11 Secretary on or before September 30, 1994;  
12 and

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

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

1 to the enactment of this Act, unless and until such  
2 determinations are withdrawn or invalidated by the  
3 Secretary or by a court of the United States.

4 (b) MILLSITE CLAIMS.—

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

10 (A) a patent application for such land was  
11 filed with the Secretary on or before September  
12 30, 1994; and

13 (B) all requirements applicable to such  
14 patent application were fully complied with by  
15 that date.

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

1     **Subtitle B—Protection of Special**  
2                                   **Places**

3     **SEC. 521. LANDS OPEN TO LOCATION.**

4             (a) LANDS OPEN TO LOCATION.—Except as provided  
5 in subsection (b), mining claims may be located under the  
6 general mining laws only on such lands and interests as  
7 were open to the location of mining claims under the gen-  
8 eral mining laws immediately before the enactment of this  
9 Act.

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

15                    (1) Wilderness study areas.

16                    (2) Areas of critical environmental concern.

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

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

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

10 **SEC. 522. WITHDRAWAL PETITIONS BY STATES, POLITICAL**  
11 **SUBDIVISIONS, AND INDIAN TRIBES.**

12           (a) IN GENERAL.—Subject to valid existing rights,  
13 any State or political subdivision of a State or an Indian  
14 tribe may submit a petition to the Secretary for the with-  
15 drawal of a specific tract of Federal land from the oper-  
16 ation of the general mining laws, in order to protect spe-  
17 cific values identified in the petition that are important  
18 to the State or political subdivision or Indian tribe. Such  
19 values may include the value of a watershed to supply  
20 drinking water, wildlife habitat value, cultural or historic  
21 resources, or value for scenic vistas important to the local  
22 economy, and other similar values. In the case of an In-  
23 dian tribe, the petition may also identify religious or cul-  
24 tural values that are important to the Indian tribe. The  
25 petition shall contain the information required by section

1 204 of the Federal Land Policy and Management Act of  
2 1976 (43 U.S.C. 1714).

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

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

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

7 (3) shall grant the petition subject to valid ex-  
8 isting rights, unless the Secretary makes and pub-  
9 lishes in the Federal Register specific findings why  
10 a decision to grant the petition would be against the  
11 national interest.

12 **Subtitle C—Environmental Consid-**  
13 **erations of Mineral Exploration**  
14 **and Development**

15 **SEC. 531. GENERAL STANDARD FOR HARDROCK MINING ON**  
16 **FEDERAL LAND.**

17 Notwithstanding section 302(b) of the Federal Land  
18 Policy and Management Act of 1976 (43 U.S.C. 1732(b)),  
19 the first section of the Act of June 4, 1897 (chapter 2;  
20 30 Stat. 36 16 U.S.C. 478), and the National Forest Man-  
21 agement Act of 1976 (16 U.S.C. 1600 et seq.), and in  
22 accordance with this subtitle and applicable law, unless ex-  
23 pressly stated otherwise in this title, the Secretary—

24 (1) shall ensure that mineral activities on any  
25 Federal land that is subject to a mining claim, mill-

1 site claim, or tunnel site claim is carefully controlled  
2 to prevent undue degradation of public lands and re-  
3 sources; and

4 (2) shall not grant permission to engage in min-  
5 eral activities if the Secretary, after considering the  
6 evidence, determines that undue degradation would  
7 result from such activities.

8 **SEC. 532. PERMITS.**

9 (a) PERMITS REQUIRED.—No person may engage in  
10 mineral activities on Federal land that may cause a dis-  
11 turbance of surface resources, including land, air, ground  
12 water and surface water, and fish and wildlife, unless—

13 (1) the claim was properly located under the  
14 general mining laws and maintained in compliance  
15 with such laws and this title; and

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

18 (b) NEGLIGIBLE DISTURBANCE.—Notwithstanding  
19 subsection (a)(2), a permit under this subtitle shall not  
20 be required for mineral activities that are a casual use of  
21 the Federal land.

22 (c) COORDINATION WITH NEPA PROCESS.—The  
23 Secretary and the Secretary of Agriculture shall conduct  
24 the permit processes under this title in coordination with  
25 the timing and other requirements under section 102 of

1 the National Environmental Policy Act of 1969 (42 U.S.C.  
2 4332).

3 **SEC. 533. EXPLORATION PERMIT.**

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

12 (b) PERMIT APPLICATION REQUIREMENTS.—An ap-  
13 plication for an exploration permit under this section shall  
14 be submitted in a manner satisfactory to the Secretary  
15 or, for National Forest System lands, the Secretary of Ag-  
16 riculture, and shall contain an exploration plan, a reclama-  
17 tion plan for the proposed exploration, and such docu-  
18 mentation as necessary to ensure compliance with applica-  
19 ble Federal and State environmental laws and regulations.

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

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

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

8           (2) The applicant has not demonstrated that  
9 proposed reclamation can be accomplished.

10           (3) The proposed exploration activities and con-  
11 dition of the land after the completion of exploration  
12 activities and final reclamation would not conform  
13 with the land use plan applicable to the area subject  
14 to mineral activities.

15           (4) The area subject to the proposed permit is  
16 included within an area not open to location under  
17 section 521.

18           (5) The applicant has not demonstrated that  
19 the exploration plan and reclamation plan will be in  
20 compliance with the requirements of this title and all  
21 other applicable Federal requirements, and any  
22 State requirements agreed to by the Secretary of the  
23 Interior (or Secretary of Agriculture, as appro-  
24 priate).

1           (6) The applicant has not demonstrated that  
2           the requirements of section 536 (relating to financial  
3           assurance) will be met.

4           (7) The applicant is ineligible to receive a per-  
5           mit as determined under section 535.

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

10          (f) PERMIT MODIFICATION.—During the term of an  
11          exploration permit, the permit holder may submit an ap-  
12          plication to modify the permit. To approve a proposed  
13          modification to the permit, the Secretary concerned shall  
14          make the same determinations as are required in the case  
15          of an original permit, except that the Secretary and the  
16          Secretary of Agriculture may specify by joint rule the ex-  
17          tent to which requirements for initial exploration permits  
18          under this section shall apply to applications to modify  
19          an exploration permit based on whether such modifications  
20          are deemed significant or minor.

21          (g) TRANSFER, ASSIGNMENT, OR SALE OF  
22          RIGHTS.—

23                 (1) No transfer, assignment, or sale of rights  
24                 granted by a permit issued under this section shall  
25                 be made without the prior written approval of the

1 Secretary or for National Forest System lands, the  
2 Secretary of Agriculture.

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

7 (A) is eligible to receive a permit in ac-  
8 cordance with section 534(d);

9 (B) has submitted evidence of financial as-  
10 surance satisfactory under section 536; and

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

13 (3) The successor in interest shall assume the  
14 liability and reclamation responsibilities established  
15 by the existing permit and shall conduct the mineral  
16 activities in full compliance with this title, and the  
17 terms and conditions of the permit as in effect at  
18 the time of transfer, assignment, or sale.

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

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

4   **SEC. 534. OPERATIONS PERMIT.**

5       (a) OPERATIONS PERMIT.—

6           (1) Any claim holder that is in compliance with  
7       the general mining laws and section 513 of this title  
8       may apply to the Secretary, or for National Forest  
9       System lands, the Secretary of Agriculture, for an  
10      operations permit authorizing the claim holder to  
11      carry out mineral activities, other than casual use,  
12      on—

13           (A) any valid mining claim, valid millsite  
14      claim, or valid tunnel site claim; and

15           (B) such additional Federal land as the  
16      Secretary may determine is necessary to con-  
17      duct the proposed mineral activities, if the oper-  
18      ator obtains a right-of-way permit for use of  
19      such additional lands under title V of the Fed-  
20      eral Land Policy and Management Act of 1976  
21      (43 U.S.C. 1761 et seq.) and agrees to pay all  
22      fees required under that title for the permit  
23      under that title.

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

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

16           (c) PERMIT ISSUANCE OR DENIAL.—

17           (1) After providing for public participation pur-  
18 suant to subsection (i), the Secretary, or for Na-  
19 tional Forest System lands the Secretary of Agri-  
20 culture, shall issue an operations permit if such Sec-  
21 retary makes each of the following determinations in  
22 writing, and shall deny a permit if such Secretary  
23 finds that the application and applicant do not fully  
24 meet the following requirements:

1           (A) The permit application, including the  
2           site characterization data, operations plan, and  
3           reclamation plan, are complete and accurate  
4           and sufficient for developing a good under-  
5           standing of the anticipated impacts of the min-  
6           eral activities and the effectiveness of proposed  
7           mitigation and control.

8           (B) The applicant has demonstrated that  
9           the proposed reclamation in the operation and  
10          reclamation plan can be and is likely to be ac-  
11          complished by the applicant and will not cause  
12          undue degradation.

13          (C) The condition of the land, including  
14          the fish and wildlife resources and habitat con-  
15          tained thereon, after the completion of mineral  
16          activities and final reclamation, will conform to  
17          the land use plan applicable to the area subject  
18          to mineral activities and are returned to a pro-  
19          ductive use.

20          (D) The area subject to the proposed plan  
21          is open to location for the types of mineral ac-  
22          tivities proposed.

23          (E) The proposed operation has been de-  
24          signed to prevent material damage to the hy-  
25          drologic balance.

1 (F) The applicant will fully comply with  
2 the requirements of section 536 (relating to fi-  
3 nancial assurance) prior to the initiation of op-  
4 erations.

5 (G) Neither the applicant nor operator, nor  
6 any subsidiary, affiliate, or person controlled by  
7 or under common control with the applicant or  
8 operator, is ineligible to receive a permit under  
9 section 535.

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

15 (2) With respect to any activities specified in  
16 the reclamation plan referred to in subsection (b)  
17 that constitutes a removal or remedial action under  
18 section 101 of the Comprehensive Environmental  
19 Response, Compensation, and Liability Act of 1980  
20 (42 U.S.C. 9601 et seq.), the Secretary shall consult  
21 with the Administrator of the Environmental Protec-  
22 tion Agency prior to the issuance of an operations  
23 permit. The Administrator shall ensure that the re-  
24 clamation plan does not require activities that would  
25 increase the costs or likelihood of removal or reme-

1 dial actions under the Comprehensive Environmental  
2 Response, Compensation, and Liability Act of 1980  
3 (42 U.S.C. 9601 et seq.) or corrective actions under  
4 the Solid Waste Disposal Act (42 U.S.C. 6901 et  
5 seq.).

6 (d) TERM OF PERMIT; RENEWAL.—

7 (1) An operations permit—

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

10 (i) the period necessary to accomplish  
11 the proposed mineral activities subject to  
12 the permit; and

13 (ii) 20 years; and

14 (B) shall be renewed for an additional 20-  
15 year period if the operation is in compliance  
16 with the requirements of this title and other ap-  
17 plicable law.

18 (2) Failure by the operator to commence min-  
19 eral activities within 2 years of the date scheduled  
20 in an operations permit shall require a modification  
21 of the permit if the Secretary concerned determines  
22 that modifications are necessary to comply with sec-  
23 tion 521.

24 (e) PERMIT MODIFICATION.—

1           (1) During the term of an operations permit  
2           the operator may submit an application to modify  
3           the permit (including the operations plan or rec-  
4           lamation plan, or both).

5           (2) The Secretary, or for National Forest Sys-  
6           tem lands the Secretary of Agriculture, may, at any  
7           time, require reasonable modification to any oper-  
8           ations plan or reclamation plan upon a determina-  
9           tion that the requirements of this title cannot be met  
10          if the plan is followed as approved. Such determina-  
11          tion shall be based on a written finding and subject  
12          to public notice and hearing requirements estab-  
13          lished by the Secretary concerned.

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

18                 (A) development of acid or toxic drainage;

19                 (B) loss of springs or water supplies;

20                 (C) water quantity, water quality, or other  
21          resulting water impacts that are significantly  
22          different than those predicted in the applica-  
23          tion;

24                 (D) the need for long-term water treat-  
25          ment;

1           (E) significant reclamation difficulties or  
2           reclamation failure;

3           (F) the discovery of significant scientific,  
4           cultural, or biological resources that were not  
5           addressed in the original plan; or

6           (G) the discovery of hazards to public safe-  
7           ty.

8           (f) TEMPORARY CESSATION OF OPERATIONS.—

9           (1) An operator conducting mineral activities  
10          under an operations permit in effect under this sub-  
11          title may not temporarily cease mineral activities for  
12          a period greater than 180 days unless the Secretary  
13          concerned has approved such temporary cessation or  
14          unless the temporary cessation is permitted under  
15          the original permit. Any operator temporarily ceas-  
16          ing mineral activities for a period greater than 90  
17          days under an operations permit issued before the  
18          date of the enactment of this Act shall submit, be-  
19          fore the expiration of such 90-day period, a complete  
20          application for temporary cessation of operations to  
21          the Secretary concerned for approval unless the tem-  
22          porary cessation is permitted under the original per-  
23          mit.

24          (2) An application for approval of temporary  
25          cessation of operations shall include such informa-

1       tion required under subsection (b) and any other  
2       provisions prescribed by the Secretary concerned to  
3       minimize impacts on the environment. After receipt  
4       of a complete application for temporary cessation of  
5       operations such Secretary shall conduct an inspec-  
6       tion of the area for which temporary cessation of op-  
7       erations has been requested.

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

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

17               (B) A determination that reclamation is in  
18       compliance with the approved reclamation plan,  
19       except in those areas specifically designated in  
20       the application for temporary cessation of oper-  
21       ations for which a delay in meeting such stand-  
22       ards is necessary to facilitate the resumption of  
23       operations.

24               (C) A determination that the amount of fi-  
25       nancial assurance filed with the permit applica-

1           tion is sufficient to assure completion of the  
2           reclamation activities identified in the approved  
3           reclamation plan in the event of forfeiture.

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

12          (g) PERMIT REVIEWS.—The Secretary, or for Na-  
13          tional Forest System lands the Secretary of Agriculture,  
14          shall review each permit issued under this section every  
15          10 years during the term of such permit, shall provide  
16          public notice of the permit review, and, based upon a writ-  
17          ten finding, such Secretary shall require the operator to  
18          take such actions as the Secretary deems necessary to as-  
19          sure that mineral activities conform to the permit, includ-  
20          ing adjustment of financial assurance requirements.

21          (h) TRANSFER, ASSIGNMENT, OR SALE OF  
22          RIGHTS.—

23               (1) No transfer, assignment, or sale of rights  
24               granted by a permit under this section shall be made  
25               without the prior written approval of the Secretary,

1 or for National Forest System lands the Secretary  
2 of Agriculture.

3 (2) The Secretary, or for National Forest Sys-  
4 tem lands, the Secretary of Agriculture, may allow  
5 a person holding a permit to transfer, assign, or sell  
6 rights under the permit to a successor, if such Sec-  
7 retary finds, in writing, that the successor—

8 (A) has submitted information required  
9 and is eligible to receive a permit in accordance  
10 with section 535;

11 (B) has submitted evidence of financial as-  
12 surance satisfactory under section 536; and

13 (C) meets any other requirements specified  
14 by such Secretary.

15 (3) The successor in interest shall assume rec-  
16 lamation and other responsibilities established by the  
17 existing permit and shall conduct the mineral activi-  
18 ties in full compliance with this title, and the terms  
19 and conditions of the permit as in effect at the time  
20 of transfer, assignment, or sale.

21 (4) Each application for approval of a permit  
22 transfer, assignment, or sale pursuant to this sub-  
23 section shall be accompanied by a fee payable to the  
24 Secretary of the Interior, or for National Forest  
25 System lands, the Secretary of Agriculture, in such

1 amount as may be established by such Secretary, or  
2 for National Forest System lands, by the Secretary  
3 of Agriculture. Such amount shall be equal to the  
4 actual or anticipated cost to the Secretary or, for  
5 National Forest System lands, to the Secretary of  
6 Agriculture, of reviewing and approving or dis-  
7 approving such transfer, assignment, or sale, as de-  
8 termined by such Secretary.

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

16 **SEC. 535. PERSONS INELIGIBLE FOR PERMITS.**

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

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

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

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

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

19          (c) CORRECTION.—

20                 (1) The Secretary, or for National Forest Sys-  
21                 tem lands the Secretary of Agriculture, may issue or  
22                 reinstate a permit under this subtitle if the applicant  
23                 submits proof that the violation referred to in sub-  
24                 section (a) or (b) has been corrected or is in the  
25                 process of being corrected to the satisfaction of such

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

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

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

21 **SEC. 536. FINANCIAL ASSURANCE.**

22 (a) FINANCIAL ASSURANCE REQUIRED.—

23 (1) Subject to public notice and comment, and  
24 after a permit is issued under this subtitle and be-  
25 fore any exploration or operations begin under the

1 permit, the operator shall file with the Secretary, or  
2 for National Forest System lands the Secretary of  
3 Agriculture, evidence of financial assurance payable  
4 to the United States. The financial assurance shall  
5 be provided in the form of a surety bond, a trust  
6 fund, letters of credits, government securities, cer-  
7 tificates of deposit, cash, or an equivalent form ap-  
8 proved by such Secretary.

9 (2) The financial assurance shall cover all lands  
10 within the initial permit area and all affected waters  
11 that may require restoration, treatment, or other  
12 management as a result of mineral activities, and  
13 shall be extended to cover all lands and waters  
14 added pursuant to any permit modification made  
15 under section 533(f) (relating to exploration per-  
16 mits) or section 534(e) (relating to operations per-  
17 mits), or affected by mineral activities.

18 (b) AMOUNT.—The amount of the financial assur-  
19 ance required under this section shall be sufficient to as-  
20 sure the completion of reclamation and restoration satis-  
21 fying the requirements of this title if the work were to  
22 be performed by the Secretary concerned in the event of  
23 forfeiture, including the construction and maintenance  
24 costs for any treatment facilities necessary to meet Fed-  
25 eral and State environmental requirements. The calcula-

1 tion of such amount shall take into account the maximum  
2 level of financial exposure which shall arise during the  
3 mineral activity and administrative costs associated with  
4 a government agency reclaiming the site.

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

11 (d) ADJUSTMENTS.—The amount of the financial as-  
12 surance and the terms of the acceptance of the assurance  
13 may be adjusted by the Secretary concerned from time to  
14 time as the area requiring coverage is increased or de-  
15 creased, or where the costs of reclamation or treatment  
16 change, or pursuant to section 534(f) (relating to tem-  
17 porary cessation of operations), but the financial assur-  
18 ance shall otherwise be in compliance with this section.  
19 The Secretary concerned shall review the financial guar-  
20 antee every 3 years and as part of the permit application  
21 review under section 534(c).

22 (e) RELEASE.—Upon request, and after notice and  
23 opportunity for public comment, and after inspection by  
24 the Secretary, or for National Forest System lands, the  
25 Secretary of Agriculture, such Secretary may, after con-

1 sultation with the Administrator of the Environmental  
2 Protection Agency, release in whole or in part the financial  
3 assurance required under this section if the Secretary  
4 makes both of the following determinations:

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

8 (2) A determination that the terms and condi-  
9 tions of any other applicable Federal requirements,  
10 and State requirements applicable pursuant to coop-  
11 erative agreements under section 538, have been ful-  
12 filled.

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

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

1 and to assure the long-term success of the revegeta-  
2 tion.

3 (2) After the operator has completed success-  
4 fully all remaining mineral activities and reclamation  
5 activities and all requirements of the operations plan  
6 and the reclamation plan, and all other requirements  
7 of this title have been fully met, including the re-  
8 quirements of subsection (g) of this section, the re-  
9 maining portion of the financial assurance may be  
10 released.

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

16 (g) EFFLUENT.—Notwithstanding section 537(b)(4),  
17 where any discharge or other water-related condition re-  
18 sulting from the mineral activities requires treatment in  
19 order to meet the applicable effluent limitations and water  
20 quality standards, the financial assurance shall include the  
21 estimated cost of maintaining such treatment for the pro-  
22 jected period that will be needed after the cessation of  
23 mineral activities. The portion of the financial assurance  
24 attributable to such estimated cost of treatment shall not  
25 be released until the discharge has ceased for a period of

1 5 years, as determined by ongoing monitoring and testing,  
2 or, if the discharge continues, until the operator has met  
3 all applicable effluent limitations and water quality stand-  
4 ards for 5 full years without treatment.

5 (h) ENVIRONMENTAL HAZARDS.—If the Secretary,  
6 or for National Forest System lands, the Secretary of Ag-  
7 riculture, determines, after final release of financial assur-  
8 ance, that an environmental hazard resulting from the  
9 mineral activities exists, or the terms and conditions of  
10 the explorations or operations permit of this title were not  
11 fulfilled in fact at the time of release, such Secretary shall  
12 issue an order under section 556 requiring the claim hold-  
13 er or operator (or any person who controls the claim hold-  
14 er or operator) to correct the condition such that applica-  
15 ble laws and regulations and any conditions from the plan  
16 of operations are met.

17 **SEC. 537. OPERATION AND RECLAMATION.**

18 (a) GENERAL RULE.—

19 (1) The operator shall restore lands subject to  
20 mineral activities carried out under a permit issued  
21 under this subtitle to a condition capable of sup-  
22 porting—

23 (A) the uses which such lands were capable  
24 of supporting prior to surface disturbance by  
25 the operator, or

1 (B) other beneficial uses which conform to  
2 applicable land use plans as determined by the  
3 Secretary, or for National Forest System lands,  
4 the Secretary of Agriculture.

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

11 (b) OPERATION AND RECLAMATION STANDARDS.—

12 The Secretary of the Interior and the Secretary of Agri-  
13 culture shall jointly promulgate regulations that establish  
14 operation and reclamation standards for mineral activities  
15 permitted under this title. The Secretaries may determine  
16 whether outcome-based performance standards or tech-  
17 nology-based design standards are most appropriate. The  
18 regulations shall address the following:

19 (1) Segregation, protection, and replacement of  
20 topsoil or other suitable growth medium, and the  
21 prevention, where possible, of soil contamination.

22 (2) Maintenance of the stability of all surface  
23 areas.

24 (3) Control of sediments to prevent erosion and  
25 manage drainage.

1           (4) Minimization of the formation and migra-  
2           tion of acidic, alkaline, metal-bearing, or other dele-  
3           terious leachate.

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

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

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

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

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

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

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

24          (c) SURFACE OR GROUNDWATER WITHDRAWALS.—

25          The Secretary shall work with State and local govern-

1 ments with authority over the allocation and use of surface  
2 and groundwater in the area around the mine site as nec-  
3 essary to ensure that any surface or groundwater with-  
4 drawals made as a result of mining activities approved  
5 under this section do not cause undue degradation or re-  
6 sults in material alteration of the hydrologic balance.

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

13 **SEC. 538. STATE LAW AND REGULATION.**

14 (a) STATE LAW.—

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

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

1           (3) Any inspection standard or requirement in  
2           State, county, local, or tribal law or regulation that  
3           meets or exceeds the requirements of this title shall  
4           not be construed to be inconsistent with such re-  
5           quirements.

6           (b) APPLICABILITY OF OTHER STATE REQUIRE-  
7           MENTS.—

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

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

19          (c) COOPERATIVE AGREEMENTS.—

20          (1) Any State may enter into a cooperative  
21          agreement with the Secretary, or for National For-  
22          est System lands the Secretary of Agriculture, for  
23          the purposes of such Secretary applying such stand-  
24          ards and requirements referred to in subsection (a)

1 and subsection (b) to mineral activities or reclama-  
2 tion on lands subject to this title.

3 (2) In such instances where the proposed min-  
4 eral activities would affect lands not subject to this  
5 title in addition to lands subject to this title, in  
6 order to approve a plan of operations the Secretary  
7 concerned shall enter into a cooperative agreement  
8 with the State that sets forth a common regulatory  
9 framework consistent with the requirements of this  
10 title for the purposes of such plan of operations. Any  
11 such common regulatory framework shall not negate  
12 the authority of the Federal Government to inde-  
13 pendently inspect mines and operations and bring  
14 enforcement actions for violations.

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

19 (d) PRIOR AGREEMENTS.—Any cooperative agree-  
20 ment or such other understanding between the Secretary  
21 concerned and any State, or political subdivision thereof,  
22 relating to the management of mineral activities on lands  
23 subject to this title that was in existence on the date of  
24 enactment of this Act may only continue in force until 1  
25 year after the date of enactment of this Act. During such

1 1-year period, the State and the Secretary shall review the  
2 terms of the agreement and make changes that are nec-  
3 essary to be consistent with this title.

4 **SEC. 539. LIMITATION ON THE ISSUANCE OF PERMITS.**

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

13 **Subtitle D—Administrative and**  
14 **Miscellaneous Provisions**

15 **SEC. 541. POLICY FUNCTIONS.**

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

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

24 (2) by adding at the end thereof the following:  
25 “It shall also be the responsibility of the Secretary

1 of Agriculture to carry out the policy provisions of  
2 paragraphs (1) and (2) of this section.”.

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

11 **SEC. 542. USER FEES.**

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

22 (b) ADJUSTMENT.—

23 (1) The Secretary shall adjust the fees required  
24 by this section to reflect changes in the Consumer  
25 Price Index published by the Bureau of Labor Sta-

1       tistics of the Department of Labor every 5 years  
2       after the date of enactment of this Act, or more fre-  
3       quently if the Secretary determines an adjustment to  
4       be reasonable.

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

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

12 **SEC. 543. INSPECTION AND MONITORING.**

13      (a) INSPECTIONS.—

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

18           (2) The Secretary concerned shall establish a  
19      frequency of inspections for mineral activities con-  
20      ducted under a permit issued under subtitle C, but  
21      in no event shall such inspection frequency be less  
22      than one complete inspection per calendar quarter  
23      or, two per calendar quarter in the case of a permit  
24      for which the Secretary concerned approves an appli-  
25      cation under section 534(f) (relating to temporary

1 cessation of operations). After revegetation has been  
2 established in accordance with a reclamation plan,  
3 such Secretary shall conduct annually two complete  
4 inspections. Such Secretary shall have the discretion  
5 to modify the inspection frequency for mineral ac-  
6 tivities that are conducted on a seasonal basis. In-  
7 spections shall continue under this subsection until  
8 final release of financial assurance.

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

1           (B) The Secretaries shall, by joint rule, estab-  
2           lish procedures for the review of (i) any decision by  
3           an authorized representative not to inspect; or (ii)  
4           any refusal by such representative to ensure that re-  
5           medial actions are taken with respect to any alleged  
6           violation. The Secretary concerned shall furnish such  
7           persons requesting the review a written statement of  
8           the reasons for the Secretary's final disposition of  
9           the case.

10          (b) MONITORING.—

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

23           (2) The operator shall file reports with the Sec-  
24           retary, or for National Forest System lands the Sec-  
25           retary of Agriculture, on a frequency determined by

1 the Secretary concerned, on the results of the moni-  
2 toring and evaluation process, except that if the  
3 monitoring and evaluation show a violation of the re-  
4 quirements of a permit approved under this title, it  
5 shall be reported immediately to the Secretary con-  
6 cerned. The Secretary shall evaluate the reports sub-  
7 mitted pursuant to this paragraph, and based on  
8 those reports and any necessary inspection shall take  
9 enforcement action pursuant to this section. Such  
10 reports shall be maintained by the operator and by  
11 the Secretary and shall be made available to the  
12 public.

13 (3) The Secretary, or for National Forest Sys-  
14 tem lands the Secretary of Agriculture, shall deter-  
15 mine what information shall be reported by the oper-  
16 ator pursuant to paragraph (2). A failure to report  
17 as required by the Secretary concerned shall con-  
18 stitute a violation of this title and subject the oper-  
19 ator to enforcement action pursuant to section 556.

20 **SEC. 544. CITIZENS SUITS.**

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

24 (1) against any person (including the Secretary  
25 or the Secretary of Agriculture) who is alleged to be

1 in violation of any of the provisions of this title or  
2 any regulation promulgated pursuant to subtitle C  
3 of this title or any term or condition of any permit  
4 issued under subtitle C of this title; or

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

11 The United States district courts shall have jurisdiction  
12 over actions brought under this section, without regard to  
13 the amount in controversy or the citizenship of the parties,  
14 including actions brought to apply any civil penalty under  
15 this title. The district courts of the United States shall  
16 have jurisdiction to compel agency action unreasonably de-  
17 layed, except that an action to compel agency action re-  
18 viewable under section 555 may only be filed in a United  
19 States district court within the circuit in which such action  
20 would be reviewable under section 555.

21 (b) EXCEPTIONS.—

22 (1) No action may be commenced under sub-  
23 section (a) before the end of the 60-day period be-  
24 ginning on the date the plaintiff has given notice in  
25 writing of such alleged violation to the alleged viola-

1       tor and the Secretary, or for National Forest Sys-  
2       tem lands the Secretary of Agriculture, except that  
3       any such action may be brought immediately after  
4       such notification if the violation complained of con-  
5       stitutes an imminent threat to the environment or to  
6       the health or safety of the public.

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

13          (3) No action may be commenced under para-  
14      graph (2) of subsection (a) against either Secretary  
15      to review any rule promulgated by, or to any permit  
16      issued or denied by such Secretary if such rule or  
17      permit issuance or denial is judicially reviewable  
18      under section 555 or under any other provision of  
19      law at any time after such promulgation, issuance,  
20      or denial is final.

21      (c) VENUE.—Venue of all actions brought under this  
22      section shall be determined in accordance with section  
23      1391 of title 28, United States Code.

24      (d) COSTS.—The court, in issuing any final order in  
25      any action brought pursuant to this section may award

1 costs of litigation (including attorney and expert witness  
2 fees) to any prevailing or substantially prevailing party  
3 whenever the court determines such award is appropriate.  
4 The court may, if a temporary restraining order or pre-  
5 liminary injunction is sought, require the filing of a bond  
6 or equivalent security in accordance with the Federal  
7 Rules of Civil Procedure.

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

22 **SEC. 545. ADMINISTRATIVE AND JUDICIAL REVIEW.**

23 (a) REVIEW BY SECRETARY.—

24 (1)(A) Any person issued a notice of violation  
25 or cessation order under section 556, or any person

1       having an interest which is or may be adversely af-  
2       fected by such notice or order, may apply to the Sec-  
3       retary, or for National Forest System lands the Sec-  
4       retary of Agriculture, for review of the notice or  
5       order within 30 days after receipt thereof, or as the  
6       case may be, within 30 days after such notice or  
7       order is modified, vacated, or terminated.

8               (B) Any person who is subject to a penalty as-  
9       sessed under section 556 may apply to the Secretary  
10      concerned for review of the assessment within 45  
11      days of notification of such penalty.

12              (C) Any person may apply to such Secretary for  
13      review of the decision within 30 days after it is  
14      made.

15              (D) Pending a review by the Secretary or reso-  
16      lution of an administrative appeal, final decisions  
17      (except enforcement actions under section 556) shall  
18      be stayed.

19              (2) The Secretary concerned shall provide an  
20      opportunity for a public hearing at the request of  
21      any party to the proceeding as specified in para-  
22      graph (1). The filing of an application for review  
23      under this subsection shall not operate as a stay of  
24      any order or notice issued under section 556.

1           (3) For any review proceeding under this sub-  
2           section, the Secretary concerned shall make findings  
3           of fact and shall issue a written decision incor-  
4           porating therein an order vacating, affirming, modi-  
5           fying, or terminating the notice, order, or decision,  
6           or with respect to an assessment, the amount of  
7           penalty that is warranted. Where the application for  
8           review concerns a cessation order issued under sec-  
9           tion 556 the Secretary concerned shall issue the  
10          written decision within 30 days of the receipt of the  
11          application for review or within 30 days after the  
12          conclusion of any hearing referred to in paragraph  
13          (2), whichever is later, unless temporary relief has  
14          been granted by the Secretary concerned under  
15          paragraph (4).

16          (4) Pending completion of any review pro-  
17          ceedings under this subsection, the applicant may  
18          file with the Secretary, or for National Forest Sys-  
19          tem lands the Secretary of Agriculture, a written re-  
20          quest that the Secretary grant temporary relief from  
21          any order issued under section 556 together with a  
22          detailed statement giving reasons for such relief.  
23          The Secretary concerned shall expeditiously issue an  
24          order or decision granting or denying such relief.  
25          The Secretary concerned may grant such relief

1 under such conditions as he or she may prescribe  
2 only if such relief shall not adversely affect the  
3 health or safety of the public or cause imminent en-  
4 vironmental harm to land, air, or water resources.

5 (5) The availability of review under this sub-  
6 section shall not be construed to limit the operation  
7 of rights under section 554 (relating to citizen  
8 suits).

9 (b) JUDICIAL REVIEW.—

10 (1) Any final action by the Secretaries of the  
11 Interior and Agriculture in promulgating regulations  
12 to implement this title, or any other final actions  
13 constituting rulemaking to implement this title, shall  
14 be subject to judicial review only in the United  
15 States Court of Appeals for the District of Colum-  
16 bia. Any action subject to judicial review under this  
17 subsection shall be affirmed unless the court con-  
18 cludes that such action is arbitrary, capricious, or  
19 otherwise inconsistent with law. A petition for review  
20 of any action subject to judicial review under this  
21 subsection shall be filed within 60 days from the  
22 date of such action, or after such date if the petition  
23 is based solely on grounds arising after the 60th  
24 day. Any such petition may be made by any person  
25 who commented or otherwise participated in the

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

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

13 (3) The availability of judicial review estab-  
14 lished in this subsection shall not be construed to  
15 limit the operations of rights under section 554 (re-  
16 lating to citizens suits).

17 (4) The court shall hear any petition or com-  
18 plaint filed under this subsection solely on the record  
19 made before the Secretary or Secretaries concerned.  
20 The court may affirm or vacate any order or deci-  
21 sion or may remand the proceedings to the Secretary  
22 or Secretaries for such further action as it may di-  
23 rect.

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

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

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

18 **SEC. 546. ENFORCEMENT.**

19 (a) ORDERS.—

20 (1) If the Secretary, or for National Forest  
21 System lands the Secretary of Agriculture, or an au-  
22 thorized representative of such Secretary, determines  
23 that any person is in violation of any environmental  
24 protection requirement under subtitle C or any regu-  
25 lation issued by the Secretaries to implement this

1 title, such Secretary or authorized representative  
2 shall issue to such person a notice of violation de-  
3 scribing the violation and the corrective measures to  
4 be taken. The Secretary concerned, or the author-  
5 ized representative of such Secretary, shall provide  
6 such person with a period of time not to exceed 30  
7 days to abate the violation. Such period of time may  
8 be extended by the Secretary concerned upon a  
9 showing of good cause by such person. If, upon the  
10 expiration of time provided for such abatement, the  
11 Secretary concerned, or the authorized representa-  
12 tive of such Secretary, finds that the violation has  
13 not been abated he or she shall immediately order a  
14 cessation of all mineral activities or the portion  
15 thereof relevant to the violation.

16 (2) If the Secretary concerned, or the author-  
17 ized representative of the Secretary concerned, de-  
18 termines that any condition or practice exists, or  
19 that any person is in violation of any requirement  
20 under a permit approved under this title, and such  
21 condition, practice or violation is causing, or can  
22 reasonably be expected to cause—

23 (A) an imminent danger to the health or  
24 safety of the public; or

1           (B) significant, imminent environmental  
2           harm to land, air, water, or fish or wildlife re-  
3           sources,  
4           such Secretary or authorized representative shall im-  
5           mediately order a cessation of mineral activities or  
6           the portion thereof relevant to the condition, prac-  
7           tice, or violation.

8           (3)(A) A cessation order pursuant to para-  
9           graphs (1) or (2) shall remain in effect until such  
10          Secretary, or authorized representative, determines  
11          that the condition, practice, or violation has been  
12          abated, or until modified, vacated or terminated by  
13          the Secretary or authorized representative. In any  
14          such order, the Secretary or authorized representa-  
15          tive shall determine the steps necessary to abate the  
16          violation in the most expeditious manner possible  
17          and shall include the necessary measures in the  
18          order. The Secretary concerned shall require appro-  
19          priate financial assurances to ensure that the abate-  
20          ment obligations are met.

21          (B) Any notice or order issued pursuant to  
22          paragraphs (1) or (2) may be modified, vacated, or  
23          terminated by the Secretary concerned or an author-  
24          ized representative of such Secretary. Any person to

1       whom any such notice or order is issued shall be en-  
2       titled to a hearing on the record.

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

18           (5) If a claim holder or operator (or any person  
19      who controls the claim holder or operator) fails to  
20      abate a violation or defaults on the terms of the per-  
21      mit, the Secretary, or for National Forest System  
22      lands the Secretary of Agriculture, shall forfeit the  
23      financial assurance for the plan as necessary to en-  
24      sure abatement and reclamation under this title. The  
25      Secretary concerned may prescribe conditions under

1       which a surety may perform reclamation in accord-  
2       ance with the approved plan in lieu of forfeiture.

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

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

12      (b) COMPLIANCE.—The Secretary, or for National  
13      Forest System lands the Secretary of Agriculture, may re-  
14      quest the Attorney General to institute a civil action for  
15      relief, including a permanent or temporary injunction or  
16      restraining order, or any other appropriate enforcement  
17      order, including the imposition of civil penalties, in the dis-  
18      trict court of the United States for the district in which  
19      the mineral activities are located whenever a person—

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

23           (2) interferes with, hinders, or delays the Sec-  
24      retary concerned in carrying out an inspection under  
25      section 553.

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

7 (c) DELEGATION.—Notwithstanding any other provi-  
8 sion of law, the Secretary may utilize personnel of the Of-  
9 fice of Surface Mining Reclamation and Enforcement to  
10 ensure compliance with the requirements of this title.

11 (d) PENALTIES.—

12 (1) Any person who fails to comply with any re-  
13 quirement of a permit approved under this title or  
14 any regulation issued by the Secretaries to imple-  
15 ment this title shall be liable for a penalty of not  
16 more than \$25,000 per violation. Each day of viola-  
17 tion may be deemed a separate violation for pur-  
18 poses of penalty assessments.

19 (2) A person who fails to correct a violation for  
20 which a cessation order has been issued under sub-  
21 section (a) within the period permitted for its correc-  
22 tion shall be assessed a civil penalty of not less than  
23 \$1,000 per violation for each day during which such  
24 failure continues.

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

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

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

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

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

24               (4) refuses to permit an audit pursuant to this  
25               title;

1           (5) fails to maintain an adequate financial as-  
2           surance under section 536;

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

5           (7) with regard to plans conditionally approved  
6           under section 535(c)(2), fails to abate a violation to  
7           the satisfaction of the Secretary concerned, or if the  
8           validity of the violation is upheld on the appeal  
9           which formed the basis for the conditional approval.

10          (f) FALSE STATEMENTS; TAMPERING.—Any person  
11          who knowingly—

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

18           (2) falsifies, tampers with, renders inaccurate,  
19           or fails to install any monitoring device or method  
20           required to be maintained under this title,

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

1 not more than \$20,000 per day of violation, or by impris-  
2 onment of not more than 4 years, or both. Each day of  
3 continuing violation may be deemed a separate violation  
4 for purposes of penalty assessments.

5 (g) KNOWING VIOLATIONS.—Any person who know-  
6 ingly—

7 (1) engages in mineral activities without a per-  
8 mit required under subtitle C; or

9 (2) violates any other requirement of a permit  
10 issued under this title, or any condition or limitation  
11 thereof,

12 shall upon conviction be punished by a fine of not less  
13 than \$5,000 nor more than \$50,000 per day of violation,  
14 or by imprisonment for not more than 3 years, or both.  
15 If a conviction of a person is for a violation committed  
16 after the first conviction of such person under this sub-  
17 section, punishment shall be a fine of not less than  
18 \$10,000 per day of violation, or by imprisonment of not  
19 more than 6 years, or both.

20 (h) KNOWING AND WILLFUL VIOLATIONS.—Any per-  
21 son who knowingly and willfully commits an act for which  
22 a civil penalty is provided in paragraph (1) of subsection  
23 (g) shall, upon conviction, be punished by a fine of not  
24 more than \$50,000, or by imprisonment for not more than  
25 2 years, or both.

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

4 **SEC. 547. REGULATIONS.**

5 The Secretary and the Secretary of Agriculture shall  
6 issue such regulations as are necessary to implement this  
7 title. The regulations implementing subtitle B, subtitle C,  
8 subtitle D, and subtitle E that affect the Forest Service  
9 shall be joint regulations issued by both Secretaries, and  
10 shall be issued no later than 180 days after the date of  
11 enactment of this Act.

12 **SEC. 548. EFFECTIVE DATE.**

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

15 **SEC. 549. OIL SHALE CLAIMS.**

16 Section 2511(f) of the Energy Policy Act of 1992  
17 (Public Law 102–486) is amended—

18 (1) by striking “as prescribed by the Sec-  
19 retary”; and

20 (2) by inserting before the period the following:  
21 “in the same manner as required by subtitle B and  
22 subtitle C of the Hardrock Mining Reform and Def-  
23 icit Reduction Act of 2011”.

1 **SEC. 550. SAVINGS CLAUSE.**

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

24 (b) EFFECT ON OTHER FEDERAL LAWS.—The provi-  
25 sions of this title shall supersede the general mining laws,  
26 except for those parts of the general mining laws respect-

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

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

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

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

21 **SEC. 551. AVAILABILITY OF PUBLIC RECORDS.**

22 Copies of records, reports, inspection materials, or in-  
23 formation obtained by the Secretary or the Secretary of  
24 Agriculture under this title shall be made available to the  
25 public, consistent with section 552 of title 5, United States

1 Code, in central and sufficient locations in the county,  
2 multicounty, and State area of mineral activity or rec-  
3 lamation so that such items are conveniently available to  
4 residents in the area proposed or approved for mineral ac-  
5 tivities and on the Internet.

6 **SEC. 552. MISCELLANEOUS POWERS.**

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

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

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

25 (2) Administer oaths.

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

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

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

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

1 (d) ENTRY AND ACCESS.—Without advance notice  
2 and upon presentation of appropriate credentials, the Sec-  
3 retary, or for National Forest System lands the Secretary  
4 of Agriculture, or any authorized representative thereof—

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

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

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

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

1 required by law, if such documentation is required  
2 under this title; and

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

15 **SEC. 553. MULTIPLE MINERAL DEVELOPMENT AND SUR-**  
16 **FACE RESOURCES.**

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

1 **SEC. 554. MINERAL MATERIALS.**

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

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

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

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

9 (4) by adding the following new subsection at  
10 the end thereof:

11 “(b)(1) Subject to valid existing rights, after the date  
12 of enactment of the Hardrock Mining Reform and Deficit  
13 Reduction Act of 2011, notwithstanding the reference to  
14 common varieties in subsection (a) and to the exception  
15 to such term relating to a deposit of materials with some  
16 property giving it distinct and special value, all deposits  
17 of mineral materials referred to in such subsection, includ-  
18 ing the block pumice referred to in such subsection, shall  
19 be subject to disposal only under the terms and conditions  
20 of the Materials Act of 1947.

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

24 “(A) had and still has some property giving it  
25 the distinct and special value referred to in sub-

1 section (a), or as the case may be, met the definition  
2 of block pumice referred to in such subsection;

3 “(B) was properly located and maintained  
4 under the general mining laws prior to the date of  
5 enactment of the Hardrock Mining Reform and Def-  
6 icit Reduction Act of 2011;

7 “(C) was supported by a discovery of a valuable  
8 mineral deposit within the meaning of the general  
9 mining laws as in effect immediately prior to the  
10 date of enactment of the Hardrock Mining Reform  
11 and Deficit Reduction Act of 2011; and

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

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

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

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

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

1 (d) SHORT TITLES.—

2 (1) SURFACE RESOURCES.—The Act of July  
3 23, 1955, is amended by inserting after section 7  
4 the following new section:

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

7 (2) MINERAL MATERIALS.—The Act of July 31,  
8 1947, entitled “An Act to provide for the disposal of  
9 materials on the public lands of the United States”  
10 (30 U.S.C. 601 et seq.) is amended by inserting  
11 after section 4 the following new section:

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

14 (e) REPEALS.—

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

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

1       **TITLE VI—ABANDONED MINE**  
2                                   **RECLAMATION**

3   **SEC. 601. SHORT TITLE.**

4       This title may be cited as the “Abandoned Mine Rec-  
5   lamation and Deficit Reduction Act of 2011”.

6   **SEC. 602. DEFINITIONS AND REFERENCES.**

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

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

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

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

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

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

6 (5) The term “displaced material” means any  
7 crude ore and waste dislodged from its location at  
8 the time hardrock mining begins at surface, under-  
9 ground, or in-situ mines.

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

14 (7) The term “Federal land” means any land,  
15 including mineral interests, owned by the United  
16 States without regard to how the United States ac-  
17 quired ownership of the land and without regard to  
18 the agency having responsibility for management  
19 thereof, except Indian lands.

20 (8) The term “hardrock” means any mineral  
21 mined under the 1872 Mining Law (30 U.S.C. 22–  
22 54), and with respect to State, Indian, and private  
23 lands, any minerals on those lands that would be  
24 considered hardrock minerals if such minerals had  
25 been mined under the 1872 Mining Law: *Provided,*

1       *however*, That if subsequent to the date of enact-  
2       ment of this Act, any minerals mined under the  
3       1872 Mining Law are transferred from the require-  
4       ments of the 1872 Mining Law to different statutory  
5       requirements, those minerals so transferred will con-  
6       tinue to be subject to the provisions of this title.

7           (9) The term “hardrock mining operation”  
8       means any activities or operations conducted to mine  
9       minerals under the 1872 Mining Law (30 U.S.C.  
10      22–54), and, with respect to State, Indian, and pri-  
11     vate lands, any activities or operations conducted on  
12     such lands to mine minerals that would be consid-  
13     ered hardrock minerals if such minerals had been  
14     mined under the 1872 Mining Law: *Provided, how-*  
15     *ever*, That if subsequent to the date of enactment of  
16     this Act, any minerals mined under the 1872 Mining  
17     Law are transferred from the requirements of the  
18     1872 Mining Law to different statutory require-  
19     ments, those activities or operations conducted on  
20     lands to mine those minerals so transferred will con-  
21     tinue to be subject to the provisions of this title.

22           (10) The term “Indian lands” means lands held  
23     in trust for the benefit of an Indian tribe or indi-  
24     vidual or held by an Indian tribe or individual sub-

1       ject to a restriction by the United States against  
2       alienation.

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

12          (12) The term “mineral activities” means any  
13      activity on a mining claim, millsite claim, or tunnel  
14      site claim for, related to, or incidental to, mineral  
15      exploration, mining, beneficiation, processing, or rec-  
16      lamation activities for any hardrock mineral.

17          (13) The term “operator” means any person  
18      that conducts mineral activities and any agent of  
19      such person.

20          (14) The term “person” means an individual,  
21      Indian tribe, partnership, association, society, joint  
22      venture, joint stock company, firm, company, cor-  
23      poration, cooperative, or other organization and any  
24      instrumentality of State or local government includ-

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

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

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

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

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

15       (b) REFERENCES TO OTHER LAWS.—(1) Any ref-  
16       erence in this title to the term “general mining laws” is  
17       a reference to those Acts that generally comprise chapters  
18       2, 12A, and 16, and sections 161 and 162, of title 30,  
19       United States Code.

20       (2) Any reference in this title to the Act of July 23,  
21       1955, is a reference to the Act entitled “An Act to amend  
22       the Act of July 31, 1947 (61 Stat. 681) and the mining  
23       laws to provide for multiple use of the surface of the same  
24       tracts of the public lands, and for other purposes” (30  
25       U.S.C. 601 et seq.).

1           **Subtitle A—Hardrock Mining**  
2                           **Reclamation**

3   **SEC. 611. DISPLACED MATERIAL RECLAMATION FEE.**

4           (a) IMPOSITION OF FEE.—Except as provided in  
5 paragraph (2), each operator of a hardrock mining oper-  
6 ation shall pay to the Secretary, for deposit in the Aban-  
7 doned Mine Cleanup Fund established by section 621(a),  
8 a displaced material reclamation fee of 7 cents per ton  
9 of displaced material.

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

14          (c) SUBMISSION OF STATEMENT.—Together with  
15 such reclamation fee, all operators of hardrock mining op-  
16 erations shall submit a statement of the amount of dis-  
17 placed materials produced during mineral activities during  
18 the previous calendar year, the accuracy of which shall be  
19 sworn to by the operator and notarized.

20          (d) PENALTY.—Any person, corporate officer, agent  
21 or director, on behalf of a hardrock mining operation, who  
22 knowingly makes any false statement, representation or  
23 certification, or knowingly fails to make any statement,  
24 representation or certification required in this section  
25 shall, upon conviction, be punished by a fine of not more

1 than \$10,000, or by imprisonment for not more than one  
2 year, or both.

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

9 (f) DEPOSIT OF REVENUES.—Amounts received by  
10 the Secretary under subsection (a)(1) shall be deposited  
11 in the Abandoned Mine Cleanup Fund established by sec-  
12 tion 621(a).

13 (g) EFFECT.—Nothing in this section requires a re-  
14 duction in, or otherwise affects, any similar fee required  
15 under any law (including regulations) of any State.

## 16 **Subtitle B—Abandoned Mine** 17 **Cleanup Fund**

### 18 **SEC. 621. ESTABLISHMENT OF FUND.**

19 (a) ESTABLISHMENT.—There is established on the  
20 books of the Treasury of the United States a separate ac-  
21 count to be known as the Abandoned Mine Cleanup Fund  
22 (hereinafter in this subtitle referred to as the “Fund”)  
23 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 611.

6           (3) All income on investments under section  
7           612(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 622,  
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 622;

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) IN GENERAL.—Each State having within  
24          the borders of the State, or tribe having within the  
25          borders of the reservation of the tribe, mined land

1       that is eligible for reclamation under this title may  
2       submit to the Secretary a reclamation program for  
3       the land.

4           (2) APPROVAL.—If the Secretary determines  
5       that a State or tribe has developed and submitted a  
6       program for reclamation of abandoned mines con-  
7       sistent with the priorities established under section  
8       622(c) and has the ability and necessary State or  
9       tribal legislation to implement this subtitle, the Sec-  
10      retary shall—

11           (A) approve the program; and

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

15           (3) WITHDRAWAL OF APPROVAL.—The Sec-  
16      retary shall withdraw the approval and authorization  
17      if the Secretary determines that the State or tribal  
18      program is not in compliance with procedures,  
19      guidelines, and requirements established by the Sec-  
20      retary.

21           (4) APPROVAL OF EXISTING PROGRAMS.—Sub-  
22      ject to paragraph (3), any State program in an  
23      abandoned hardrock mine State or tribal program  
24      for reclamation of abandoned mines approved under  
25      title IV of the Surface Mining Control and Reclama-

1       tion Act of 1977 (30 U.S.C. 1231 et seq.) before the  
2       date of enactment of this Act and in good standing  
3       with the Secretary as of that date shall be consid-  
4       ered approved under this subtitle.

5       **SEC. 622. USE AND OBJECTIVES OF THE FUND.**

6       (a) USE.—

7               (1) IN GENERAL.—The Secretary may, subject  
8       to the availability of appropriations, use amounts in  
9       the Fund for the reclamation and restoration of land  
10      and water resources adversely affected by past  
11      hardrock minerals and mining and related activities  
12      in abandoned hardrock mine States and on Indian  
13      land located within the exterior boundaries of aban-  
14      doned hardrock mine States, including the conduct  
15      of activities—

16                   (A) to protect public health and safety;

17                   (B) to prevent, abate, treat, and control  
18      water pollution created by abandoned mine  
19      drainage, including activities conducted in wa-  
20      tersheds;

21                   (C) to reclaim and restore abandoned sur-  
22      face and underground mined areas;

23                   (D) to reclaim and restore abandoned mill-  
24      ing and processing areas;

1 (E) to backfill, seal, or otherwise control  
2 abandoned underground mine entries;

3 (F) to revegetate land adversely affected  
4 by past mining activities—

5 (i) to prevent erosion and sedimenta-  
6 tion; and

7 (ii) for any other reclamation purpose;

8 (G) to control surface subsidence due to  
9 abandoned underground mines; and

10 (H) to enhance fish and wildlife habitat.

11 (2) DETERMINATION.—Before expending  
12 amounts in the Fund for the purposes described in  
13 paragraph (1), the Secretary shall make a deter-  
14 mination that no claim holder, operator, or other  
15 person who is legally responsible under Federal or  
16 State law for the reclamation of the mine site can  
17 be located before reclamation under this title of the  
18 abandoned hardrock mine site begins.

19 (b) ALLOCATION.—Of the amounts deposited in the  
20 Fund each fiscal year—

21 (1) 30 percent shall be allocated by the Sec-  
22 retary for expenditure by the Secretary or, if a State  
23 or Indian tribe has an approved program pursuant  
24 to section 621(e), by the State or Indian tribe, in  
25 the States in which, or on Indian land on which,

1       hardrock minerals are produced, based on a formula  
2       reflecting existing production in the State or on the  
3       land of the Indian tribe;

4           (2) 30 percent shall be allocated by the Sec-  
5       retary for expenditure by the Secretary or, if a State  
6       or Indian tribe has an approved program pursuant  
7       to section 621(e), by the State or Indian tribe, in  
8       the States and on Indian land using a formula based  
9       on the quantity of hardrock minerals historically  
10      produced in the State or from the Indian land before  
11      the date of enactment of this Act;

12          (3) 30 percent shall be allocated by the Sec-  
13      retary for expenditures on high priority abandoned  
14      mine sites on Federal and non-Federal land based  
15      on the priorities established in subsection (c); and

16          (4) 10 percent shall be available to the Sec-  
17      retary for grants under subsection (d).

18      (c) PRIORITIES.—Expenditures of moneys from the  
19      Fund shall reflect the following priorities in the order stat-  
20      ed—

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

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

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

7           (4) For the years 2012 through 2017, the Sec-  
8           retary shall give first priority to and fully fund  
9           projects to cleanup and reclaim abandoned hardrock  
10          mines—

11           (A) in States and Tribal lands that have  
12           previously been certified for completing their  
13           reclamation obligations under the Surface Min-  
14           ing Control and Reclamation Act of 1977; and

15           (B) that are currently utilizing funds avail-  
16           able under section 411 of the Surface Mining  
17           Control and Reclamation Act of 1977 to fund  
18           the cleanup of abandoned hardrock mines. The  
19           Secretary shall fund, to the extent that funds  
20           are available in the Abandoned Mine Cleanup  
21           Fund, such cleanups to the same level as estab-  
22           lished by the formula established in the Surface  
23           Mining Control and Reclamation Act of 1977  
24           notwithstanding the changes made under sub-  
25           title C of this title.

1 (d) GRANTS TO PUBLIC ENTITIES AND NONPROFIT  
2 ORGANIZATIONS.—The Secretary shall use amounts made  
3 available under subsection (b)(4) to make grants to public  
4 entities (including State fish and game agencies and local  
5 governments) and nonprofit organizations (based on cri-  
6 teria established by the Secretary by regulation) to carry  
7 out activities that support collaborative restoration  
8 projects to improve fish and wildlife habitat affected by  
9 past hardrock minerals and mining activities, including ac-  
10 tivities that—

11 (1) improve water quality and quantity;

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

14 (3) restore instream habitat conditions nec-  
15 essary to support aquatic species;

16 (4) restore vegetative cover and streamside  
17 areas to control erosion and improve conditions for  
18 fish and wildlife;

19 (5) control and remove noxious weeds and  
20 invasive species associated with historic mining dis-  
21 turbances that affect fish and wildlife;

22 (6) restore fish and wildlife habitat in cases in  
23 which previous hardrock minerals and mining activ-  
24 ity limits fish and wildlife productivity;

1           (7) protect and restore fish and wildlife habitat  
2           in areas affected by historic minerals and mining ac-  
3           tivity; and

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

6           (e) HABITAT.—Reclamation and restoration activities  
7           under this subtitle shall include appropriate mitigation  
8           measures to provide for the continuation of any estab-  
9           lished habitat for wildlife in existence prior to the com-  
10          mencement of such activities.

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

1 sponse, Compensation, and Liability Act of 1980 (42  
2 U.S.C. 9601 et seq.), and that avoid oversight by multiple  
3 agencies to the maximum extent practicable.

4 **SEC. 623. ELIGIBLE LANDS AND WATERS.**

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

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

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

22 (b) **SPECIFIC SITES AND AREAS NOT ELIGIBLE.**—  
23 Sites and areas designated for remedial action pursuant  
24 to the Uranium Mill Tailings Radiation Control Act of  
25 1978 (42 U.S.C. 7901 and following) or which have been

1 listed for remedial action pursuant to the Comprehensive  
2 Environmental Response Compensation and Liability Act  
3 of 1980 (42 U.S.C. 9601 and following) shall not be eligi-  
4 ble for expenditures from the Fund under this section.

5 (c) INVENTORY.—

6 (1) IN GENERAL.—The Secretary shall prepare  
7 and maintain a publicly available inventory of aban-  
8 doned hardrock minerals mines on public lands and  
9 any abandoned hardrock mineral mines on Indian  
10 lands that may be eligible for expenditures under  
11 this subtitle, and shall deliver a yearly report to the  
12 Congress on the progress in cleanup of such sites.

13 (2) PERIODIC UPDATES.—Not later than 5  
14 years after the date of enactment of this Act, and  
15 every 5 years thereafter, the Secretary shall update  
16 the inventory described in paragraph (1).

17 **Subtitle C—Priority Abandoned**  
18 **Coal Mine Reclamation**

19 **SEC. 631. AMENDMENTS TO THE SURFACE MINING CON-**  
20 **TROL AND RECLAMATION ACT.**

21 (a) Section 401 of the Surface Mining Control and  
22 Reclamation Act of 1977 (SMCRA) (30 U.S.C. 1231) is  
23 amended—

24 (1) in the section title by inserting “**COAL**” be-  
25 fore “**ABANDONED**”;

1 (2) in subsection (a) by—

2 (A) inserting “AND TRIBAL” after  
3 “STATE” in the heading;

4 (B) inserting “Coal” before “Abandoned”  
5 in the first sentence; and

6 (C) striking the last sentence;

7 (3) in subsection (c) by—

8 (A) striking in paragraph (1) “: *Provided*,  
9 That” and all that follows;

10 (B) striking paragraphs (2) and (8);

11 (C) inserting “and tribes” after “States”  
12 in paragraph (6);

13 (D) inserting “or tribe” after “State” in  
14 paragraph (7); and

15 (E) renumbering the remaining paragraphs  
16 accordingly;

17 (4) in subsection (f)(1) by—

18 (A) inserting “and any other available  
19 funds” after “subsection (b)”; and

20 (B) striking “2007” and inserting “2011”;

21 (5) in subsection (f)(2) by—

22 (A) striking “2008” and inserting “2012”  
23 both places it appears;

24 (B) amending subparagraph (A)(i) to read  
25 as follows:

1                   “(i) eighty percent of the amounts de-  
2                   posited into the fund in the previous fiscal  
3                   year less any allocations as described in  
4                   paragraphs (2), (3), and (4) of section  
5                   402(g); plus”; and

6                   (C) amending clause (ii) of subparagraph  
7                   (A) to read as follows:

8                   “(ii) the funds referred to in section  
9                   402(i)(2).”;

10                  (6) striking subsections (f)(3) and (5), and re-  
11                  numbering remaining paragraph accordingly; and

12                  (7) by inserting after section 401(b) the fol-  
13                  lowing and redesignating remaining subsection:

14                  “(c) STATE AND TRIBAL FUNDS.—Pursuant to an  
15                  approved State or tribal abandoned mine reclamation pro-  
16                  gram required under section 405, States or Tribes receiv-  
17                  ing grants under this Act shall establish and administer  
18                  abandoned mine reclamation funds.”.

19                  (b) Section 402 of SMCRA (30 U.S.C. 1232) is  
20                  amended—

21                  (1) by striking subsection (g) and inserting:

22                  “(g) ALLOCATION OF FUNDS.—Except as provided in  
23                  subsection (h), amounts deposited into the fund during the  
24                  previous fiscal year shall be allocated by the Secretary to  
25                  accomplish the purposes of this Act as follows:

1           “(1) RECLAMATION GRANTS.—

2                   “(A) The amount made available for dis-  
3           tribution by the Secretary under section 401(g)  
4           shall be distributed annually through grants to  
5           the States or Indian tribes with lands and  
6           waters eligible for reclamation under this Act.

7                   “(B) Any State or tribe receiving funds  
8           under this paragraph shall have in place an ap-  
9           proved abandoned mine reclamation program  
10          pursuant to the provisions of section 405.

11                   “(C) Funds allocated to a State or Indian  
12          tribe under this paragraph shall be returned  
13          and deposited into the fund for reallocation  
14          under this paragraph during the next fiscal  
15          year if not expended within five years after the  
16          date of the grant award.

17                   “(D) Funds allocated by the Secretary  
18          under this paragraph shall only be used for rec-  
19          lamation projects, including design, construc-  
20          tion, and administration consistent with this  
21          Act.

22                   “(E) States or Indian tribes receiving  
23          funds under this paragraph may, in addition to  
24          the funds allocated pursuant to this paragraph,  
25          use funding from any other source not other-

1           wise precluded by law in order to ensure the  
2           reclamation or abatement of the hazards of a  
3           particular abandoned mine site is achieved.

4           “(2) GRANTS TO INDIAN TRIBES.—50 percent  
5           of the reclamation fees collected annually on Indian  
6           lands shall be allocated annually by the Secretary to  
7           the Indian tribe having jurisdiction over such lands.  
8           An Indian tribe that does not have lands and waters  
9           eligible for reclamation under this Act shall use any  
10          amounts provided under this paragraph for the pur-  
11          poses established by the tribal council of the Indian  
12          tribe, with priority given for addressing the impacts  
13          of mineral development.

14          “(3) ADMINISTRATIVE GRANTS.—

15                 “(A) Before funds are allocated pursuant  
16                 to paragraph (1) of this subsection, the Sec-  
17                 retary may, at his discretion, provide adminis-  
18                 trative grants of not more than \$10,000,000  
19                 annually to each State or Indian tribe with eli-  
20                 gible land and water and that is operating  
21                 under an approved abandoned mine reclamation  
22                 program.

23                 “(B) Administrative grants provided under  
24                 this paragraph are intended to ensure the main-

1           tenance of approved reclamation programs, in-  
2           cluding through—

3                   “(i) the maintenance of the inventory  
4                   established pursuant to section 403(b); and

5                   “(ii) project planning and program  
6                   administration, including the preparation  
7                   of project applications pursuant to section  
8                   412.

9                   “(C) In making grants available under this  
10                  paragraph, the Secretary shall consider the ex-  
11                  tent of eligible lands and waters pursuant to  
12                  section 404; the total amount of historical rec-  
13                  lamation expenditures; and the outcome of any  
14                  previous application of the ranking criteria.

15                 “(4) EMERGENCY ABANDONED MINE LAND.—

16                   “(A) In fiscal year 2012, before funds are  
17                   allocated pursuant to paragraph (1) of this sub-  
18                   section, the Secretary shall allocate \$20 million  
19                   from the fund for grants to States and Indian  
20                   tribes for the purpose of carrying out the provi-  
21                   sions of section 410 relating to emergencies.

22                   “(B) In each fiscal year thereafter, before  
23                   funds are allocated pursuant to paragraph (1)  
24                   of this subsection, the Secretary shall allocate  
25                   the amount needed to ensure that \$20 million

1 is available from the fund for grants to States  
2 and Indian tribes for carrying out the provi-  
3 sions of section 410 relating to emergencies.

4 “(5) FEDERAL ADMINISTRATION.—Amounts  
5 available in the fund that are not allocated pursuant  
6 to subsections (1), (2), or (3) are available for ad-  
7 ministrative costs of the Office of Surface Mining,  
8 subject to further appropriation.

9 “(6) APPLICATION TO TENNESSEE.—Notwith-  
10 standing any other provision of law, this subsection  
11 applies to the State of Tennessee.”; and

12 (2) in subsection (i)(2) by striking “the Sec-  
13 retary of the Treasury” through the end of the sen-  
14 tence and inserting “the Secretary of the Treasury  
15 shall transfer to the Secretary of the Interior \$85.4  
16 million annually for the three fiscal years beginning  
17 in fiscal year 2012, which shall be distributed to  
18 States and Indian tribes in the same manner as  
19 moneys are distributed from the fund under para-  
20 graph (1) of subsection (g).”.

21 (c) Section 403 of SMCRA (30 U.S.C. 1233) is  
22 amended—

23 (1) by striking the portion of subsection (a) be-  
24 fore the enumerated paragraphs and inserting:

1       “(a) Expenditure of moneys from the fund on lands  
2 and water eligible pursuant to section 404 for the pur-  
3 poses of this title shall reflect the following priorities in  
4 the order stated:”; and

5           (2) by striking subsection (a)(1)(B)(ii) and in-  
6 sserting:

7                   “(ii) are necessary to achieve the ob-  
8 jectives of subparagraph (A);”;

9           (3) by striking subsection (a)(2)(B)(ii) and in-  
10 sserting:

11                   “(ii) are necessary to achieve the ob-  
12 jectives of subparagraph (A);”;

13           (4) by striking subsection (b); and

14           (5) by redesignating subsection (c) as sub-  
15 ssection (b) and amending it to read as follows:

16       “(b) INVENTORY.—The Secretary shall maintain an  
17 inventory of eligible lands and waters pursuant to section  
18 404 which meet the priorities stated in paragraphs (1) and  
19 (2) of subsection (a). Under standardized procedures es-  
20 tablished by the Secretary, States and Indian tribes with  
21 approved abandoned mine reclamation programs pursuant  
22 to section 405 may offer amendments, subject to the ap-  
23 proval of the Secretary, to update the inventory as it ap-  
24 plies to eligible lands and waters under the jurisdiction  
25 of such States or tribes. The Secretary shall provide such

1 States and tribes with the financial and technical assist-  
2 ance necessary for the purpose of making inventory  
3 amendments. The Secretary shall compile and maintain  
4 an inventory for States and Indian lands in the case when  
5 a State or Indian tribe does not have an approved aban-  
6 doned mine reclamation program pursuant to section 405.  
7 On a regular basis, but not less than annually, the projects  
8 completed under this title shall be so noted on the inven-  
9 tory under standardized procedures established by the  
10 Secretary.”.

11 (d) Section 404 of SMCRA (30 U.S.C. 1234) is  
12 amended—

13 (1) in the first sentence by—

14 (A) striking “, except as provided for  
15 under section 411,”; and

16 (B) striking “August 3, 1977” and insert-  
17 ing “enactment of the Surface Mining Control,  
18 Reclamation and Enforcement Act of 1977”;  
19 and

20 (2) in the second sentence by striking “, section  
21 403(b)(1), and section 409”.

22 (e) Section 405 of SMCRA (30 U.S.C. 1235) is  
23 amended—

24 (1) by striking subsection (b) and inserting:

1       “(b) SUBMISSION OF STATE OR TRIBAL RECLAMA-  
2 TION PLAN.—If a State has within its borders, or an In-  
3 dian tribe on its lands, any coal mined lands eligible for  
4 reclamation under this title, it may submit to the Sec-  
5 retary a State Reclamation Plan.”;

6           (2) by striking subsections (f) and (g);

7           (3) in subsection (h), by striking “subsection  
8 402(g)” and inserting “paragraph (2) of 402(g)”;  
9 and

10          (4) by redesignating the subsections accord-  
11 ingly.

12          (f) Sections 406 and 409 of SMCRA (30 U.S.C.  
13 1236, 1239) are repealed.

14          (g) Section 410 of SMCRA (30 U.S.C. 1240) is  
15 amended by striking “is” in the portion of subsection (a)  
16 before the enumerated paragraphs and inserting “and  
17 States and Indian tribes eligible for grants under sub-  
18 section 402(g) are”.

19          (h) Section 411 of SMCRA (30 U.S.C. 1240a) is re-  
20 pealed.

21          (i) Section 412 of SMCRA (30 U.S.C. 1241) is  
22 amended to read as follows:

23 **“SEC. 412. APPLICATION FOR RECLAMATION FUNDS.**

24          “(a) TIMING OF APPLICATION.—At regular intervals,  
25 but no less than annually, each State or Indian tribe with

1 an approved reclamation program under Section 405 may  
2 submit to the Secretary an application for the administra-  
3 tive support of the approved reclamation program, the im-  
4 plementation of specific reclamation projects, or both.

5 “(b) CONTENTS OF APPLICATION FOR AN ADMINIS-  
6 TRATIVE GRANT.—The application shall include—

7 “(1) a description of the program administra-  
8 tive activities to be accomplished during the grant  
9 period;

10 “(2) estimated costs of proposed activities; and

11 “(3) information and assessments dem-  
12 onstrating that the amounts requested are necessary  
13 to support specific reclamation objectives that will be  
14 submitted to the Secretary or projects funded by  
15 grants awarded prior to the date of enactment of  
16 this Act.

17 “(c) CONTENTS OF APPLICATION FOR A RECLAMA-  
18 TION GRANT.—The application shall include—

19 “(1) a general description of each proposed  
20 project, including the type of reclamation to be per-  
21 formed, the general location, and the name of the  
22 landowner;

23 “(2) an explanation as to why the State or  
24 Tribe selected each proposed project from among all  
25 of the eligible lands and water in its jurisdiction, in-

1 including the extent of public involvement in the selec-  
2 tion process, if any;

3 “(3) a statement of the estimated benefits in  
4 such terms as: public health and safety problems to  
5 be eliminated, reduced risk to the community, envi-  
6 ronmental problems to be corrected, number of acres  
7 to be restored, miles of stream to be improved, and  
8 air and water pollution problems abated;

9 “(4) an estimated cost of each proposed project,  
10 including the construction costs, operation and  
11 maintenance costs of permanent facilities, planning  
12 and engineering costs, construction inspection costs,  
13 cost savings to the project as a result of partner-  
14 ships, and any other necessary administrative ex-  
15 penses;

16 “(5) an identification of lands or interests in  
17 lands to be acquired and the estimated cost; and

18 “(6) any other information requested by the  
19 Secretary, except the Secretary cannot require the  
20 application to include the submission of complete  
21 project plans and specifications.

22 “(d) TRANSITION.—

23 “(1) For fiscal year 2012, the Secretary shall  
24 award reclamation project grants competitively  
25 based on the proposals submitted in subsection (c).

1           “(2) In awarding the reclamation project grants  
2           pursuant to paragraph (1), the Secretary shall con-  
3           sider any financial, legal, and other commitments  
4           made by the State or Indian tribe prior to the enact-  
5           ment of this Act.”.

6                           **Subtitle D—Administrative**  
7   **Provisions**

8   **SEC. 641. EFFECTIVE DATE.**

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

11   **SEC. 642. FEES ADJUSTMENTS.**

12          (a) The Secretary shall adjust the fees required by  
13          section 611 to reflect changes in the Consumer Price  
14          Index published by the Bureau of Labor Statistics of the  
15          Department of Labor every 5 years after the date of enact-  
16          ment of this Act, or more frequently if the Secretary deter-  
17          mines an adjustment to be reasonable.

18          (b) The Secretary shall provide claimants notice of  
19          any adjustment made under this subsection not later than  
20          July 1 of any year in which the adjustment is made.

21          (c) A fee adjustment under this subsection shall begin  
22          to apply the calendar year following the calendar year in  
23          which it is made.

1 **SEC. 643. INSPECTION AND MONITORING.**

2 (a) INSPECTIONS.—The Secretary shall make inspec-  
3 tions of mineral activities so as to ensure compliance with  
4 the requirements of this title.

5 (b) ANCILLARY POWERS.—In connection with any  
6 hearing, inquiry, investigation, or audit under this title,  
7 the Secretary is authorized to take any of the following  
8 actions:

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

15 (2) Administer oaths.

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

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

1           (5) Pay witnesses the same fees and mileage as  
2           are paid in like circumstances in the courts of the  
3           United States.

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

15          (d) ENTRY AND ACCESS.—Without advance notice  
16 and upon presentation of appropriate credentials, the Sec-  
17 retary or any authorized representative thereof—

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

22           (2) may at reasonable times, and without delay,  
23           have access to records, inspect any monitoring  
24           equipment, or review any method of operation re-  
25           quired under this title;

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

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

16 **SEC. 644. REGULATIONS.**

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

1 **SEC. 645. AVAILABILITY OF PUBLIC RECORDS.**

2 Copies of records, reports, inspection materials, or in-  
3 formation obtained by the Secretary or the Secretary of  
4 Agriculture under this title shall be made immediately  
5 available to the public, consistent with section 552 of title  
6 5, United States Code, in central and sufficient locations  
7 in the county, multicounty, and State area of mineral ac-  
8 tivity or reclamation so that such items are conveniently  
9 available to residents in the area proposed or approved for  
10 mineral activities and on the Internet.

11 **TITLE VII—ADMINISTRATIVE**  
12 **COST RECOVERY**

13 **SEC. 701. SHORT TITLE.**

14 This title may be cited as the “Administrative Cost  
15 Recovery for Oil and Natural Gas on Public Lands Act  
16 of 2011”.

17 **SEC. 702. MAKING PERMANENT NET RECEIPTS SHARING**  
18 **FOR ENERGY MINERALS.**

19 Section 35(b) of the Mineral Leasing Act (30 U.S.C.  
20 191(b)) is amended to read as follows:

21 “(b) DEDUCTION FOR ADMINISTRATIVE COSTS.—In  
22 determining the amount of payments to the States under  
23 this section, beginning in fiscal year 2013 and for each  
24 year thereafter, the amount of such payments shall be re-  
25 duced by 2 percent for any administrative or other costs  
26 incurred by the United States in carrying out the program

- 1 authorized by this Act and that amount shall be deposited
- 2 to miscellaneous receipts in the Treasury.”.